

**Shaul Arieli**

# **People & Borders**

**In memory of those, dear to my heart, who fell in Lebanon**

My nephew Ofer Arieli

My friend Giora Ron

My friend and team member Yossi Zeituni

Shaul Arieli  
People & Borders  
Update Second Edition

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# Introduction

This collection brings together a selection of my articles, which grapple with various aspects of the Israeli-Arab conflict; with emphasis on the Israeli-Palestinian conflict. They have been published in various journals and newspapers in recent years.

They express and reflect, first and foremost, my understanding of the processes, and my position towards them, but they may also represent the writings and actions of the civil society in Israel in the framework of Non-Governmental, Non-Profit Organizations. The division of the articles according to various issues – Israel & the Palestinians, disengagement & convergence, the separation fence, Jerusalem, Syria & Lebanon, Arab citizens of Israel – allows readers to choose those of interest to them; the chronological order, from last to first, allows the reader to observe the development of the processes throughout most of the past decade. I suppose the Reader will notice that quite a few negative, avoidable evaluations were, unfortunately, executed.

However, there were other "recommendations" executed that led to a positive change in the reality of the conflict.

In each chapter's table of contents, main articles that give a wide historic description on the subject, are marked with a circle. The maps attached are intended to explain some of the concepts and ideas that appear in the articles and to help "seeing the ground" for those who seek to do so. They were prepared in black and white in order to make it easier for those who'd like to photocopy them. I chose to add "milestones" that allow the reader to place the concepts, agreements, committees,

resolutions, wars, and more on a timeline standing from the declaration until today.

This edition, updated with articles from recent months, is the second edition.

# Contents

**page**

1. Israel & the Palestinians	13
2. Disengagement & Convergence	279
3. The Separation Fence	319
4. Jerusalem	389
5. Syria & Lebanon	439
6. Arab Citizens of Israel	455
7. Milestones	465

# List of maps

	<b>page</b>
map 1.   Peel Commission 1937	267
map 2.   UNGA Resolution 181 1947	268
map 3.   Areas Annexed to Israel in the independence War 1948	269
map 4.   Palestinian Areas, Interim Agreement 1995/1999	270
map 5.   Geneva Initiative 2003	271
map 6.   Borders – 2.4 Percent	272
map 7.   Borders – 4 Percent	273
map 8.   Borders – 5.1 Percent	274
map 9.   Jewish Settlement in the Gaza Strip	275
map 10.   Outposts	276
map 11.   Israeli Settlements in the West Bank and in East Jerusalem 2009	277
map 12.   Barrier Route October 2003	383
map 13.   Barrier Route February 2005	384
map 14.   Barrier Route April 2006	385
map 15.   Council for Peace and Security: Barrier Route Proposal 2003	386
map 16.   Barrier Status 2009	387
map 17.   Barrier – Dismantled Sections	388
map 18.   Jerusalem: East, West, Unified	436
map 19.   Greater Jerusalem – Barrier Status 2009	437

# **Chapter 1**

# **Israel & The**

# **Palestinians**

# Content

page

1.	The Inevitability of a Palestinian State West of the Jordan [02/2011]	19
2.	Real threats and imaginary threats [02/2011]	22
3.	Israel, the Palestinians and the Diplomatic Process – Overview of the Situation, Expected Developments and Their Evaluation [Friedrich Ebert stiftung   08/02/2011]	26
4.	Palestinian critics shouldn't be so hasty to dismiss Abbas [Haaretz   30/01/2011]	39
5.	What is Netanyahu hiding about the peace process? [Haaretz   30/12/2010]	42
6.	Israel paying full price of Netanyahu's hollow policy of survival [Haaretz   15/12/2010]	45
7.	Netanyahu is pushing Abbas toward Israel's enemies [Haaretz   28/11/2010]	48
8.	Israel must make peace with the PA before the takeover of Iran-backed Hamas [Haaretz   07/11/2010]	51
9.	Goldstone isn't guilty [Haaretz   10/10/2010]	54
10.	A condition for peace [Haaretz   07/09/2010]	57
11.	Even when they gave, they didn't get [Haaretz   16/08/2010]	60
12.	The right's strategy of phases [Haaretz   26/07/2010]	63
13.	Geneva Initiative – Non institutional proposals to define Israel's borders [Lecture   07/07/2010]	66
14.	The fixation of power [Haaretz   27/06/2010]	80
15.	A struggle to change public opinion [Haaretz   03/05/2010]	83
16.	With Mideast peace, settlers may become Jewish Palestinians [Haaretz   28/02/2010]	86
17.	West Bank rabble rousers should be forced to see Avatar [Haaretz   07/02/2010]	89
18.	A new freezing point [Haaretz   05/01/2010]	92

<b>19.</b> The Jordanian Predicament	
[The Mideast Peace Pulse   14/12/2009]	95
<b>20.</b> Before the foundations are laid	
[Haaretz   14/12/2009]	98
<b>21.</b> For its own sake, Israel must keep the Palestinian Authority alive	[Haaretz   17/11/2009] 101
<b>22.</b> The right against the Zionist idea	[Haaretz   02/11/2009] 104
<b>23.</b> Turning back time	[Haaretz   18/10/2009] 107
<b>24.</b> Preparing for the American peace plan	
[Haaretz   13/09/2009]	110
<b>25.</b> That's the way to make peace	[Haaretz   09/08/2009] 113
<b>26.</b> Time for an American proposal	[Haaretz   02/07/2009] 116
<b>27.</b> Without any tricks	[Haaretz   02/07/2009] 119
<b>28.</b> Historical Political and economic impact of Jewish settlements in the occupied territories	[IEPN   June 2009] 122
<b>29.</b> Did Netanyahu really mean it when he said Palestinian state?	[Haaretz   16/06/2009] 143
<b>30.</b> It's all in final-status arrangement	[Haaretz   08/05/2009] 146
<b>31.</b> Bridging the gap	[Haaretz   10/04/2009] 149
<b>32.</b> Israel and Palestine, a brief history of the negotiations	[Babylon   25/03/2009] 153
<b>33.</b> The people of Israel voted Hamas	[Haaretz   01/03/2009] 172
<b>34.</b> Operation Cast Lead – Causes, Conduct, Preliminary Results and Significance	[Senat 362   February 2009] 175
<b>35.</b> The Arab Initiative: Don't get bogged down by the Details	[Ynet   20/12/2008] 188
<b>36.</b> An Israeli View: Hamas believes it has the upper hand	
[Bitterlemons   09/06/2008]	192

<b>37. How to run the Israeli-Palestinian peace process</b> [Middle East Roundtable   31/01/2008]	196
<b>38. The Gaza Strip and the West Bank – Two Sides of the Same Political Coin</b> [Senat 322   July 2007]	200
<b>39. Fatah isn't enough</b> [Ynet   22/06/2007]	208
<b>40. The Jewish Settlement in Hebron will go the way of Nezarim</b> [Yediot Aharonot   23/04/2007]	213
<b>41. Olmert good for Hamas</b> [Ynet   10/03/2007]	216
<b>42. IDF not innocent</b> [Ynet   18/01/2007]	220
<b>43. It was us who 'told you so'</b> [Ynet   10/10/2006]	224
<b>44. A fair exchange for Israel and Palestine</b> [Haaretz   16/06/06]	229
<b>45. Palestinian option not dead</b> [Ynet   30/01/06]	232
<b>46. Prospects for resolving the Israeli-Palestinian conflict are not yet hopeless</b> [Yediot   30/01/2006]	236
<b>47. Moving forward with Hamas?</b> [Ynet   29/12/2005]	240
<b>48. The Borders of the Day After</b> [Haaretz   23/05/2005]	244
<b>49. What about Peace?</b> [Ynet   12/04/2005]	248
<b>50. The Oslo Process and the "Reality Shaping" Conception</b> [Ofakim Hadashim   30/06/2003]	252

# 1 | The Inevitability of a Palestinian State West of the Jordan

While Netanyahu and Lieberman toy with the idea of a Palestinian state with provisional borders, to the rest of us, the establishment of a Palestinian state seems inevitable. Certainly there are unknowable variables: the exact timing of its establishment, the means through which it will be established, its impact on Israel and relations between the two states. But make no mistake--a Palestinian state west of the Jordan is well on its way.

Consider three current trends. First, the Palestinians under the leadership of the PLO are well adept at playing their cards on the battleground of international legitimacy. Over the past several weeks, they have been increasingly successful at winning recognition of their statehood from a number of countries. The trend is unlikely to wane.

Second, a resolution to the Arab-Israeli conflict is perceived by the Western world, including Israel's supporters, as necessary for securing regional stability and bolstering broad lines of defense against religious radicalism and the rise of non-state actors that are hostile to the West.

And third, a majority of the Israeli public accepts the idea of two states for two peoples, and supports separation from the Palestinians as a way to prevent losing a Jewish majority or undermining the democratic character of the state. With these

forces at play, it is difficult to imagine the establishment of a Palestinian state as anything short of inevitable.

## **Negotiations**

How would such a state come about? Ideally, through agreement. After decades of negotiations, its outlines are clear:

- 1) The two states will be the national homes of their respective peoples.
- 2) The border will be based on 1967 lines with equal swaps of land on a reciprocal 1:1 ratio totaling no more than 4%.
- 3) The Palestinian state will be demilitarized. It will have neither an army nor possess heavy weapons. International forces will have a limited presence, and security arrangements with Israel will be tight.
- 4) Palestinian refugees will receive compensation and will be able to return to the Palestinian state, remain in their current place of residence, or migrate to a third country (subject to that country's sovereign decision).
- 5) Israel will have sovereignty over the Jewish neighborhoods in East Jerusalem and Palestine sovereignty over the Arab neighborhoods. The Holy Basin will either be divided, or come under a special regime.

Reaching such a deal depends largely on the political will of both sides. In this, our two societies need not be motivated by recognition of the rights of the other, but rather by awareness that there is no alternative and acceptance of this inevitability.

Today, Palestinians declare their willingness to reach an agreement. This is not because they have turned into Zionists but because they understand that this is the best way within the foreseeable future to gain independence.

We Israelis have not been so clear about our position. Our society

under its current leadership has not yet confronted a set of difficult questions: what kind of state do we want for ourselves and our future generations? And what is the most plausible way to achieve it? Until we do, there is little hope for reaching an agreement.

## **Unilateralism**

So what happens if we cannot reach an agreement, or lack the political will to do so? Palestinian statehood will be unilaterally declared or externally imposed. Such a scenario is not likely to be sudden; rather we are likely to see gradual shrinkage of the area under Israeli control.

While political stalemate might result in an interim agreement, it is more likely to lead to an Israeli unilateral withdrawal to the lines of the separation barrier (which has not yet been completed), and the maintenance of a small Israeli military presence in select places in the area that was evacuated. In the absence of extensive cooperation, the border will be characterized by instability and cycles of mutual violence. We know this because we have a model—it is called the Gaza Strip.

Under such a scenario, Israel may find itself within a few short years conducting a political war while holding 10% of the territory of the West Bank and 100% of the conflict. Under such a scenario Israel will have the incentive to return to the negotiating table, but I'm not so sure about the Palestinians. Would they then agree to the parameters of the agreement I have outlined above? It may well be that their leadership will take a harder line than they do today.

Thus, while an agreement will require sacrifices, failure to reach an agreement could be worse. Israel is slowly drifting away from the optimal "exit point" in which it can exercise the security assets it has accumulated over the decades. This is because its two greatest assets – military superiority and international legitimacy – are being eroded day after day.

## 2 | Real threats and imaginary threats

After nearly two years in office, Prime Minister Benjamin Netanyahu's second term has been characterized by the resurrection of anachronistic ideas that his predecessors – Prime Ministers Ehud Olmert, Ariel Sharon and Ehud Barak – had rejected. Netanyahu is confronting imaginary threats of the past, and in doing so is squandering Israel's diplomatic, security and social resources, which are needed more than ever to contend with the threats of the present and the future.

The Prime Minister has chosen to diagnose the process of Israel's delegitimization in the international community as a consequence of the very existence of the Jewish state, rather than as a result of Israel's policy of evading a solution of the Israeli-Palestinian conflict on the basis of UN resolutions passed since 1967. By doing so, he has effectively shifted the focus of the conflict back to 1948.

Netanyahu has also demanded that Palestinian Authority President Mahmoud Abbas recognize the State of Israel as a Jewish state, ignoring the fact that in 1988 the Palestinians recognized the UN partition decision calling for the establishment of a Jewish state, or that the Palestinians recognized "Israel's right to exist in peace and security" in the exchange of letters between the PLO and the government of Israel in 1993. In effect, he has volunteered to pay

a political price for a Jewish-Israeli asset held since the Balfour Declaration and the declaration of the British Mandate in 1922.

Most anachronistic of all is Netanyahu's attempt to revive the threat of an "Eastern Front" of Jordan, Syria, Iraq and Arab expeditionary forces in order to justify keeping the Jordan Valley under Israeli sovereignty and expanding Israeli construction in so-called "security areas." In doing so, Netanyahu ignores the peace agreement Jordan signed with Israel in 1994 and the Hashemite Kingdom's deep dependence on the United States; he dismisses Syria's limited military ability to lead offensive initiatives against Israel; and, he chooses to forget that the Iraq of Saddam Hussein, whose armored and mechanized divisions participated in most of the wars against Israel, no longer exists. Even more, he disregards the Palestinian stated willingness for the demilitarization of their state and the deployment of a third-party force such as NATO in its territory.

In their negotiations with the Palestinians in the past decade, Prime Ministers Ehud Barak and Ehud Olmert did not focus border negotiations on security considerations, but rather on the most critical component of any agreement: the number of settlers Israel would evacuate in the framework of a permanent accord. Both Barak and Olmert demarcated an 800 kilometer border line dividing the West Bank from Israel proper, incorporating 85 percent of the 500,000 Israelis living beyond the so-called 1967 "Green Line." The line – which is two and a half times longer than the 1967 border – has no connection to the historic "security areas," to the control over strategic routes, water resources or to areas overlooking Ben-Gurion Airport. If the line were to include all such areas, the land Israel would annex would constitute half of the territory of the West Bank, making a peace accord impossible to achieve.

However, Prime Minister Netanyahu has chosen to maintain a focus on these areas, even encouraging continued settlement construction beyond the major settlement blocs, all while generating fear of artificial security threats from the East should Israel leave the vast majority of the West Bank.

This fearmongering campaign by Netanyahu and his emissaries throughout Israel, the U.S. and the world, has diverted public opinion from demanding that his government contend with the growing threats resulting from its current policy. Today, Israel is threatened by surface-to-surface missiles—rockets and terror emanating from Iran, via Syria, to Hezbollah in southern Lebanon and to Hamas in the Gaza Strip. Iran is cynically exploiting the Israeli-Palestinian conflict to boost its influence and status in the Arab and Islamic world via Hamas and Hezbollah and in its efforts to attain a nuclear capability. But Syria and Hamas joined this alliance primarily as a "marriage of convenience," not in order to support the Shi'ite Islamic Revolution. If other options are offered, they are likely to change their stance vis-à-vis this alliance. This could eliminate the actual, though not intolerable, threat the two currently pose to Israel.

Israel can still utilize the languishing Arab Peace Initiative to pursue parallel peace accords with Syria and the Palestinians, and in doing so, effectively confront these threats. This initiative was – and remains – intended to mobilize the shared interests of Israel the Arab World against the ascendance of Iran. As long as the offer remains on the table, it is a powerful tool that should be employed.

To be sure, there are no magic solutions to end the conflict and no policy option is risk-free. But choosing the political path is the

most reasonable risk in comparison to the wild risk of continuing the existing policy, which only reinforces current trends that threaten the future of Israel as a democratic state of the Jewish people, and a member of the international community.

# 3 | Israel, the Palestinians and the Diplomatic Process – Overview of the Situation, Expected Developments and Their Evaluation

## Introduction

Since Binyamin Netanyahu became Prime Minister of Israel for the second time, the diplomatic process between Israel and the Palestinians has been characterized by trends which run counter to those which we had witnessed in the two previous decades:

- Whereas the Chairman of the Palestine Liberation Organization and President of the Palestinian Authority, Mahmoud Abbas, is taking initiative and action in a variety of channels, in domestic and international circles of reference, Netanyahu and his government are refraining from taking any diplomatic initiative whatsoever, and are remaining focused on attempts to prevent and to block the Palestinian moves.
- Whereas Abbas is giving preponderant weight, in his considerations, to international and Arab entities, Netanyahu is principally gazing inward, at his own coalition, in an

attempt to maneuver within the wedge created between Obama's administration and the House of Representatives, in order to alleviate the American pressure and to ensure that the United States will continue to stand by Israel against the Arab initiatives and the moves by Iran, and lately by Turkey as well.

- Whereas the Palestinians are benefiting from growing international legitimation for their moves, all of which are taking place within the political arena, Israel is increasingly suffering from its image as a peace-refuser and is being increasingly delegitimized.

It will accordingly be appropriated to evaluate and analyze the overview of the present and developing situation, subject to these assumptions and evaluations – in other words, to describe and analyze the Palestinian initiatives and trends, to contrast them with the Israeli patterns of blocking and avoidance, and to evaluate each side's chances of succeeding in its mission. On one hand is Netanyahu, who seeks to preserve the diplomatic status quo through the United States, while at the same time ensuring his own survival in the political camp from which he arose by strengthening the Israeli foothold in East Jerusalem and the West Bank through extensive construction. On the other is Abbas, who seeks to undermine Netanyahu's position by means of international pressure, which is likely to give him points in the domestic arena as well, while continuing to build the "state-to-be".

The analysis and evaluation are based on two principal working assumptions. **Firstly**, it is estimated that no significant change in the composition of Israel's government is to be expected,

meaning that there will be no significant change in its policy as well. The chances of seeing the “Labor” Party outside the government have admittedly increased somewhat, but not enough to pass the threshold required for this to happen at once. This can be explained by the fact that the Knesset elections still appear too far away for the opposition to wait for them, and that withdrawing from the government is likely to give the signal for the dissolution of the Party and to mark the end of the political road within its ranks for Ehud Barak. But even if the withdrawal comes to pass as an outcome of the internal struggle within the Party, in my opinion, it will not lead to change; rather, it will actually reinforce Israel’s present policy. This is because Netanyahu is afraid that he is likely to come to the elections with a government which is all farther right than his Likud Party, and accordingly, he must ensure that no votes trickle away from the Likud to the ultra-rightist parties, and especially not to Yisrael Beiteinu. I believe that Yisrael Beiteinu, headed by Avigdor Lieberman, and Shas, headed by Eli Yishai, will go to great lengths to find the magic formulas which are required to ensure that they remain in government, as this will serve the particular interests of each party. This means that the chances of seeing Kadima, headed by Tzipi Livni, join the present government or replace Yisrael Beiteinu, in order to enable a coalition basis for a different policy, are extremely slight. Since his election, Netanyahu has shown that, at the decisive moment, he prefers to remain in his natural home – the right, which is opposed to the solution of “two states for two peoples”.

**The second assumption** is the determination that the evaluation and analysis refer to existing trends, but that it is necessary to recognize the possibility that extraordinary events will give rise to a substantially different starting line from that which appears

today to characterize the continuation of the process between Israel and the Palestinians. These processes may be the result of a collision between the mutually exclusive trends exhibited by the parties involved, or an attempt to convert it to additional players in the arena. The latter may include, for example, a military strike against Iran, an uncontrollable deterioration of the relations between Israel and Turkey, a descent into military operations against Hezbollah in Lebanon and Hamas in Gaza, a return by Fatah to patterns of terror from the West Bank against Israelis on both sides of the “green line”, and more.

## **Overview of the situation**

I would like to begin with a description of the present situation, which is basically characterized by diplomatic stagnation. The unwillingness of the Palestinians to resume direct negotiations results from two constraints:

The less important constraint is Israel’s unwillingness to freeze the construction in the settlements – a precondition which, in view of its nature as basically American, does not enable Abbas to waive it and thereby to portray himself as less Palestinian than the Americans.

The more significant constraint is Israel’s unwillingness to agree on the Palestinian basic conditions:

- A framework of reference (ToR) for the negotiations, basically consisting of recognition of the 1967 territories as the territories of the Palestinian State, which was already granted by Ehud Barak and Ehud Olmert in the negotiations toward a permanent arrangement in the course of the last decade.
- Eliminating the Israeli precondition for Palestinian

recognition of Israel as a Jewish State, which is perceived by the Palestinian leadership as an Israeli demand to remove the refugee question from the negotiating table and as justification for discrimination against Israel's Arab minority.

- Accepting the Palestinian demand for the permanent arrangement to lead to the end of the occupation and complete, albeit gradual, withdrawal of Israeli forces from the West Bank.

The present pattern and intensiveness exhibited by the conduct of the United States lack the ability to bring Netanyahu to change his position, and it appears that, during the last visit by Dennis Ross and Mitchell to the area, the proposals made by the United States to the Palestinians showed a certain departure from its positions in recent years with regard to borders, security arrangements and the schedule for reaching an agreement. In this way, the United States is again becoming perceived by the Palestinians, and the Arabs in general, as an intermediary which is biased in Israel's favor. This week, Abbas conveyed grave disappointment with the American intermediation, and even expressed unprecedented criticism of what he defined as "an especially embarrassing situation, in which American officials who, according to their own statements, do not recognize the legality of the Israeli settlements or of the annexation of Jerusalem by Israel, but, in practice, take no action whatsoever in order to prevent this activity." This evaluation is leading to a series of parallel Palestinian moves which transcend the fixed triangle of Israel – the United States – Palestine, in the intention and the hope of reaching a significant breakthrough for one of them.

## **Palestinian initiatives and Israeli reactions**

Abbas and his Prime Minister, Salam Fayyad, are acting intelligently on the basis of a broad strategic view, which is itself based on two complementary channels of operation – **building the state-to-be and achieving international recognition thereof** – and which lays at Israel’s door a reality more difficult to handle than that of Arafat’s day.

**In the domestic sphere**, they are taking measures, with American and international support, toward reestablishing the central power of the Palestinian Authority, by means of a number of efforts based on security reform and economic institutional reform: banning Hamas from the public domain in the West Bank, restraining the al-Aqsa Martyrs Brigades, maintaining law and order, and economic development with emphasis on strengthening the middle class. Israel and the Palestinians are both benefiting from this success – Israel is benefiting from close security coordination, reduction of its forces posted in the West Bank, and a stable security situation which is managing to keep the conflict off the agenda of Israel’s public. In exchange, it is enabling the redeployment of the Palestinian Police in Areas A and B (34 stations) and is removing checkpoints and barriers, and thereby strengthening the Palestinian Authority’s control of the area as well as its economy. Due to the common interest of the struggle against Hamas, both parties are bound to the status quo and do not wish to undermine it; at the same time, the Palestinians are also benefiting from the ability to claim that they have met the conditions required for ending the first stage of the roadmap, and to demand the continuation and progression of the program which Israel has also recognized.

An additional Palestinian move in the domestic sphere is Abbas’

attempt to bring about a reconciliation with Hamas, with a view to preventing “one address” which represents the Palestinian people. In the short term, this move does not appear to have a chance of implementation within the Egyptian document which has already been signed by Fatah. If it happens in the future, however, it is likely to undermine the basis for security coordination with Israel, which is already severely criticized on the Palestinian home front; to terminate what remains of the blockade of Gaza; and to eliminate one of the Israeli arguments, with regard to the fact that Abbas does not represent all of the Palestinians today.

**In the diplomatic sphere,** Abbas’ tactics include parallel operation in two directions: unilateral activity at the international level, and at the same time, maintaining the possibility of resuming the negotiations in their previous format, should a formula for compromise which enables this be achieved. To this end, he is choosing to adopt several courses of action at once, but, at the same time, to determine priorities among them, based on his estimation of the chances for each course of action to bring about a change in the status quo and to promote the establishment of a Palestinian State.

**Firstly,** under the assumptions that the “freeze” on construction in the settlements will not be renewed and that Netanyahu will not retreat from his conditions, Abbas will seek to pressure the Americans into making a proposal of their own for the ToR, which he will be able to “live with”. Under this patronage, and as part of the diplomatic umbrella which has been provided to him by the Arab Peace Initiative Monitoring Committee, Abbas will be able to resume the direct negotiations without absorbing overly severe criticism on the home front and to stand up to

Hamas in the struggle for Palestinian public opinion. Palestinian success in this move, which can also result from the isolation of the United States in its support of Israel, will force Netanyahu to reply to the proposal. As Netanyahu sees it, this is still not the worst possibility of all, as long as he chooses to consider the American proposal, rather than the Palestinian position, as the starting point for the negotiations. It appears, however, that the time being, Israel is successfully managing to prevent this move, through the efforts of the Jewish lobby at Netanyahu's Republican friends in the House of Representatives. This explains the "insulting proposal", as the Palestinians put it, which the special envoy Mitchell made to Abbas two weeks ago.

**Secondly**, cautious enlistment of the United Nations. The Palestinians are likely to initially seek to focus on the subject of the settlements, as opposition to their construction and expansion is considered a matter of international consensus. This measure is likely to be taken because of the position adopted by the Americans, which clearly opposes continued construction in the settlements – a fact which will make it almost impossible for the United States to veto such a draft resolution. Generally speaking, the Palestinians are seeking to obtain the censure in the form of a Security Council resolution, and not as an announcement by the Secretariat of the Council, which would defuse the importance of the move. They are planning to propose a resolution in the very near future, as soon as possible after January 1, the date on which Bosnia-Herzegovina became the chair of the Security Council.

Israel is preparing for this possibility, and is making attempts to convince the permanent members of the Security Council; at the same time, it is investing most of its efforts in ensuring

an American veto. Admittedly, to date, the United States has condemned the intention of approaching the Security Council as a unilateral move which runs counter to the original principle of discussing the permanent issues only at the negotiating table. It has even warned the Palestinian Authority that introducing the proposal is likely to have implications for the United States' relations with the Palestinian Authority. In actual fact, however, the United States is not really trying to prevent discussion of the proposal and has not adopted a clear stand on the question of how it will act if the proposal is brought for discussion.

According to the developments, the PLO will consider whether to also submit a proposal for a resolution to the Security Council with regard to recognition of the Palestinian State within the 1967 borders, with East Jerusalem as its capital. If they encounter an American veto, but no other threats by the administration, the Palestinians may well gather the courage and the support to launch the move, under the "Unite for Peace" Resolution 377 (V), which basically specifies that, if the Security Council does not pass a resolution with regard to international peace and security, and does not succeed in counteracting aggression, due to a veto imposed by one of its members, it will be possible to convene the General Assembly within 24 hours and to discuss the matter and recommend effective collective measures in order to maintain or restore peace. If most of the states support this move and the state which vetoed the resolution is in the minority, the recommendation may be executed, including through the establishment of an international military force. Accordingly, the significance of Resolution 377 (V) is that the General Assembly will be able to adopt a resolution with regard to effective collective measures, and not merely to recommend them.

In such a case, Israel's ability will be extremely limited, because it may be assumed that the Palestinians will launch such a move only after having secured a promise by tens of states worldwide to recognize the Palestinian State. Israel, in such a case, will have a very small potential body of supporting states, and even that will be subject to pressure, in light of the overall trend toward recognition of the Palestinian State.

Even if these moves do not have the desired outcome, I do not believe that, in the short term, the Palestinians will choose to withdraw from the existing agreements with Israel and go as far as dissolving the Palestinian Authority, as was recently emphasized by Palestinian Prime Minister Salam Fayyad in an interview to the London daily *al-Hayat*: "I do not consider the dissolution of the Palestinian Authority as an option. The Palestinian Authority is an enterprise of state-building – that is, obtaining independence – and it is the most important measures; accordingly, it is a national need, even more than a day-to-day need of the Palestinian people, and that is what was mentioned in the two-year plan which the Palestinian Authority began to implement in August 2009 under the title 'Palestine: ending the occupation and establishing a State'." At the same time, in the longer term, in the absence of an agreement and in the absence of international support, the PLO is likely to withdraw from the agreements with Israel under pressure by the Palestinian public, led by Hamas. In such a case, Israel will have to make preparations to resume the management of the Palestinian population in the format of the Civil Administration, or to ask a third-party entity to take on the responsibility for the Palestinian population. The chances of finding an entity which will be willing to grant such a request are estimated as extremely slight.

Assuming that direct negotiations will nonetheless be resumed, it appears that Netanyahu, in the present constellation of Israel's government, will not dare to propose more than an interim agreement, with parameters which the Palestinians will not be able to accept, in light of the internal factors described above. At the same time, should extraordinary events take place, they may be exploited for the purpose of achieving a long-term interim agreement, based on consensus with regard to borders and security and letters of guarantee for the Palestinians with regard to the future of Jerusalem and the refugees.

### **The surrounding area – reciprocal relations**

The expecting chain of events, as portrayed here, does not operate in a space occupied by Israel and the Palestinians alone. Rather, that space is replete with near and distant players, all of which affect the developments, and are affected by the shock waves, which extend beyond the borders of the Israeli-Palestinian conflict – Egypt, Jordan and the Arab League, as well as Iran and Turkey.

In the absence of a diplomatic process, Israel will continue to benefit from good security coordination with Egypt with regard to the border between Gaza and the Sinai Peninsula, because they share a common interest in retaining a mass, both in its relations with the “Muslim Brothers” in Egypt and as an “emissary” of the Iranian interests. Israel will also benefit from Jordanian security activity on the border between Jordan and the West Bank, which successfully prevents attempts at infiltration by volunteers from extremist Islamic organizations and smuggling of materiel – again, thanks to the common interest shared by Israel and Jordan. Moreover, Israel will receive tacit support for any move against Iran which threatens the pro-Western bloc of Arab states. On the

other hand, Israel cannot expect the Arab and Muslim world to restore the presence of the eight representatives which it had in Israel during the days of the Oslo process. Quite the opposite is true: it could very quickly find itself without even the Egyptian ambassador – the last one left. I do not believe that the Arab world will hasten to pull the peace initiative proposed by the Arab League away from Israel. On the contrary: preserving the peace initiative will help the Arabs to represent Israel as refusing peace and rejecting the most generous proposal ever made by the Arab world. At the same time, eliminating the Iranian threat by means of a military move or through sanctions will attract the interest shared by the Arab leaders – Egypt, Saudi Arabia and Jordan – and Israel in upholding the initiative.

An additional development which may take place, and which requires Israel to prepare for it in the short and medium term, refers to the rise of Iran and Turkey as regional powers with great influence over the Muslim and even the Arab world. Iran, which supports Hamas, is directing concerted efforts toward strengthening it against the PLO, not only in Gaza, but recently in the refugee camps in Lebanon as well. It supports the reinforcement of Hamas and Salafi jihadist organizations which operate in the camps, against the background of the weakened PLO mechanisms within them. Over time, this activity is likely to erode what little remains of the PLO's legitimacy as the representative of the Palestinian people, and may even harm Abbas' chances of approving the agreement with Israel by referendum, should such an agreement be reached. In the medium term, Iran, with its military nuclear capacity, will benefit from the increasing influence of the Arab states, to the point of motivating them to recognize Hamas as the legitimate representative of the Palestinian people, replacing the PLO.

A development of this type is likely to complete the transformation of the conflict from national to religious in nature, and to slam shut the diplomatic window of opportunity which would have enabled an arrangement with the Palestinians in particular and the Arab world in general.

In closing, I would like to recommend three preferable, parallel directions of action for the international community with regard to the conflict:

- Firstly, to continue to invest efforts toward the resumption of direct and effective negotiations between Israel and the Palestinians.
- Secondly, to be sufficiently alert to prevent deterioration in the relations between them, which could lead to an additional round of violence, whether small- or large-scale.
- Finally, to continue to support the civil societies on both sides which are seeking to hasten the end of the conflict.

## 4 | **Palestinian critics shouldn't be so hasty to dismiss Abbas**

**The Palestinian criticism of Abbas stems from the fact that he agreed to grant Israel much more than what was considered the accepted Palestinian interpretation of UN resolutions.**

Even before the calming of the tempest in the frozen diplomatic soup that Al Jazeera tried to bring to a boil in order to taunt Mahmoud Abbas and his colleagues, it is already possible to assess what was "revealed" last week, and we actually knew already.

Mainly, it is possible to point to an "area of agreement" that both sides will have to adopt to the extent that they want an accord.

First, we learned that that when there is a frame of reference, you can seriously negotiate all the details. Benjamin Netanyahu, who is not interested in bridging the gaps with the details, has for two years avoided agreeing on the principles for negotiations, even though they were accepted in the past by Ehud Barak and Ehud Olmert.

Second, the publication of the Palestinian proposals proves there is no base to the slogans spread by Netanyahu that the Palestinians' position on the two core issues threatens the Zionist

vision. Abu Mazen acknowledged that it is not reasonable to flood Israel with Palestinian refugees that would threaten the existence of a Jewish majority. So the issue is an argument over a symbolic return of refugees, which is demographically negligible in light of the transfer of 300,000 Palestinians in East Jerusalem to Palestinian sovereignty.

The Palestinian positions, as they were revealed, also render the claims of a security threat meaningless. The Palestinians agreed to the demilitarization of their state, with no army and heavy armaments, and to the presence of international forces in their territory. What's more, Abu Mazen said lately that he would agree to a limited Israeli presence for a few years in the Jordan Valley.

Third, it was "revealed" that the border proposed by Israel did not give it spatial control in any of the regions that Netanyahu and Avigdor Lieberman (anachronistically ) declare as "vital interests" (the Jordan Valley, the Judean Desert, the western security area, main routes and water ). From the days of Camp David and up to Annapolis, the border line proposed by Israel was based on solely one element: the number of Israelis who will have to be evacuated. That is a real Israeli demand that the Palestinians are indeed treating with diplomatic insensitivity. The Palestinian proposal refuses to accept the annexation to Israel of Ma'aleh Adumim and the Givat Ze'ev bloc, and lacks topographic and geographic logic. Based on past experience it can be assumed that these settlements will remain under Israeli sovereignty when a final agreement is signed.

Fourth, the real point of dispute was and remains the "historic basin" in Jerusalem, with the Temple Mount at its heart.

The territorial dimension is dwarfed in comparison with the national, and especially the religious, dimension. Therefore, Olmert's proposal to internationalize the area makes it possible to overcome the obstacle of sovereignty far more successfully than the Palestinian partition proposal, which is based on the Clinton parameters. Bridging this point of dispute requires creative formulation, because in any proposed solution, the actual administration of the holy places will stay as it has been for many years.

The Palestinian criticism of Abu Mazen stems from the fact that he agreed to grant Israel much more than what was considered the accepted Palestinian interpretation of UN resolutions and other decisions by the international community. This gap is very troubling to the Palestinian in the street, who in daily life is not tasting the "fruits of peace" that were supposed to compensate him for real and imagined concessions.

The critics either deliberately ignore or do not see the return for which Abu Mazen is willing to declare an end to conflict and the end of claims - an independent Palestinian state with East Jerusalem as its capital, which puts an end to the refugee issue and to the lack of citizenship of half the Palestinian people.

## 5 | What is Netanyahu hiding about the peace process?

**The prime minister has not disclosed to the public the extent of an agreement with the Palestinians that has already been formulated.**

Like an electric tea kettle, Israeli policy on the Israeli-Palestinian conflict during the past decades boiled and cooled during the plethora of genuine and fictitious attempts to achieve an agreement, all lacking the willingness to pay the price established by the United Nations, the United States, the Arab League and the Palestine Liberation Organization. Like an electric tea kettle, unrealistic expectations left something behind in the Israeli psyche, a solid residue of "we tried it all." Benjamin Netanyahu is using it to hide from the public the extent of agreement that has, nonetheless, accumulated at the bottom of the kettle, which was presented by the Palestinian Authority president at the Muqata recently to representatives of most Israeli political parties invited there by the Geneva Initiative.

At the basis of the interim agreements in the Oslo Process stood the assumption that through "the fruits of peace" and gradual concessions, a reality that supports the achievement of a permanent settlement will be created. The fragility of the agreements in view of the violence of the opponents of the

agreement on both sides led Ehud Barak to recognize that "it is not possible to cross the chasm in two hops." Therefore, he dragged Yasser Arafat and Bill Clinton to Camp David. But the failure of Barak and Clinton to offer the minimum necessary to Arafat and Arafat's attempt to "ride the tiger" of the second intifada shelved the process and sanctified unilateralism.

The illusion that in return for the withdrawal from the Gaza Strip the Americans would legitimize the 20 percent of the West Bank that Ariel Sharon sought to annex through the separation fence evaporated with the Hamas takeover of the Gaza Strip and international pressure, which left Gush Etzion and Ma'aleh Adumim outside the constructed fence. Ehud Olmert returned to the path of dialogue and progressed with it further at Annapolis.

But Olmert failed, before he stepped down, to reach the level needed by Abbas to market it as a reasonable interpretation of the international and Arab decisions, in line with which he is operating. At least Olmert enabled Abbas and Salam Fayyad to carry out security and economic reforms which completed the Palestinian obligations for the first stage of the road map and once more brought Netanyahu face-to-face with the issue of a permanent settlement.

In view of Netanyahu's forced recognition of the principle of two states for two peoples, he is proposing to establish the Palestinian state on a portion of the West Bank to remove the burden of Israeli occupation, but without dealing with any of the other issues. However, in this, and similar to the disengagement, Netanyahu is serving the interests of Hamas, seeking to "liberate" more land from "Palestine," for no return.

Therefore, the prime minister should be reminded that we are interested in bringing the conflict to an end - not only the occupation. Israel and the Palestinians did not begin talks because one side "discovered" the rights of the other, but because they recognized that they had no choice. Israel feared losing its Jewish identity and its democracy, and the Palestinians feared losing territory to the settlement enterprise.

Over the past decade, we have learned that unilateral or interim steps do not move us forward but strengthen those who oppose an agreement, on both sides, and their illusion that the time "they have gained" will allow them to defeat the other side. Netanyahu is faced only with two options: a permanent agreement or, in its absence, a unilateral withdrawal to the planned fence line. So, the public must demand that Netanyahu expose the breadth of possible agreement at the bottom of the kettle during the past decade, and pose it to Abbas, in order to decide the question of whether there is a partner for resolving the conflict

## **6 | Israel paying full price of Netanyahu's hollow policy of survival**

**After two years of empty promises, Israel has begun to pay the full price of Netanyahu's hollow policy of survival.**

In the past week we've once again witnessed the intolerable gap between the declarations of Prime Minister Benjamin Netanyahu and his deeds in practice. But for the first time since he was elected, it seems that the Israeli public was compelled to see the price we must pay for that gap.

The fire in the Carmel demonstrated the painful cost in human life of continuing neglect of the emergency services, which are supposed to provide a response during the war Netanyahu regularly threatens us with. Similarly, his rejection of the American attempts to persuade him to renew the settlement building freeze could exact a high price from Israel in the form of American bridging proposals that are closer to the Palestinian position and a "reassessment" of the American veto as the Palestinians ignite a diplomatic intifada.

These failures expose the fraudulent play staged by Netanyahu in which the audience, as usual, pays the price.

Firstly, while it is again becoming clear to everyone that

the nuclearization of Iran is a threat to the entire Arab world, Netanyahu has almost succeeded in appropriating it for Israel by creating a linkage between the American effort against Tehran and his readiness to renew the diplomatic process. While the Americans, in return for extending the settlement building freeze, proposed an aid package whose essence is improving Israel's ability to cope with the Iranian threat, Netanyahu preferred to defend Israel by building hundreds of housing units outside the settlement blocs. While hinting at military action, he ensured in practice that Israel would find it hard to deal with even a fire, which is a certain result of a rocket attack.

Secondly, despite his declarations about the importance of the strategic alliance with the United States, he is straddling the wedge between the president and Congress. He chose to exchange the intimate relationship with the president and his administration, based on a deep sense of common interests and shared values, for paper documents. He is heading toward a loss of the American veto in the United Nations Security Council, which Israel has benefited from for decades. Through a sweeping application of the settlement building freeze, contrary to the initial American proposal last year, he undermined former President George W. Bush's recognition of the need to consider the settlement blocs in a final agreement, and he even demoted the Jewish neighborhoods in East Jerusalem to the status of unauthorized settlement outposts.

Thirdly, despite his declaration regarding "two states for two peoples," no significant move has been made to advance it. On the contrary, Netanyahu wanted to condition the negotiations on Palestinian recognition of Israel's Jewish character, even though the issue has been in our pocket since the Balfour Declaration.

During the freeze he chose to express his understanding of separation from the Palestinians by approving the construction of 3,500 housing units in the settlements. And in order to show his readiness to pay "painful prices" for peace, he even saw to it that the referendum bill would be passed by the Knesset.

Fourthly, Netanyahu did not forget to "promote" the regional picture. Turkish Prime Minister Recep Tayyip Erdogan has contributed more to the loss of the strategic relationship with Turkey, but the events aboard the provocative flotilla to Gaza, the humiliation of the Turkish ambassador and Foreign Minister Avigdor Lieberman's threats are certainly not helpful. The Arab League initiative, tenaciously held intact by Egypt, Jordan and Saudi Arabia, is not on the agenda of the forum of seven senior ministers, which views it as a "non-starter."

Finally, we should not forget the prime minister's efforts to improve relations between Jews and Arabs through the loyalty declaration law, and to widen the circle of workers and burden-sharing through the draft-dodging law. After two years of empty promises, Israel has begun to pay the full price of Netanyahu's hollow policy of survival.

# 7 | Netanyahu is pushing Abbas toward Israel's enemies

**Netanyahu must take a forward-looking approach to dealing with the Palestinians.**

Zionist leaders who paved the way for Israel's establishment were characterized by an outlook that preferred the future to the past, without negating the importance of the latter. These men had vision but were able to distinguish between what could and couldn't be done. In contrast, the Arab leaders failed by clinging to the past, when there had been an Arab majority in Palestine.

In 1918, the demand by David Ben-Gurion and Moshe Sharett to establish a state for the Jewish people was based on the connection between the people of Israel and their land. They added, however, that when the time came to determine borders, the land should be seen "not just as the Jewish homeland of the past, but also as the future Jewish land." With this vision guiding them through a violent dispute, they were able to promote the establishment of a democratic state with a Jewish majority that stretched over 78 percent of the country. In contrast, the Mufti of Jerusalem declared that he would not agree to partition little Palestine and dragged his people to a future of refugee hardship and a lack of self-definition.

In the Benjamin Netanyahu era, the tables appear to have turned. The prime minister demands that our rights and their realization be founded on the past and repeatedly uses terminology that has perpetuated the dispute. Palestinian President Mahmoud Abbas, meanwhile, is looking forward and concentrating on the practical details of an agreement before they are wrapped in the sides' obligatory narratives. Netanyahu's approach harms the chances of successful negotiations.

Like Zionism, which opposes an Arab majority in a democratic state that belongs to the Jewish people by rejecting the refugees' "right of return," the Palestinians can't recognize Israel's "Jewishness" before an agreement is signed. They interpret Netanyahu's demands in this regard as evidence that "Israel's leadership is not looking for peace, but rather wants to impose its ideological vision and outlook via measures such as ethnic cleansing, settlement and siege policies. Official pronouncements demanding recognition of Israel as a Jewish state have proliferated recently and appeared alongside steps and laws, the most recent being the loyalty-pledge law for citizens who are not Jews."

As we look toward the future, can it be that Netanyahu doesn't see that an emerging Arab majority in the Land of Israel constitutes a genuine threat to Israel's Jewish identity and character that is more serious than conceding Judea and Samaria, the cradle of the Jewish people? Doesn't he believe that the realization of the Jewish people's historic right to part of the land is preferable to controlling millions of Palestinians deprived of civil rights, with such control a serious threat to Israel's democratic future and membership in the international community?

Doesn't he see that he is pushing Abbas, who is threatened by

Hamas and its Iranian patrons, into the flexible, open arms of the Arab league, which includes Syria and Lebanon, countries thirsting for the return of the Golan Heights and the expulsion of refugees from their borders? Doesn't he see how the Palestinians are closing ranks with the international community, a community whose resolutions on Israel are less moderate than the Palestinians' own demands?

Because of the different ways the sides define the history of the dispute - as the Nakba catastrophe and as rebirth - agreements cannot be forged about the past. The sides should concentrate on future-oriented arrangements that relate to each side's key aspirations, framed according to the outlines sketched at Annapolis and Geneva. Only under such a forward-looking approach can the sides sign an agreement containing terms such as the end of the dispute and the termination of historical demands.

## **8 | Israel must make peace with the PA before the takeover of Iran-backed Hamas**

**A peace agreement that receives international legitimization and the backing of the Arab League will to a great extent block the possibility of Abbas' successors voiding it.**

One of the threats posed by the transformation of Iran into a nuclear state is how this may affect the makeup of the Palestinian leadership, possibly leading to the cancellation of the recognition of Israel and the agreements with it by the Arab and Muslim world, and their return to armed struggle.

Iran sees its nuclearization as a means of strengthening its regional position and ensuring the survivability of its regime. To this end it is working to create outposts of support by Islamist organizations worldwide. Since the Oslo Accords and more so since the IDF withdrawal from Lebanon, Iran has had a hand in the Israeli-Palestinian conflict through its support for Hezbollah, Hamas, Islamic Jihad and others.

Palestinian President Mahmoud Abbas and the Palestine Liberation Organization still see themselves as part of the regional alliance of pro-Western Arab states against the Iranian-

Syrian axis. In contrast, Hamas, whose top priority is the Islamic project in Gaza, sees the position of its patron Iran as a critical element in securing this project.

For Hamas, Iran has the Islamic strategic depth to ensure its survivability in the struggle against Israel and the pro-Western Arab states, led by Egypt. Hamas is displaying politeness toward Egypt and Saudi Arabia, but in practice it is broadening its dependence on non-Arab Islamic elements, led by Iran and Turkey, in order to create a counterweight to the plans to topple it.

The Arab League is currently giving backing and recognition to the PLO and refuses to actively assist Hamas. But nuclear arms will strengthen Iran's regional influence and enable it to compel additional neighbors to give political backing to Hamas. This change could enhance the religious dimension of the conflict and help Hamas take over the PLO or create a "new PLO."

Abbas wants to achieve a final status agreement with Israel on the basis of the decisions of the Arab League and the United Nations before Iranian hegemony puts Hamas in the driver's seat.

An agreement that receives international legitimization and the backing of the Arab League will to a great extent block the possibility of Abbas' successors voiding it.

The team of experts formed by Foreign Minister Avigdor Lieberman should take these considerations into account. Israel should take advantage of the diplomatic window of opportunity as long as the PLO is led in the spirit of Abbas and is still considered the legitimate representative of the Palestinian people.

Netanyahu's policy is diplomatically blind to the threats posed by these trends to the chance for regional stability. It is based on a conception that fails to link Israel's deeds and failings to its chances of bringing about stability and normalization with the Arab world. It prefers to see deterrent military superiority as a sufficient condition for stability and security, and does not seek to add the necessary conditions of political agreements that have international legitimacy, economic cooperation and the like.

This conception, which revives the fatalist ideas of "a nation that dwells alone," could become a self-fulfilling prophecy for those in Israel who believe that its destruction is an unchanging need of the Arab and Muslim world. But this doctrine is nothing other than a revival of the sad story of Masada, of which Menachem Begin said: "We must learn from Masada how not to reach it."

## 9 | Goldstone isn't guilty

**Should branches of Israel's defense system inculcate an ethos of internal review and self-criticism, they will avoid the sting of public and world criticism, which is liable to threaten them more severely.**

The conviction of two IDF soldiers who used a Palestinian boy as a human shield in Operation Cast Lead, along with the other 150 complaints being examined by committees established by the IDF and most of the accusations that surfaced during the Second Intifada, are the result of reports and complaints lodged by external parties. These include UN agencies, the Defense for Children International-Israel, B'Tselem, the Association for Civil Rights in Israel and the Goldstone Report.

The prospect that this pattern of pressure applied by external agencies will prevent irregular occurrences from happening in the future is slim. Even the Shin Bet's legal counsel's view, espoused during discussions about the proposed new anti-terror law, regarding the security service's internal review apparatus, and limitations imposed on it by the Knesset, are not sufficient. Branches of Israel's defense system would do well to develop an organizational atmosphere that would stifle such phenomena, continually warn about them and oppose them. Should these branches inculcate an ethos of internal review and self-criticism, they will avoid the sting of public and world criticism, which is liable to threaten them more severely.

In general, military activity in a conquered area where a civilian population resides is a complicated and sensitive matter, as American forces stationed in Afghanistan and Iraq have learned. Compounded to the already sensitive circumstances in Judea and Samaria is the existence of settlements, and the view of a portion of Israel's public that these regions are not occupied territories. In light of the unique complexity of Israeli reality, and since the IDF does not choose its missions, government ministers responsible for guaranteeing symmetry between laws and military assignments, as well as the branches of the defense establishment, have to deal in a thorough, penetrating way with irregular occurrences.

Internal review mechanisms in the defense system, such as the IDF's military police and military advocate general, are among the components that should organize themselves for dealing with such issues. The defense minister and IDF chief of staff should publicize these mechanisms' guidelines, as well as practical steps taken to enforce them.

Yet the bulk of the responsibility rests on the shoulders of officers, who exert the most influence on soldiers; IDF officers bear the burden of fashioning military behavioral norms and ethics. They have to enforce sanctions against soldiers who act improperly, and refrain from the "winking" culture that we have witnessed in several instances in which the behavior of forces in the field differed from what is required in written orders. Officers should ensure that the military's official codes of ethical conduct are clear, consistent and suited to their units' organizational culture. Such consistency protects soldiers from the negative influences exerted by elements outside the military, and also, as in recent cases, irregularities within the IDF.

Negligence in the fulfillment of this obligation can serve as an explanation of the response of friends of the soldiers who were convicted of harming the Palestinian boy. These comrades criticized the brigade's officers for not supporting the soldiers, and not turning up in court to help them. It can explain statements such as "these soldiers served their state," and therefore "putting them on trial means stabbing them in the back." Such statements derive from the fact that the soldiers' prosecution was perceived as the result of external pressure, and not the consequences of the soldiers' own actions - the slogan on their T-shirts, "We are Goldstone's Victims," says it all.

The author served as an IDF brigade commander in the Gaza Strip.

## 10 | A condition for peace

**In light of the Palestinians' acceptance of a land swap, the battle over the construction freeze in the settlements is not a struggle for their very existence, since most of them and their residents will be annexed to Israel in any agreement.**

In light of the Palestinians' acceptance of a land swap, the battle over the construction freeze in the settlements is not a struggle for their very existence, since most of them and their residents will be annexed to Israel in any agreement. The battle over the construction freeze is a battle for perception in Israel and abroad - between Greater Israel on the one hand and two states for two peoples on the other. So this battle is important for the existence of the diplomatic process.

Those who favor a Greater Israel have discovered that the assessment by former prime minister Yitzhak Shamir that half a million Israelis in the territories are enough to create an irreversible reality is not coming true. They have discovered that international opinion does not consider the West Bank part of Israel.

In addition, Israel showed that in exchange for peace with Egypt it could evacuate settlements. Those who favor a Greater Israel also understand that another outpost and another neighborhood will not change the West Bank's demographic balance. But they are convinced that as long as the construction process continues, the situation on the ground reduces the chance of dividing the country.

The defense minister has refused to recognize that. He used to justify granting building permits in the territories by saying it makes no difference where and how much construction goes on because the moment the border is agreed on, everyone will know the law. But if Menachem Begin froze construction before the peace treaty with Egypt, the same should be done after negotiations have gone on for 17 years and the number of Israelis living outside the settlement blocs has grown from 20,000 to 120,000.

Another declaration by Prime Minister Benjamin Netanyahu about a freeze, if it comes, will be more meaningful than Yitzhak Rabin's declaration in 1992 about "drying up" the settlements. At the time the subject was a change in national priorities, without mentioning a Palestinian state. Last year, when the Americans proposed building only in the settlement blocs, Netanyahu refused. He included United Torah Judaism and Shas voters in Beitar Ilit and Modi'in Ilit in the freeze to guarantee that those parties would also apply pressure for a renewal of construction in the West Bank, counter-pressure to the American pressure.

But now the "blocs" compromise means Netanyahu will be forced to turn the settlement enterprise, whose goal is to create a reality and perception of one state, into one that serves the idea of two states by determining a de facto border for Israel between the Mediterranean Sea and the Jordan River.

Is Netanyahu blind to the light that ministers Ehud Barak, Dan Meridor, Michael Eitan and others have been able to see: that the settlement enterprise, which has expanded by 200,000 people since the Oslo Accords, is leading to a situation where more Israelis prefer no negotiations for fear of a civil war? That

ever more people prefer democracy for Jews only, even if the world calls it apartheid? That more people sanctify settlement everywhere in the country, even if the result is a state with an Arab majority? That more Palestinians believe that their willingness to make do with a state in only part of Palestine is not relevant because we are trying to "Judaicize" that part too? That more Palestinians are convinced that the diplomatic path has failed and that the idea of resistance will reunify the Palestinians? That more people in the world believe that Israel is a factor harming regional and world stability and are questioning its legitimacy?

Netanyahu must realize that declarations and deeds are intertwined, in an honest attempt to achieve a solution. There is no point in dreaming about peace without creating the conditions for achieving it.

## 11 | Even when they gave, they didn't get

**The U.S. must give Netanyahu and Abbas incentives to give each other the maximum possible and get the minimum necessary to gain the support of their peoples for an agreement.**

The international pressure dragging Palestinian Authority President Mahmoud Abbas into direct talks with Israel counterbalances the pressure that produced Prime Minister Benjamin Netanyahu's Bar-Ilan University speech. That's what those exerting the pressure believe. In their view, it's a give-and-take, which, despite being imposed, is necessary to return to the formula whereby if they give, they'll get, and if they don't give, they won't get.

But the truth is that in the decade since that formula was coined by Netanyahu and internalized by Abbas, its validity has not always been maintained, especially with regard to the question of what Israel is prepared to give and what motivates it to do so.

What was the background to the formula? The Palestinians, in whose name Yasser Arafat promised a peaceful resolution of the conflict, let terror strike Israelis and destroy the trust that was starting to be built.

In return, they got a shattered Palestinian Authority and a renewed Israeli takeover of its territory, in addition to the separation fence and hundreds of roadblocks that made wide areas of the West Bank inaccessible to them. But they also got the evacuation of 21 settlements and an Israeli withdrawal from Gaza and the northern West Bank, with no agreement or anything given in return.

At the same time, as part of the give-and-take of the interim agreements, Israel was granted the right to retain all the settlements until a final agreement is reached, but with the commitment not to create new facts on the ground. What did it give in return? An additional 200,000 Israelis in the West Bank, new neighborhoods in East Jerusalem and 100 unauthorized outposts.

Israel's illusion that it would get complete quiet in the Gaza Strip and that the Palestinians would allow it to build on every hill and dale in the West Bank and Jerusalem, in return for a unilateral withdrawal from 6 percent of the territories and the evacuation of 4 percent of the settlers, was proven wrong. Sine then, Abbas and Palestinian Prime Minister Salam Fayyad have said no to terror in every forum and initiated reforms to build a state-in-the-making, subject to the agreed-upon road map to peace.

But the recovery of the Palestinian economy, the improvement of security coordination as part of the war on terror and the operation of the new security forces, recognized and praised by officers of the army and the Shin Bet security service, have produced just a partial removal of Israeli roadblocks, and a dirt road to the new Palestinian city planned for the West Bank. All the same, Israel, which was responsible for blockading Gaza, jailing Hamas activists and launching Operation Cast Lead to return Fatah to Gaza and Gilad Shalit to his home, was quick to

open the Gaza Strip for the passage of many goods, precisely because of the provocative Turkish flotilla.

In the proximity talks with U.S. envoy George Mitchell, the Palestinians submitted maps and documents clarifying their positions on the final-status issues - borders, Jerusalem, refugees, water and security - based on international resolutions and previously signed agreements.

Netanyahu, in contrast, who recognized the idea of two states for two peoples, still hasn't gone publicly beyond granting a demilitarized Palestinian state in 60 percent of the West Bank that will absorb the refugees. East Jerusalem will not be its capital, and most of its water will be pumped by Israel. Less publicly, Netanyahu, who is so keen to talk directly to the Palestinians, has so far bothered to show his plan only to Egyptian President Hosni Mubarak, who firmly rejected it.

The parties must move to direct talks and conduct the give-and-take solely between them. Netanyahu must stop demanding that he get things from Abbas and give things in return to the Americans, Europeans and Egyptians, or, reluctantly, to Hamas and its ilk. The United States must give Netanyahu and Abbas incentives to give each other the maximum possible and get the minimum necessary to gain the support of their peoples for an agreement.

## 12 | The right's strategy of phases

**Most of the Jewish public perceives the refusal by Palestinian Authority President Mahmoud Abbas to accede to Prime Minister Benjamin Netanyahu's demand to recognize Israel as the Jewish state prior to negotiations and a final agreement as evidence of a hidden agenda. For them, this agenda is based on a 'strategy of phases' and the aspiration to destroy Israel as a Zionist state.**

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But many who believe so are blind to a process in which, under cover of the demand to recognize Israel as the "Jewish state," another state is developing here - one which is alien to the Zionist vision of the "founding fathers" and is leading to that vision's demise. Therefore, before seeking such recognition from the Palestinians, the Israeli public ought to first clarify with itself what kind of Jewish state it wants. It should demand that the prime minister work to shape the state according to this perception, and it should be prepared to pay a "painful price" for it.

We must decide whether the Zionist impetus for establishing Israel and its reason for existence relate to the need for a safe haven for the Jewish people (which Theodor Herzl was prepared to realize through sovereignty in any territory), or perhaps "we settled ... because we were commanded to inherit the land," according to the doctrine of the disciples of Rabbi Zvi Yehuda Kook.

Historical Zionism viewed the state as a modern tool that would ensure the existence of the Jewish people through the ingathering of exiles and building a society that enjoys sovereignty, a Jewish majority, national security, and economic and social strength. As these elements are more important than historical territory, the borders of a state established according to this vision have no religious sanctity.

In order to achieve the goals of Zionism, its elected institutions have legitimacy and authority to concede parts of the homeland, just as David Ben-Gurion, Menachem Begin, Yitzhak Rabin and Ariel Sharon did.

In contrast, leaders of the Gush Emunim settlement movement through the years have believed that the ingathering of exiles, establishment of the state and maintaining its security are merely initial layers in the process of the Jewish people's redemption, the completion of which requires conquering the whole country. In their view, the Knesset and government have no legitimate authority to relinquish what was divinely promised to the Jewish people. Lately we've even been told that the land is "the wife" which must be clung to in its entirety - even at the price of conceding the Jewish state, which is no more than the temporary "handmaiden."

Israelis must decide if they want a state that is part of the family of nations, that recognizes international law and the decisions of the international community, or a state in which "the historic right" of the Jewish people overrides every other right - including human rights, civil rights and community rights - and legitimizes ruling over the Palestinian people, dispossessing them and discriminating against them.

In other words, do we want a state based on the foundations of freedom, justice and peace that maintains social and political equality, or a state in which, in the words of the late Chief Rabbi Shlomo Goren, no law - national or international - can infringe on the Jews' ownership and proprietary rights, according to Torah law, over the entire Land of Israel? The practical meaning of such a question is whether Israel should seek peace and pursue it, or adopt the position that says seeking peace harms security and we must therefore "empty the land of its inhabitants."

Zionism means a democratic state of the Jewish people, in which a Jewish majority lives alongside an Arab minority with equal rights. It means a state that is part of the family of nations. In order to realize the goals of Zionism, we must relinquish 22 percent of the Land of Israel.

By contrast, the vision of the right is none other than a "strategy of phases" to eliminate the Zionist vision - by sanctifying land more than life, by casting a pall over Zionism and by turning Israel into a pariah state.

# 13 | Geneva Initiative – Non institutional proposals to define Israel's borders

## Critical analysis<sup>1</sup>

Geneva Initiative was released on December 2003 following informal negotiations between Israel and the Palestinians that were held for the previous couple of years. It informally ended the Oslo process, which started a decade before, by offering an outline of a permanent status agreement between Israel and the Palestinians. The purpose of this article is to present and analyze the issue of the borders that was discussed and agreed upon both parties in the framework of the Geneva Initiative, and its connection to the other core issues such as security, Jerusalem and the refugees. That will be done through the understanding that the insights and the lessons learned from this attempt could assist future formal negotiators.

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1 A lecture in the subject of "Maps and Cartography in the Israeli-Arab Dialogue – Non institutional Proposals to Define the Border between Israel and Palestine" was given at a conference held by The Tami Steinmetz Center for Peace Research on July 7<sup>th</sup>, 2010.

## **Background, start points, and fundamental agreement points**

A new negotiation approach was practiced with the start of the meetings between the two parties on January 2002. The old approach was characterized by the attempt of each party to extort from the other and make every concession into a gain. However, the new approach regards attaining an agreement that will lead to a stable, positive, and better tomorrow as a common, essential interest. The source of this approach is a report named "2020 – The Day After", written by the National Security Council (NSC) headed by Maj. Gen. (Res.) Gideon Shefer (a senior partner at Geneva Initiative). Originally, the report was written for the negotiations at Camp David but, ultimately, it was not used. The parties made an effort to avoid points of potential friction in the future, prominent attacks on sovereignty, etc.

The parties agreed that the negotiations will continue from the point where the official negotiations between the delegations at Taba on January 2001 stopped. This was made possible thanks to the participation of prominent former officials from both parties who took part in official negotiations: Minister Dr. Yossi Beilin, Chief of Staff Amnon Lipkin-Shahak, the Palestinian ministers Yasser Abd Rabbo, Dr. Samih Al-Abed, Dr. Nabil Kasis, and more. This decision prevented the parties from returning to their old starting point and allowed them to enjoy the substantial progress achieved in the Taba Summit where the parties managed to bridge many of the gaps. However, it forced the parties, which were unofficial, to follow the interests, principles, and standpoints that led the parties in the Oslo process. Even though it blocked some new "out of the box" ideas, it guaranteed continuity and consistency of the official political process and facilitated the marketing of the initiative to the public.

The parties agreed to approach the land swap as the required

solution for the tension revolving around the territorial issue. This tension has two poles. The first relies on UNSC Resolution 242 and its implementation at the peace agreement between Israel and Egypt/Jordan where Israel followed the Green Line (1967); the second pole relies on Israel's security and infrastructure needs, and on the fact that over half a million Israelis live beyond the Green Line (including east Jerusalem) in approximately 140 communities and neighborhoods scattered in the West Bank. Resolve this tension in the form of an exchange of territory was for the parties to determine the principles and measurements.

The selected approach to negotiations and agreements on the territorial issue was a "package deal" that bridged between the gaps in all issues. That is to say, the principle Barak demanded in Camp David that "nothing is agreed until everything is agreed" remained in force. With lack of external pressure (by mediators and the media) and with the trust between the negotiators, a "give and take" approach between the issues became possible; this approach provided more flexibility than in the negotiations where concessions were made in each subject separately. This approach often created "win-win" situations. For instance, when Israel's sovereignty over the passage between Gaza and the West Bank was discussed, the Israelis accepted the Palestinian position to not calculate this area in the land swap; in return, Israel was given the right to use roads under Palestinian sovereignty in order to cross the West Bank (road 443, 60, 90). In addition, it would have been easier and better if in the land swap, areas from the Israeli side where Arab villages were located before 1948 were offered in order to give the Palestinians "assets" in the marketing of the agreement to the Arab public.

According to President Clinton's proposal from December 2000 (that was approved by the parties and used as a basis to the dialogue), Israel's position in Taba was to annex 6-8% of

the West Bank. Israel did not plan to "swap" lands from Israel, but to convert 3% of area that it was committed to compensate the Palestinians with, in the corridor between Gaza and the West bank and other assets. This annexation could allow Israel to maintain sovereignty of 81% of Israelis who live beyond the Green Line; on the other hand, the Palestinians offered to exchange 2.4% of land that ultimately allows Israel to maintain 70% of the Israelis.

Essential discussion was held about the fundamental position of Jerusalem in the negotiations. Generally, Israel sought to apply on herself different parameters than those of the rest of the West Bank. In Taba, for example, Israel demanded that the Israelis in East Jerusalem will not be counted as part of the 80% of the settlers that will remain under its sovereignty as written in Clinton's proposal. On the other hand, the Palestinians, supported by the international position, viewed East Jerusalem as occupied territory, except for the holy places that were treated differently. However, the two parties agreed to accept President Clinton's proposal regarding the division of neighborhoods in East Jerusalem based on the demographic principle – Jewish neighborhoods to Israel and Arab neighborhoods to Palestine. The views in respect to the "Historical Basin" and the Old City were divided. Israel offered a special regime in Taba, while the Palestinians clung to its distribution as proposed in Clinton's proposal ("this principle also applies to the Old City") that leaves most of the land in their sovereignty.

Another disagreement that remained unsolved was the parties' attitude towards the "No Man's Land" in Latrun and Jerusalem that extended over 48 Sq. Km. Both parties claimed ownership on the area and were careful to include it on their side on their maps.

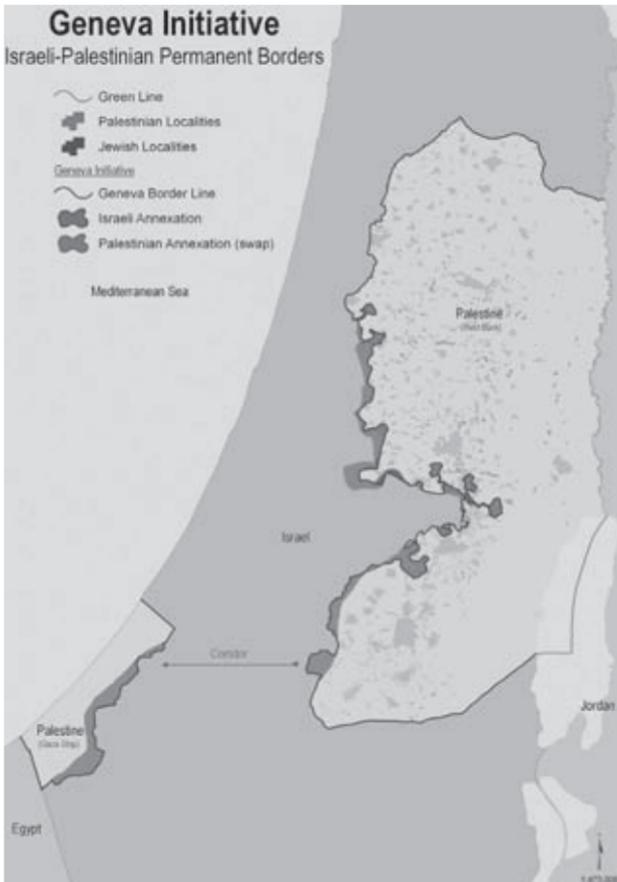
## **Converting the formula Land = Security**

Signing the Declaration of Principles (Oslo Accords) did not generate a change in Israeli perception of the connection between the permanent status agreement, land, and security. In Camp David Summit in 2000, Israel sought to keep its sovereignty over "security zones" which were defined after the Six Day War when the "Three Noes" of the Khartoum Resolution reflected the attitude of the Arab world to Israel. Israel disagreed with the Palestinian claim that a permanent status agreement and an announcement on ending the conflict create a different reality that requires a different approach to security. The security zones, according to the Alon Plan from the end of the 60's and to Sharon's Plan from a decade after, constituted 40%-60% of the West Bank area including wide straps of the Jordan Valley, Judean Dessert, Jerusalem corridor and areas along the Green Line. Even on fewer lands than that there would not have been a Palestinian "partner" for a permanent status agreement.

Therefore, Israel had to convert the formula from area = security to security = demilitarization. In return for giving up the strategic depth that the West Bank gives to Israel from a threat from the east, the Palestinians were asked to demilitarize the state and disarm it (including Fighters, tanks, cannons, ships, missiles and more). In the detailed security annex of the Geneva Initiative published in 2008, the demilitarization was translated into a list of security elements. It was agreed that an armed international force composed of four battalions will be build and deployed in the Jordan Valley along the border between Palestine and Jordan, and in the Gaza Strip along the Egyptian border. Israel will subject to the international force a IDF mechanize battalion that will be positioned in the middle of the Jordan. Also, Israel will benefit from two Early warning stations, in Baal Hazor and Mount Eival, and from training the air force in the airspace of Palestine.

The dynamics were similar when dealing with the water issue. 23% of the West Bank area has high potential for pumping from the mountain aquifer. These areas' heights are lower than 400m above sea level; therefore, because it's not likely that Israel will have direct control of this area in the permanent status agreements, the parties turned to other solutions for the distribution of water disregarding the border that was set.

**Map 1 – The borderline between Israel and Palestine**



## Principles

It's important to remember that a process where parties with different interests are involved does not run smoothly as a process projects with a high level of certainty and stability. The negotiation and the progress were redundant. In other words, sometimes the border demarcation was determined by the principles that were established, and other times the principles were established by the maps' drafts. In this manner, the following principles gradually formed and were agreed upon:

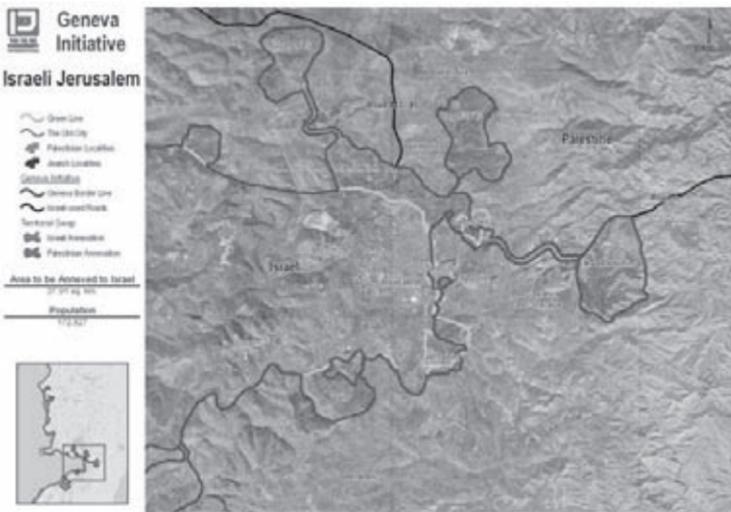
1. The agreement sets a permanent, final border that is known and agreed upon between the two states, Palestine and Israel, in order to develop a final partition of the western, mandatory land of Israel. The intention of the negotiations was to obtain a permanent status agreement that would have been applied immediately. All ideas regarding interim agreements, temporary exchanges of territory, and "triangular" land swaps with Jordan and Egypt were rejected.
2. The border between Israel and Palestine will be based on the 1967 line, in accordance with Resolution 242 of the Security Council and the outline of President Clinton. The parties agreed that the formula "land for peace" will be implemented as it was in the previous peace agreements Israel signed with Egypt and Jordan. However, it was agreed that the 1967 line will be used as a reference to the new border in accordance with the ideas of land swaps that were proposed in President Clinton's proposal, especially in relation to East Jerusalem.
3. Land swap will be made on a 1:1 ratio in a manner that serves the interests of the parties; this agreement preserved the perimeters of the Green Line area but not the line itself. It should be emphasized that this agreement significantly exceeded from Clinton's outline since Israel gave up 3% of the land that was supposed to be annexed at no cost. Arafat,

in response to Clinton's outline, rejected the idea but not to the extent of disqualifying the entire proposal; he even sent the Palestinian delegation to Taba. In return, the Israelis managed to remove the "right of return" of refugees from the agreement. Clinton made it clear that "there is not a specific right of return to Israel", however, he stated that "both parties acknowledge the right of the refugees to return to the historic Palestine" or "return to the homeland". The Israeli side at the Geneva Initiative led to a compromise that focused on the practical solution for the refugees, without the use of the term "right of return", resulting in the adaptation of Clinton's idea that requires some absorption of refugees in Israel but under Israel's laws and absorption policies.

4. Another important point was that the Palestinians demanded that the lands swaps will be equal in size and quality (agriculturally speaking). At a certain stage of the negotiations, in relation to measuring the area, the Palestinians asked that the land would be "flattened" with the appropriate software because Israel annexed mountainous regions and asked to compensate the Palestinians with planar regions. These two requests were denied by the Israelis but the Israeli alternative of transferring desert areas was dropped as well.
5. The no man's lands that existed along the 1967 borders will be divided equally between the parties; both their arguments relating to the area that totaled in almost 1% of the West Bank area were valid and the only way to distribute the land was to do so evenly. However, it was agreed that the land would stay under Israeli sovereignty because of its proximity to Jerusalem's corridor and to the access road to the city, and the Palestinians will be compensated in the land swap. This idea was later adopted by the parties in the official negotiations in Annapolis.

- Both parties will not annex settlements or residents of the other party. This principle promises the Palestinians three major things: To prevent Israel from the possibility of demanding "aligning" of the borderline according to the "fingers" big settlements form (such as Givat Ze'ev, Ma'ale Adomim, and more) by annexing nearby Palestinian villages; to rule out the possibility the Palestinians strongly oppose – to exchange populated land, meaning Israeli Arabs' communities would be transferred to Palestinian sovereignty; and finally, to prevent the possibility of leaving exterritorial Israeli enclaves in the Palestinian state.

**Map 2 – Division of East Jerusalem**



## **The essence of the agreements**

The basis agreement regarding the main "settlements blocs" formed with the start of the negotiations between Dr. Samih al-Abed, deputy minister at the Palestinian Ministry of Planning and

responsible for the territorial negotiations from 1993 until today, and myself. In Taba, the Palestinians presented their proposal for a border that leaves Ariel in the Israeli side but not Ma'ale Adumim and Givat Ze'ev. The Israelis named the Palestinian offer "A Balloon on a String"; that is to say the built area of Ariel connects to Karni Shomron settlement bloc along road 5 and from there through a narrow road to Alfei Menashe and to Israel. Lt. Gen. Amnon Lipkin Shahak (Res.), the Minister of Tourism back then and a member of the Israeli delegation in Taba, offered that Israel will reassess its view on the annexation of settlements that are over 20 Km. away from the Green Line, such as Ariel. Continuing this refreshing approach, at the beginning of the negotiations it was already agreed that Israel will relinquish the annexation of Ariel and in return the Palestinians will allow Israel to annex Ma'ale Adumim and Givat Ze'ev. This agreement was harshly criticized by some of the members of the Palestinian delegation, and there were some failed attempts to change it to different areas. The importance of this agreement became clear when the Palestinians tried to remove these settlements from the maps in the framework of their offer to Olmert in Annapolis. Nonetheless, the assessment back then and today is that in a comprehensive agreement Ma'ale Adumim and Givat Ze'ev will remain under Israeli sovereignty.

This agreement refocused Israel on the issue of the Jerusalem "Envelope". Most of the Israeli population beyond the Green Line lives in that area. Annexation of the main settlements in the area would fulfill the Israeli need to broaden the Jerusalem "Corridor" and prevent the capital from turning into an "Edge City" as it was before 1967. The city benefited from the annexation of Ma'ale Adumim in the East, Givat Ze'ev in the North, and Betar Eilat and Gush Azion in the South.

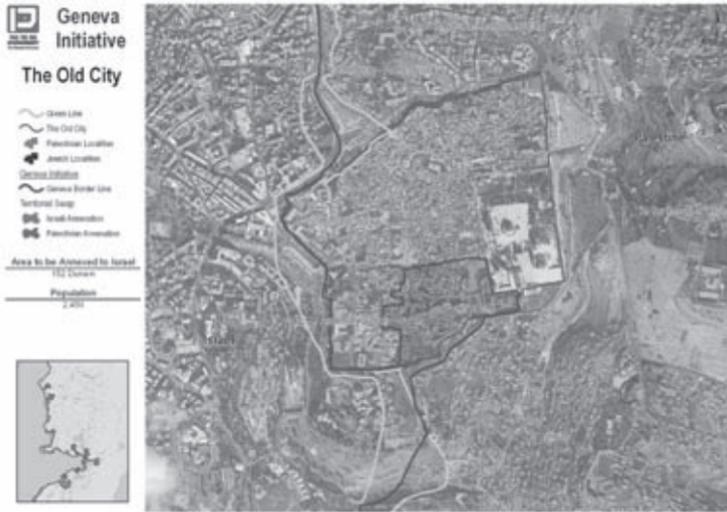
The parties agreed on a land swap of 124 Sq. Km. in which

each party receives an additional 24 Sq. Km. from the no man's land. In practice, Israel received 38 Sq. Km. and the Palestinians received 11 Sq. Km. although they were compensated in other areas. Israel annexed 21 settlements and 10 neighborhoods where 75% of the Israeli population beyond the Green Line lives. That is to say, 375 thousand Israelis stay at their homes. In return, Israel will transfer 86 Sq. Km. of unpopulated area from the Gaza "Envelope" to the Palestinians, which will constitute an addition of 25% to the Strip's land, and from the Lachish region in western Judean (see map #1).

Clinton's outline was used to solve the issue of Jerusalem – the Jewish neighborhoods will be annexed to Israel and the Arab neighborhoods to Palestine. This rule did not include Har Choma neighborhood because building it in 1966 contradicted the "Declaration of Principles" in which both parties were committed to avoid establishing facts on the ground during the interim period. The Old City was separated in a way that keeps the Jewish Quarter and half of the Armenian Quarter, where Jews live, under Israeli sovereignty. David Citadel, the Hasmonean Tunnel, and the Jewish cemetery in the Mount of Olives will stay under Israeli control, security, and management, however, under Palestinian sovereignty. In the Temple Mount and the Western Wall the religious managerial status quo became sovereign political (see map #3).

The "open city" model that was raised in the Taba Summit was used to prevent the establishment of a physical barrier inside the Old City Walls. Finally, special arrangements were established to include international forces in securing the Palestinian part of the Old City, with an emphasis on the Temple Mount

### Map 3 – The Historical Basin, Old City, and Temple Mount



### Summary and Evaluation

The negotiations and the agreements made in the framework of the Geneva Initiative ensured the essential interests of both parties regarding territory. The Palestinians ensured Resolution 242 in the form of "all territories in exchange for peace"; this achievement assists the Palestinian leadership to explain the historic concession of 100% of the homeland in return for 22% of the state in 1988. The Israelis ensured their position of not returning to the 1967 borders and not evacuating the settlements; therefore, the land swap allowed Israel to keep most of the settlers at their homes.

Enforcing that the land swap will be on a 1:1 ratio promised the Palestinians that in addition to ensuring their interpretation to Resolution 242, the Israeli lands annexed will be of minimal size and little influence on the continuity of the Palestinian state and on the lives of the residents that live near the border with Israel.

Sticking to the quantitative criteria and avoiding the quality criteria in the land swap, avoided opening a Pandora's Box that might have harmed the chances to reach agreements, specifically regarding the borders.

In the Israeli side, the annexation of territories to the Gaza strip relied on two resolutions: First, enlarging the Gaza Strip as much as possible because, nowadays, it only constitutes 7% of the Palestinian territories while 40% of the Palestinians reside there. Secondly, an Israeli internal resolution asked to share with the agricultural sector of the labor movement the burden of the "painful price" required to achieve a permanent status agreement.

The land swap does not necessarily consist of 124 Sq. Km. (2.2%). This rate might increase up to 4% but not more than that. That is for two reasons: First, premising the parties are not interested in swapping populated lands, the Palestinians refuse to receive desert lands, and Israel will avoid the evacuation of settlements and necessary infrastructure within the Green Line, the potential land in Israel available for exchange is limited and does not exceed this rate. Secondly, the essence of the land swap does not relate to matters of security, water, or main routes, it relies on the Israeli interior constraint to evacuate as little Israelis as possible in the frame of the permanent status agreement. Land swaps exceeding the 4% rate will result in an Israeli demand to annex settlements that are far within the Green Line; hence, the continuity of the Palestinian state will be damaged as well as the lives of its residents. These demands are not only unacceptable by the Palestinians, but also might lead to future disaster between the parties.

In the beginning of the negotiations, the assessment of both parties was that the issue can be resolved. What was needed was to find the maximum each party can give and minimum it can receive. The "package deal" approach was preferable in this case

because it allowed exchanging concessions of different issues and not only regarding one issue. For instance, resolving the territorial issue was made possible also because of the flexibility the Palestinians displayed regarding the security issue.

Some criticize the Geneva Initiative by saying it was enough to set principles and parameters but drawing the maps should be done by official negotiators. That was not the purpose of the Geneva Initiative. The purpose was to consciously show the feasibility of a permanent status agreement relies on the details, not only the principles and declarations. The nuances and interpretations that form the new reality also show if it is reasonable and possible, which might lead to an agreement upon it.

I'll summarize by saying that the Geneva Initiative, in the agreement and later in the comprehensive annexes, showed that there is a borderline between Israel and Palestine that answers both parties' interests and constraints. Solely, it may not be a promise to the stability required from the borderline over time, but it does draw, for the first time, a line of possible cooperation between the two states – Israel and Palestine.

## 14 | The fixation of power

**Israel must recognize that by insisting on these patterns - Cast Lead, the Mavi Marmara, Sheikh Jarrah, the fence route, Route 443 - it is ignoring the values of the world to which it wants to belong.**

Any committee probing the flotilla events should consider what would have happened if the Israel Defense Forces had taken control of the Mavi Marmara without casualties. The committee, and Israel in its footsteps, would be forced to deal with the essential issues beyond the military move - mainly evaluating the relation between the blockade and its goals and the way the conflict with Hamas was managed as part of the Israeli-Palestinian conflict and the regional balance of power.

Israeli policy assumed that the blockade of Gaza would create economic and psychological pressure on the Palestinian public and achieve three goals - freeing Gilad Shalit, preventing Hamas from strengthening militarily, and toppling its government. Five years of blockade, two military operations, closing the Rafah crossing, "conciliation" talks between Hamas and Fatah (by which the Egyptians wanted to return the secular Mahmoud Abbas to Gaza and block the likes of Iran and Turkey from entering) - all this failed to achieve these goals.

On the contrary, Hamas controlled the tunnel system, and with military and financial help from Iran, Syria and Qatar, became a

monopoly dominating every area of life in the Gaza Strip - the militias, the economy, public administration and health care.

Hamas is waging an all-out war on the United Nations Relief and Works Agency to impose Islamic Sharia law on the education system. After Operation Cast Lead, Hamas soon restored its rocket arsenal and even increased it with Iranian support and funds. Shalit, as Hamas sees it, was abducted to free the organization's prisoners, and it will only agree to his release for theirs.

Israel must free itself from its fixation on the exclusive use of force and seek other ways to achieve its vital goals. It must recognize that by insisting on these patterns - Cast Lead, the Mavi Marmara, Sheikh Jarrah, the fence route, Route 443 - it is ignoring the values of the world to which it wants to belong.

This world is ruled today by a kind of multinational corporation interested in human, civil rights and community rights. It's a corporation encompassing many countries, consisting of international organizations such as the United Nations and the European Union and including quite a few Jews and Israelis. Israel, despite its considerable contribution in the gray area of combating terror, does not see that the corporation has raised a large black flag against its domination of the Palestinian people.

Abbas, and today even Hamas, understand that to advance their interests, the proper thing is to go along with the corporation rather than adhere to "resistance." Even the United States seeks the corporation's support in its wars. As far as Israel is concerned, the dangerous scenario is that the corporation, like the Israeli right wing, adopts the one-state idea, giving the Arab majority the ability to gain control.

Therefore, Israel must focus the blockade on preventing arms smuggling, a move that would gain international support. Opening the crossing points, as we've learned recently, would even weaken Hamas' economy. Hamas can be replaced by putting it in the Palestine Liberation Organization under Abbas' leadership, but this requires presenting a real alternative to the Palestinian public in the territories, especially in Gaza.

The pragmatic Arab states, headed by Egypt, are demanding that Israel make this move. Benjamin Netanyahu's meeting with Obama next week could be a good opportunity to make this turnabout. Israel does not have to continue making every mistake before it chooses this option.

## 15 | A struggle to change public opinion

**Prime Minister Netanyahu has to work hard to change public opinion, where the concept 'there is no partner' is thoroughly assimilated.**

How serious Benjamin Netanyahu really is about resuming talks with the Palestinians will be reflected in the extent of his effort to reshape Israeli public opinion, where the concept "there is no partner" has been thoroughly assimilated, partly because of the prime minister's own utterances.

First, Netanyahu will have to cope with the Israeli presumption that the status of the territories is, at best, "disputed," though they are usually perceived as "liberated" or "promised," either by the Balfour Declaration or God himself. United Nations resolutions stating that they are "occupied territories" where a Palestinian state is destined to rise have been disregarded. Accordingly, every inch of the West Bank from which Israel withdraws is perceived as a concession, of both historical rights and real estate.

A second problem is that Israelis perceive their country's control of the West Bank as the starting point for "mutual concessions." The Palestinian concession in 1988 of 78 percent of "historical Palestine" is considered irrelevant. From the premiership of Ehud Barak to that of Netanyahu, Israel has eschewed territorial

exchanges on a one-to-one basis, whose ultimate meaning is carving up the "poor man's lamb," to use the biblical metaphor.

Third, Netanyahu will have to confront the public's impression that Ehud Olmert, like Barak before him, "gave up everything" but was turned down by the Palestinians. In the Israeli consciousness, "everything" refers to the territorial issue and leaves out Jerusalem, the refugees and security. In fact, the Palestinians stretched the interpretation of the UN's resolutions in order to accede to Israeli demands in at least the four following ways.

Although the international community denies the legality of the settlements, the Palestinians proposed a territorial exchange that allows 75 percent of the settlements to remain under our sovereignty. Although the international community has determined that East Jerusalem's status is the same as the West Bank's, the Palestinians agreed to leave the neighborhoods Israel established after 1967 in Israel's hands. Despite the centrality of the refugee issue, the Palestinians agreed that the practical solution would be financial compensation and to settle the refugees in Palestine. And although every country has a natural right to things like air space, coastal waters and an army, the Palestinians agreed to Israeli demands that take bites out of their sovereignty.

Fourth, Netanyahu will have to face up to the Israeli predilection for creating realities by force of arms rather than seeking international legitimization - as expressed in David Ben-Gurion's dictum, "It's not important what the goyim say, it's important what the Jews do." The source of this concept lays in Israel's success in winning the world's recognition for its conquests in

the War of Independence, a war that was fought under different circumstances than exist today. The tripling of the settlements since the Oslo Accords reflects the prevalence of the illusion that we will be able to annex them simply because we built them.

Both Netanyahu and the Israeli public will have to get used to the fact that by reaching an agreement, we won't be bestowing a state on the Palestinians. We will be getting the Jewish state back from an Arab world ready to accept it, not out of love but because it has no alternative.

Israel has indulged in a great deal of foreplay in these negotiations, mostly with itself. Barak and Olmert got closer than Ariel Sharon and Netanyahu, but not one prime minister has mustered the courage to reach the point where an agreement actually has a chance to be conceived. Until we get to that point of our own free will, the Palestinians will prefer to remain in the cozy embrace of the international resolutions, in the hope that they will be implemented, against Israeli interests.

## 16 | **With Mideast peace, settlers may become Jewish Palestinians**

**A solution allowing settlers to remain under PA rule can relieve Israel of dealing with an evacuation.**

One of the most difficult issues to be faced in the negotiations between us and the Palestinians relates to the number of settlers who are supposed to be evacuated. The number stands at between 110,000, according to Mahmoud Abbas's suggestion, and the 70,000 that Ehud Barak and Ehud Olmert have suggested. The total number of Israelis living across the Green Line is currently half a million.

Recently, the Palestinian leadership has reiterated its readiness to consider compromises with regard to leaving Israelis under Palestinian sovereignty, and from time to time similar declarations can be heard from the settlers' leadership. However, before we happily adopt this solution, it is worthwhile to examine it closely.

In 1947, when a UN commission determined the partition borders, it left behind some 10,000 Jews in the planned Arab state. It saw in their presence, just as in the presence of an Arab minority in the Jewish state, a kind of guarantee that would ensure cooperation between the new states. And indeed, the presence of a Jewish minority in Palestine will serve as a challenge to both

states and will oblige them to relate to questions of civic equality, cultural autonomy and participation in government. However, the question whether this challenge will turn into a threat to stability is dependent on the extent to which the minorities internalize their status as such.

A solution whereby the settlers remain under Palestinian government will relieve Israel of having to deal with their evacuation, but it is likely to undermine Israel's stance with regard to territorial exchanges. The lack of a clear connection between Israel's territorial position and the issues of security, water and infrastructures, and its apprehension about the threat of an evacuation, make it possible for the Palestinians, if they adopt the solution of Israelis remaining there, to demand more vehemently that the "fingers" of settlement that push deep into their territory, like Ariel and Kedumim, be cut back.

A solution that leaves settlers in Palestinian territory will necessitate relating to the scope of the area including 96 settlements that is not included in Israel's territorial demands, or to the 107 that are outside the Palestinian proposal. Their joint area covers between 83,000 and 114,000 dunams, which constitute 1.5 to two percent of the area of the West Bank, according to the respective positions of the sides. Will this fact generate a Palestinian demand that, in addition to territorial exchanges, Israel must allocate an area on an identical scale for the benefit of new communities for its Arab minority?

The sides will not be able to evade dealing also with the status of these lands. Since 1967 and to this day - despite rulings by the High Court of Justice which barred it - Israel has continued to build settlements and outposts on private land. They today

constitute some 40 percent of the lands of the settlements that lie east of the separation fence. Both Israel and Palestine will be obliged to show great generosity toward the owners of these lands, so that they will be willing to accept the settlers as their neighbors.

In order to make this solution more feasible, steps must be taken to block the continued intensification of its disadvantages. First, Israel must cease expanding the settlements that lie outside the line of its positions. The permission granted "during the year of freeze" for some 1,500 new housing units east of the fence, and the granting of national priority status to isolated settlements, are not the way to do this. On the other hand, stopping the "laundering" and the evacuation of unauthorized outposts - of which, according to Peace Now figures, approximately 84 are located either completely or partly on private land - can reduce the private lands problem.

Palestine and Israel can exist with a Jewish and Arab minority in their midst. The establishment of a Palestinian state will ensure, firstly, that the Palestinians will be able to realize their right to self-determination outside the borders of Israel, and secondly, that those who do not grow accustomed to being a minority will always be able to emigrate to the homeland of their nation that lies across the border.

The writer is a member of the board of directors of the Council for Peace and Security.

## **17 | West Bank rabble rousers should be forced to see Avatar**

The film "Avatar" is about a corporate research expedition to a planet called Pandora, where a god is found different than ours, a "green" universal deity of which flora and fauna are a part, a god we once knew and today perhaps are lacking.

The beginning of the concept of the commandment to worship one god is attributed to the reign of Pharaoh Akhenaten, who ruled Egypt during the 14th century BCE. He instituted a new religion based on one god, Aten, who was the light revealed by the sun. Akhenaten did away with the family of gods and cut Aten off from the biological cycle of birth, sexuality and death, because he did not want him to be subject to the system of laws that preceded him. To these characteristics, Moses added the separation between the deity and the world and nature. The deity is not part of nature, but created it and rules it at will, for or against humankind.

"Avatar" ostensibly takes us one step backward and returns the deity to nature. Eywa, the goddess of the inhabitants of Pandora, is nature. This concept is condescendingly described nowadays as primitive, but it is this concept that maintains the system of laws that allows every component in nature to exist. It is about a culture that shows personal and communal responsibility because it recognizes

the right of the other and the different to live. This culture makes do with the fulfillment of its basic physical and spiritual needs (the "greenest" law of all) based on the deep understanding of the interdependence of all components of existence.

In contrast to the inhabitants of Pandora, humans renounce their responsibility to preserve the thin line of the earth's climate that allows their existence. Believers among them pin their hopes on God, who supposedly rules nature, and assume that God sustains the earth in exchange for their "worship." However, others believe that technology will create a bubble of human existence in engineered colonies in the heart of the earth, when natural conditions no longer allow the human race to exist on the surface.

Eywa's ability to subdue the powers of the corporation – which is trying to destroy her with its technological superiority – by calling on all living things linked by trillions of connections, exhibits her power in all its magnitude. Eywa does not do this because she has taken a side – to fight the invaders from earth – but because they chose to disrupt Pandora's harmony and equilibrium of nature.

This is not an earthly deity granting grace only to his believers and raining down fire and brimstone on the "heretics" of the other faith. Rather, this is a god that promises that balance of everything will not be impaired and gives the value of universalism unimaginable depth – far beyond the notions of this or that group of believers on earth. There is no "Chosen People," "Messiah Son of God" or "Last Prophet" on Pandora, but rather the sum total of life.

Thus Avatar becomes a must-see in rehabilitation programs

for people who set fire to synagogues, churches and mosques, desecrate graves and smash ancient statues. It's also a must-see for those who still believe that "we must save the earth" and do not understand that it will continue to survive even after we have destroyed its ability to provide us with the necessary conditions for survival.

## 18 | A new freezing point

Israel's political and unilateral moves in the past decade have shown that its position on the borders with the Palestinians is divorced from the requirements of security, water supply and infrastructure. They are dictated by one factor alone: the settlements. Israeli prime ministers, only too aware of their domestic political weakness, want to avoid any significant evacuation of settlers.

Meanwhile, not only have they done nothing to block the increase in the numbers of settlers, they have failed to funnel that increase into areas they want to annex and distinguish between the varying interests of the different settler groups. If Prime Minister Benjamin Netanyahu agrees to resume negotiations with the Palestinians, subject to a timetable and clear-cut topics to be discussed, he may find that a differentiated application of the construction freeze in the territories could have a positive result.

During talks with the Palestinians, Ehud Barak, Ehud Olmert and Tzipi Livni drew maps of the future borders. Ariel Sharon and Shaul Mofaz tried to reach those lines through unilateral moves like the security fence and the disengagement. Altogether, the Israeli position since the end of 2000 has been to annex 6 percent to 8 percent of the West Bank.

Although the border is planned to snake around for more than 800 kilometers, almost three times the length of the Green Line, it neither creates strategic depth nor includes security zones

(with the demilitarization of the Palestinian state substituting for these). Neither does it ensure Israeli control over aquifers, strategic roads or areas that dominate Israel's coastal plain and the airfields there. All it amounts to is a winding line between Jewish and Arab communities, whose purpose is to leave 80 percent of the settlers under Israeli sovereignty and to avoid annexing Arabs.

If the government had concentrated settlement growth on the Israeli side of this line since entering the political process in 1993, only 20,000 Israelis would have to be evacuated today. But while the number of settlers in this area has grown by slightly more than twofold, diplomatic myopia and domestic political weakness have led to an increase in the numbers beyond that line by a factor of five. Israel has settled 80,000 people, at an outlay of billions, outside the areas it is demanding, only to have to evacuate and compensate them in any future peace agreement.

One-fifth of the exceptions to the construction freeze have been allocated to settlements outside this line, and the national priority map has recently been extended to include these isolated locations. These steps strengthen precisely those settlements that account for most of the per-capita excesses over the Israeli average in security, infrastructure and education. Once more the diplomatic and economic folly inherent in their very existence has been underlined.

Most of the demographic growth inside the line has been in Betar Ilit and Modi'in Ilit; this is why a third of West Bank settlers are now ultra-Orthodox. These towns are on the Green Line, and they were built mainly to relieve housing shortages

in the Haredi community. These places will be annexed to Israel, even under every Palestinian proposal submitted so far.

Beyond this line, most settlers are the heirs of Gush Emunim who reject any possibility of sharing the country. Therefore, the decision to apply the construction freeze to the Haredim, who have to open a new kindergarten every week in Modi'in Ilit, is a cynical subjugation of their interests to those of the rulers of the land of the illegal outposts.

With the resumption of negotiations, it will be possible to separate areas using a different freeze line; to weaken the opponents of the two-state solution who are concentrated beyond the line laid by Israel. This will also strengthen the coalition needed for resuming talks and reaching a final-status agreement in which 80 percent of the settlers finally find themselves living in a Jewish and democratic State of Israel.

## 19 | The Jordanian Predicament

Colonel (res.), former head of the Peace Administration for Ehud Barak, one of the originators of the Geneva Initiative, representative of the Council for Peace and Security

At the end of the War of Independence – the outcome of the Arab rejection of the Partition Plan – 600,000 Palestinians became refugees in Arab states, especially Jordan. Until 1988, the Palestinians were not included in the global agenda and negotiations on the future of the West Bank were carried out directly between Israel and Jordan. Many Israeli political leaders at the time regarded Jordan as the Palestinian homeland, and cited the growing Palestinian population there as validation of this view.

Following the Six Day War, an additional 250,000 Palestinians from the West Bank also relocated to Jordan, and the depleted Jordan Valley, according to the "Alon Plan," was viewed as part of the security zone against the "Eastern Front." Jordan's detachment in 1988 from the West Bank did not affect the "Open Bridges" policy and the gates were opened even wider with the signing of the 1994 Peace Agreement with Israel. Since then, however, the Hashemite family has avoided challenging the leading role of the PLO in negotiations with Israel on the future of the West Bank, and reiterated that it is in Jordan's interest that an independent state be established in the territories.

Even though Israel has stopped making public statements in support of a Palestinian homeland in Jordan, the facts on the ground have not changed. Since the year 2000, 250,000 Palestinians have emigrated from the West Bank to Jordan, contrary to the trend perceived after the Oslo agreements, where tens of thousands of Palestinian visitors flowed to the West Bank from Jordan and overstayed their permits. In response, the Jordanians have recently decided to refuse or postpone granting Jordanian citizenship to Palestinians seeking family reunification, in order to reduce the number of registered refugees in Jordan, thus hoping to encourage their return to the West Bank once a permanent settlement is reached.

Jordan fears that in addition to existing pressures resulting from tribal conflicts, there is a potential stream of refugees from Iraq when the Americans pull out, a huge foreign aid debt and the critical shortage of water. It also might face a heavy flood of Palestinian refugees if the PA collapses or in the wake of an escalating security situation, such as another "Cast Lead" operation. Furthermore, the Jordanians are fearful that Israel might opt to withdraw to the security fence border if it proves disadvantageous to continue to hold onto the West Bank, in which case the subsequent chaos will only increase immigration eastwards.

As a result, we are now seeing intensive activity on the part of the Jordanian kingdom to promote the establishment of a Palestinian state, such as the greetings that the king sent to the J-Street conference urging Israel to accept a peace agreement that would include no further demands, or the suggestion to transfer responsibility for the Palestinian issue to the Security Council. Jordan even voiced support for the unilateral Palestinian declaration that it would establish a state with temporary borders.

Israeli supporters of the "optimistic scenario" of the "alternative homeland" completely disregard its great risk to Israel. The chances that Hashemite control will be lost to a Palestinian majority are slim, and this could only happen if the West were to completely withdraw their support. The more likely development is that as a result of increasing internal pressures, it will have to form a secular, Islamic Jordanian-Palestinian national coalition, which will pressure it to gradually distance itself from Israel until all manifestations of peace disappear. In addition, the king will be coerced to court Hamas openly, which has been done in secret until now, far from the eyes of the media. This is considered critical by Jordanian political and security leaders in order to prevent tension and conflict as Hamas continues to gain strength because of the stalemate in the peace process. This coalition might also push Jordan towards Turkey and Iran, and Israel will find itself facing a new regional alignment that no longer has a pro-West orientation.

## 20 | Before the foundations are laid

The rationale behind the road map and Benjamin Netanyahu's "economic peace" is the Israeli demand that a Palestinian state be built before a final-status solution is discussed and implemented, or at least as negotiations are taking place. A well-established Palestinian Authority maintaining good government and enforcing law and order would calm Israelis' fears that violence will flare up again and that the rifles of the Palestinian police will be aimed at them, and would ensure their support for "painful concessions."

But such a welcome process – sponsored by the Quartet and with the involvement of the Americans, as represented by Gen. Keith Dayton – has a very low chance of getting anywhere, because of the reality on the ground created by Israel: the expansion of the settlement enterprise, the growth of illegal outposts and the powerlessness of the security authorities, the opposition of the settlers' leaders to the removal of roadblocks, and the prevention of Palestinians from using main roads close to Jewish settlements.

The challenge that IDF Chief of Staff Gabi Ashkenazi posed to the Palestinians, when he said, "The more you do, the less we'll do," was taken up enthusiastically. Over the last year, a number of battalions trained in Jordan by the Americans have taken over in the Jenin district, where there are no Israeli settlements, as well as in Nablus, Bethlehem and the outskirts of Hebron, all to the satisfaction of the Israel Defense Forces.

The removal of roadblocks in these areas, along with stepped-up economic activity by Israeli Arabs in the West Bank and Palestinian Prime Minister Salam Fayyad's plan to support small businesses with international aid, have prevented the Palestinian economy from completely shattering. For the first time since 2001, there has even been a slight improvement in its performance.

But in recent days it has emerged that several hundred Palestinian policemen who completed their training recently have been grounded in Jericho and have not been deployed to Ramallah as planned. That district, whose Jewish areas are part of the Binyamin local council, includes many unauthorized outposts and more than 90 roadblocks on roads leading out of Arab villages and at the entrances to Ramallah, and Palestinians are barred from traveling on Route 443, which connects the agricultural hinterland with Ramallah's urban center. In addition, there are two other roads for the exclusive use of Israelis. All this makes Palestinian economic traffic impossible, and does the same to the coordination necessary for the Palestinian police to move freely in the Palestinian areas.

Both the "economic peace" plan and Fayyad's program for the establishment of a Palestinian state require the Israeli government to take a number of immediate steps: remove the illegal outposts, as it has promised the Americans it will do; remove most of the roadblocks; and make the Jordan Valley and the Judean Desert a space for Palestinians to live again. In addition, roads must be opened to Palestinian traffic and corridors opened for the continuous use of Palestinian police. These moves, along with permits for operating Palestinian enterprises in Area C and free access to markets abroad, including Israel, could bring about the desired economy and government on the Palestinian side.

They would also block Fatah's and Hamas' criticism of Fayyad's cooperation with Dayton; some Fatah members fear a rise in Fayyad's prestige and Hamas deplors what it calls "Dayton's Palestinian army."

In the absence of such steps, and in view of the diplomatic deadlock, the building of the Palestinian state will come to a standstill even before its foundations have been laid. Israel cannot enjoy the best of all worlds. Palestinian security forces would rather fall into line with their opponents than take part in a hopeless process without a Palestinian state at its end. Investment from the outside, which is sensitive to political uncertainty, will diminish. Without it, the rapid economic growth will end and the idea of economic peace will be dead and buried.

## **21 | For its own sake, Israel must keep the Palestinian Authority alive**

It's a mistake to view Palestinian President Mahmoud Abbas' announcement that he will not run in the next Palestinian Authority elections as simply a ritual designed to apply pressure on the international community and Israel. Even if, as anticipated, the elections don't take place in January and Abbas remains in office for now, he is liable in the future to make good on his threat to quit and thereby place Israel in a position fundamentally similar to the one obtaining in Gaza before Operation Cast Lead, but with much more serious ramifications.

In Cast Lead Israel decided to leave control of the Gaza Strip in the hands of Hamas, understanding that the only alternative was resumption of Israeli rule there, with all its disastrous implications.

The disintegration of the PA would perhaps generate a storm of exultant "we told you so"s from right-wingers, but it would also obligate Israel to reassume responsibility for ruling over the lives of more than two million Palestinians in the West Bank.

In the absence of a suitable candidate to succeed Abbas (assuming that Marwan Barghouti, who has declared that he will contest the election, could not do so from his Israeli prison cell), the breakup of the PA is not an unreasonable scenario.

The disintegration of the PA could coincide with a decision by Fatah to commit to reconciliation with Hamas, which would be accompanied by the end of the Dayton plan to build a Palestinian military infrastructure, and especially an end to security coordination with Israel.

It could also end the Fayyad plan for creating institutions of a future Palestinian state, the release of Hamas prisoners held in the West Bank and the renewal of popular protest.

The dismantling of the PA would be tantamount to a public admission by the Palestine Liberation Organization of the failure of the diplomatic route. Even if Fatah, which has been losing ground on the Palestinian street, doesn't declare it publicly, it would have to adopt the call by the Damascus-based Hamas leader Khaled Meshal to freeze efforts to come to an agreement with Israel, "at least for a certain period of time, and to embrace jihad, resistance and popular action of all kinds."

Hamas would become "the only game in town" by virtue of its success in bringing an end to the Israeli presence in Gaza and would commit to doing the same in the West Bank.

As things stand, Abbas and his Fatah colleagues will refrain from challenging Hamas in democratic elections. Abbas' political organizing, which planned to rely on the anti-Hamas nationalist camp, will not win if it only comes out against the organization's social platform, whose radical Islamic signature is already visible in the Gaza Strip. It will require political reinforcement.

In his speech, Abbas left an opening to Israel and the United States to regain its composure and act to prevent the scenario from

becoming a reality. The initiative over a unilateral declaration of a Palestinian state also leaves such an opening, taking into consideration that it is a plan that can indeed be carried out.

Its complexity, however, and the risks that it carries on the Palestinian side as well will, in all probability, lead to the postponement of a declaration and the possibility of resuming negotiations before an independent state becomes a reality.

Prime Minister Benjamin Netanyahu, who time and again speaks of the need to make a distinction between Gaza and the West Bank, must act to make this concept a reality and to again give the West Bank Palestinians the sense that there is benefit in a diplomatic solution.

Israel must create the conditions that will in the short run enable the realization of the Fayyad plan to build a Palestinian state "from the bottom up" and in the long run the resumption of negotiations with an agreed agenda and time frame for completing negotiations on a final-status arrangement.

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## 22 | The right against the Zionist idea

Believers in the idea of a Greater Israel have what they think is an irrefutable response to demands for a settlement construction freeze and putting the two-state solution into practice. "Go back to the sources," they preach, arguing that the Balfour Declaration and League of Nations Mandate for Palestine are historical and judicial justifications for their opposition to the partition of the land and their determination to continue the settlement enterprise.

But the right wing's reliance on history is partial, ignoring the decisions of the United Nations, the heir of the League of Nations, such as the partition decision of November 1947. Based on this resolution, David Ben-Gurion declared the establishment of the State of Israel. But mainly, the right simply ignores the previous conditions laid down for the realization of the international commitment to establish a Jewish national home. Adopting the Balfour Declaration and the Mandate's provisions would contradict and cancel out the Zionist movement's defining goal: a state for the Jewish people.

The most reasonable interpretation of the Balfour Declaration, which was issued 92 years ago today, is that it calls for a Jewish national home in the whole of Palestine. But we cannot ignore the proviso that follows: "it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine."

Meanwhile, the Mandate, which the League of Nations awarded to Britain in 1922, called for the creation of political, administrative and economic conditions that would ensure the establishment of a Jewish national home. The document did not mention another national home for the Arabs living in Palestine, but it repeated the commitment that the civil and religious rights of all the country's inhabitants would be preserved.

Anyone who today wants there to be only one state in the Land of Israel, or Palestine, cannot simply nullify the provisions that promise civil rights for the non-Jewish majority living here. The sincerity of these people is not to be doubted, as some of them have even declared that they prefer the "wife" – the Land of Israel – to the "maidservant" – the State of Israel.

Preferring the land to the state undermines Herzl's Zionist idea. In "The Jewish State" he pleaded that the Jews be given sovereignty in any patch of land sufficient for the needs of our people. In his view, the Land of Israel was indeed the best place to build the Jewish national home because of the historical link between the people and the land. But the solution to "the Jewish question" was a state; its location was of secondary importance. And in fact, the Zionist movement realized all its goals in the 1967 borders.

The right's anti-Zionist attitude overlooks the rule that in a democratic regime it is the majority that determines the nature of the state and its symbols. A Jewish minority in a democratic state would not be able to realize a national home as defined in the Mandate by facilitating the migration of the Jewish masses to Palestine to let them shape their destiny and build a homeland. It would undermine Chaim Weizmann's belief that justice requires

there to be one place in the world where we Jews can live our lives and express our essence in accordance with our nature. Then perhaps, Weizmann wrote, our spirit will be better understood and our relations with the world's nations normal.

It was against this background that Ben-Gurion summed up the War of Independence with a clear statement: "The Israel Defense Forces can conquer all the land between the Jordan and the sea. But what kind of a state would we have with an Arab majority in the Knesset? Between a whole land or a Jewish state, we have chosen a Jewish state."

The two-state solution that ensures a Jewish majority will also ensure the realization of the Zionist vision. Those who seek another way may well wish to live in the land of our forefathers under a flag that is not blue and white, with the status of residents. Palestinian leaders have said recently that they would make this possible in a final-status agreement with Israel.

## 23 | Turning back time

In the wake of Operation Cast Lead, the belief took root in Israel that its results would be judged not necessarily by what was immediately apparent, but by how the campaign would be able to leverage long-term regional processes. Egypt would prevent the continued smuggling into Gaza and bring about intra-Palestinian reconciliation, which would see Hamas subordinate to the leadership of Mahmoud Abbas, while Washington would work toward renewing talks between Israel and the Palestinian Authority and thus topple the basis for Iran to pursue regional hegemony.

But a series of incidents in recent weeks testify to the failure in reaching those goals, and all that we've warned about is now taking place. The clock is turning back: Abbas is growing weaker, Iranian influence is spreading, there are signs of a renewed conflagration in Gaza, East Jerusalem is in ferment and there are fears that Israel's ties to regional allies will come undone.

In the last nine months, Abbas has succeeded in advancing government reforms. He built up his security forces and even emerged stronger from the sixth Fatah conference in Bethlehem. But all this bolstered his authority within Fatah and the Palestine Liberation Organization alone – only in the West Bank, where the Israel Defense Forces operates. In Fatah's struggle with Hamas, with the help of Egyptian mediation and in the absence of diplomatic achievements, Abbas is refraining from committing his signature to a reconciliation deal that does not allow him at

least a partial presence in Gaza and grant him public legitimacy to represent the Palestinians in negotiations.

Abbas, with his hands tied by Palestinian public opinion and American and European demands for a total freeze on settlement construction, was forced to appear at the fruitless tripartite summit in New York, which Hamas exploited to call his legitimacy into question. That legitimacy was further undermined in the wake of the Goldstone report. The PA's refraining from submitting the report to the United Nations Human Rights Council was perceived by the Palestinian public as a surrender to Israeli pressure (right when Israel refused to allocate the PA frequencies for a second cellular phone network) and to pressure from the Americans (who demanded compensation for dragging Prime Minister Benjamin Netanyahu to the negotiating table).

The failure of American efforts to get the wheels of the peace process moving, to freeze settlement construction and free Palestinian prisoners in exchange for Gilad Shalit – as well as the Egyptian declaration that the Rafah Crossing would open fully only after a reconciliation agreement – have completed the reversal in the positions of Hamas and Fatah. The former, which sought a reconciliation deal to achieve legitimacy and the opening of the Gaza crossings, is now asking Egypt to postpone publicly blessing such a deal until change occurs "in the atmosphere against Abu Mazen [Abbas]." In essence, its intention is to phrase the agreement in such a way as to annul Abbas' diplomatic freedom on the pretext that he has lost the trust of the Palestinian people. Fatah is now forced to move quickly and accept reconciliation before the agreement changes, simply to survive politically, both within the PLO and in its struggle with Hamas to represent the Palestinians.

The American attempt to dissuade the Egyptians from pushing a reconciliation agreement (claiming it would hurt the peace process) seems cynical in light of the clearer picture emerging of the Netanyahu government's policies vis-a-vis the Palestinians. It's fitting that the Americans would rush to present both sides with an agreement that could serve as a bridge to further negotiations, to prevent the continued deterioration in Abbas' status before he is forced to swallow the remainder of Hamas' demands.

An Israeli response to the reconciliation proposal could also aid in getting the strategic relationship between Israel and Turkey back on track, before that relationship crumbles in the face of the strengthening ties between Ankara and Damascus.

## 24 | Preparing for the American peace plan

The American initiative for Middle East peace, which is expected to be unveiled within the coming weeks, is generating both fear and expectations among the relevant parties. This duality was also felt by Obama administration officials while they were formulating the proposal and deliberating over the right time to publicly present the details.

One of the lessons learned in the 16 years since the signing of the Oslo Accords is that the Israeli-Palestinian conflict can be likened to a Gordian knot – tangled and lacking a graspable point which could undo it. The failed attempts at untying the knot through interim processes could have moved the Americans to try and solve the stalemate in one fell swoop: present a detailed offer, anchored by a UN Security Council resolution, which would give the two sides a choice to either accept or reject, and to bear the consequences.

Yet putting all the eggs in one basket, similar to what was tried at Camp David, deterred the Americans. They feared the diplomatic process would collapse if the initiative failed, just as it did in the summer of 2000.

The American dilemma does not deal with the question of whether to work "from the ground up" by way of additional interim agreements, or "from the top down" by way of a detailed proposal and a summit which would consummate the deal.

The lessons of the Annapolis process taught us that it is impossible to make do with Palestinian "state building" without presenting a diplomatic horizon for all issues relating to the establishment of such a state in practice.

On the other hand, it is impossible to make do with negotiations on a final status agreement without supplementing it with significant steps on the ground that will foster an atmosphere conducive to achieving the necessary concessions for such an agreement. The institutional, economic, security and legal mechanisms needed to implement the agreement would also need to be considered.

As such, there are doubts concerning the specificity of the proposal, the timetable for its implementation and the international "anchoring" of the initiative. These doubts come from both directions.

The Americans will not be satisfied with the deal Prime Minister Benjamin Netanyahu is offering – a freeze in settlement construction for a few months in exchange for steps to be taken against Iran – in order to ensure the Arab and European support they need for the sake of their interests elsewhere around the globe.

It is obvious to the Americans that negotiations over vague proposals will drag on for over a year. On the other hand, within a year the Netanyahu government could collapse – thanks to pressure from the settlers and the right wing. Such a development would not be in the Americans' interest today.

As such, what can be expected from the Americans is a regional proposal starting with the Palestinian track and then moving onto Syria and Lebanon. This proposal will be more detailed and specific than the Arab League initiative as it relates to the terms of a deal

as well as the benefits included in a permanent status agreement.

The Americans will not be satisfied with the current level of Arab flexibility, which finds expression in their reasonable interpretation of issues relating to borders and refugees, in order to bring Netanyahu to the negotiating table. Yet they also will not deviate from proposing their own solutions to these issues, nor will they wish to place the cart before the horse. In other words, they will not press for full normalization before a final peace agreement.

On the Israeli-Palestinian track, the Americans will seek to create circumstances on the ground which would enable the building of the state-in-the-making. In addition, they will offer their own bridging proposals which will be gradually presented to both sides in the two years allotted for the negotiations. The American proposals will be laid out on the negotiating table through a variety of diplomatic means – ranging from an international peace conference based on the Madrid model, to an exchange of letters based on the Oslo model, to the deposits based on the Syria model, to the detailed parameters for a solution to the conflict based on the Bill Clinton model.

One should hope that the Americans, who were smart enough to adopt the aforementioned "either/or" approach, will refrain from meeting halfway on the key issues, be they a freeze in settlement construction or the right of return.

At Camp David and Taba, we learned that halfway compromises of this nature on each issue individually do not bring the two sides closer, but rather creates a lose-lose situation. The compromise must be aimed at a comprehensive package deal: Israel as the state of the Jewish nation which enjoys security, recognition and peace; and an independent Palestine alongside it.

## 25 | That's the way to make peace

The Israeli-Palestinian conflict, fed for more than a century by national, political and social tensions, has created a climate of suspicion, fear and a feeling of being under threat from both sides, which no final-status agreement can ever change with one stroke of the pen. This is one of the Geneva Initiative's basic assumptions. Although it offers a practical and cohesive outline for establishing a Palestinian state, it aims to secure Israel's vital interests such as preventing the realization of the Palestinian right of return, assuring acknowledgment of Israel as the national home of the Jewish people, and most of all, detailed and meticulous security arrangements vital to Israel's existence.

In view of the above, Shlomo Avineri's criticism of the initiative's chapter on security arrangements and its detailed annex ("That's no way to make peace", August 8) is all the more bewildering. Avineri's article appears to ignore the reality of living here, where almost all Israeli and Palestinian families have been scarred by the conflict. All of Avineri's questions are clearly answered in the initiative's security chapter, published six years ago. The international peacekeeping force will only be active in territories of the Palestinian state, so Israeli citizens will not become "the subjects of countless competing military, local and international authorities," as Avineri claims. The Western Wall and other parts of Jerusalem's Old City under Israeli sovereignty will be under Israeli rule, contrary to Avineri's fear that residents of the

Old City will live under an internationalized regime that would create a "mess."

A serious discussion of the security arrangements (like the demilitarization of Palestine and the involvement of international contingents), which seek to deter the sides from violating the agreement in the short term and ensure a stable reconciliation process in the long term, forces us to consider the assumptions at the core of the arrangements. They can be summed up as follows. First, to ensure that the threat to Israel's security will not increase if the final-status agreement crumbles, no foreign army will be stationed on the border, taking a page from the agreement with Egypt (and someday Syria). Second, in any agreement, the border will be determined after settlements are annexed to Israel, rather than by strategic security considerations. The new border's length will be twice that of the Green Line. Therefore we must ensure that Palestine can set up an internal security force that will prevent terrorist attacks even before the perpetrators reach the border. Would Avineri suggest, for instance, that we take down the security fence between Israel and Palestine as soon as an agreement is signed?

Third, an agreement with the Palestinians will not instantly remove all threats to Israel. It must therefore ensure the existence of early-warning installations and Israel's ability to fly in Palestine's airspace. Fourth, an international force is supposed to ensure the commitments to Israel's security, but it would also serve as a guarantee to the security of the demilitarized Palestinian state against a rapid deployment by the Israelis.

Finally, a stable agreement would allow the sides to take better care of their vital interests than they could without it. Therefore

the security chapter can only be analyzed in the context of a complete package of give-and-take seeing to borders, refugees and Jerusalem.

If we reach an agreement, Israel will have to ensure that the security arrangements do not become, through cynical and belligerent interpretation, the seeds of a future conflict. But it would also need to carefully consider over the years whether the agreement and its stability allow it to remove some of the security arrangements. Until then we must adopt a careful and sober approach; there's no doubt the U.S. administration will understand that.

## 26 | Time for an American proposal

Now that the parties to the Israeli-Palestinian conflict have finally recognized reality and agree on the idea of two states for two peoples, the Obama administration has an obligation to illuminate the proper path for the two rivals – each of whom is convinced the ball is in the other's court.

Palestinian Authority President Mahmoud Abbas, who demands that the negotiations be continued from the point where they were stopped, is afraid Prime Minister Benjamin Netanyahu wants to make him travel a "Via Dolorosa" that begins with the map of "vital interests" drawn up by Netanyahu 20 years ago – according to which the Palestinians will retain 40 percent of the West Bank. Netanyahu, for his part, has refused to restart the negotiations from a point that has already crossed his "red line." An American proposal that offers clear parameters for all the issues at hand could reduce the gaps and bring the two parties to effective negotiations, to be supported by existing and future processes.

In order to make proper use of the two years U.S. President Barack Obama has allocated to the process, we must begin with intensive negotiations over a proposal whose main points are the following: an exchange of up to 4.5 percent of land, at a 1:1 ratio, which enables 80 percent of the settlers to remain under Israeli sovereignty; the transfer of the Arab neighborhoods in East Jerusalem to Palestinian sovereignty; and the creation

of a special regime in the Holy Basin in Jerusalem. On the matter of refugees there will be discussion of options including compensation options, returning them to the State of Palestine, having them remain in their current places of residence or be absorbed in a third country. The State of Palestine will be demilitarized, with no army or heavy weapons, and will have security forces designated to fight terror.

The negotiations should be accompanied by four parallel processes: a graduated continuation of the construction of the Palestinian state according to the "Jenin Plan" model, with an emphasis on the formation of security forces with proven ability to enforce law and order; the evacuation of the illegal outposts, limited Israeli construction in the settlements, the removal of roadblocks and the implementation of approved Palestinian economic projects; steps toward "normalization" on the part of Arab countries vis-a-vis Israel, subject to progress in the negotiations; maintaining and strengthening the cease-fire in Gaza, while completing the deal to return captive Israeli soldier Gilad Shalit, and the imposition of efficient supervision by the PA and international bodies at the border crossings.

These processes are meant to create the conditions and the atmosphere necessary for conducting successful negotiations, as well as to reduce the sensitive time lapse between the signing of the agreement and its implementation. The implementation will naturally depend on objective and subjective factors. The former include the time needed for drawing the new border, deploying the Israel Defense Forces, constructing the corridor between Gaza and the West Bank, preparing for the evacuation of some of the settlers and the establishment of two capital cities in the Jerusalem area, and more.

The subjective factors are designed to remove fears shared by both sides of partial implementation that will harm their interests. Israel will not transfer territory to Gaza in the context of the territorial exchange nor open the corridor between Gaza and the West Bank before there is total Palestinian control over both parts of the state; in addition, it will not transfer supervision at the international crossings or withdraw from the Jordan Valley before multinational forces are deployed there. On the other hand, the UN Relief and Works Agency will not stop taking care of the refugees before an international mechanism to address their needs is established.

In spite of the complexity of the problems, the lack of trust between the sides and dependence on regional factors such as Iran and Syria – the Quartet (the UN, the European Union, the Russian Federation and the United States) has an obligation to "concoct" suitable conditions in advance of the upcoming conference in Moscow, which is likely to serve as a significant milestone in promoting the process.

## 27 | Without any tricks

The repeated demands by Barack Obama and the Europeans for a freeze on settlement construction reveals that Benjamin Netanyahu's promise – that Israel will neither build new settlements nor expropriate land for the benefit of the settlements – is nothing more than an effort to throw sand in the public's eyes.

Customary international law gives occupied nations an absolute right to the ownership of their land, so land cannot be expropriated. Israel's practice of expropriating land in accordance with Jordanian law is permissible only if the land is taken for a purpose that serves the public. Only once has Israel expropriated land for the sake of establishing a settlement – 30,000 dunams (some 7,500 acres) for Ma'aleh Adumim. But after applying Israeli law to East Jerusalem, Israel expropriated one-third of the 70,000 dunams it annexed for the sake of building new Jewish neighborhoods.

An occupying power is entitled to seize land temporarily for defined security needs, after paying compensation to the owners, but this does not give it any property rights to the land. Once the security need has passed, the land must be returned to its owners. Israel made use of this loophole between 1967 and 1979, issuing "military seizure orders" for some 50,000 dunams for "security needs." It then established settlements on this land, such as Kiryat Arba and Beit El. But the High Court of Justice's ruling in the Elon Moreh case, which overturned a military seizure order and ordered 5,000 dunams returned to the village of Rujib, closed this loophole.

In part, this was thanks to the testimony of Menachem Felix, one of the leaders of the Gush Emunim settlement movement: "Basing the seizure order on security grounds ... can have only one interpretation: making the settlement temporary and fleeting. We utterly reject this frightening conclusion .... We all see Elon Moreh as a permanent community, no less so than Degania or Tel Aviv." After that, Menachem Begin's government decided that settlements would henceforth be built only on "state lands."

Israel's initial land reserve, through 1979, stemmed from its declaration as state lands- in an order issued immediately after the Six-Day War – of some 700,000 dunams that had been registered as belonging to the government of Jordan. Between 1980 and 1984, Israel declared another 800,000 dunams as state lands, bringing the total amount of land at its disposal to about 25 percent of the West Bank. Most of the settlements were established on these lands.

Thus Israel does not need any further expropriations or declarations of state land. The built-up area of all the settlements combined, with their 294,000 inhabitants, does not exceed 60,000 dunams, or 1 percent of the West Bank. There are hundreds of empty apartments in these settlements. And the settlements still have another 350,000 dunams available for building, based on their master plans and their municipal boundaries, which encompass 550,000 dunams in total.

Netanyahu also does not really need to establish new settlements; he only needs to finish "laundering" the outposts established before March 2001, when Ariel Sharon became prime minister. Israel only promised to evacuate 24 outposts that were established after that date, out of a total of about 100. And Netanyahu could

not launder the remaining outposts in any case, because most of them were built wholly or partially on private Palestinian land.

In negotiations on a final-status agreement, it would be possible to reach understandings with the United States and the Palestinians on the completion of projects that are almost finished – for instance, in Ma'aleh Adumim – and new construction within the built-up areas of certain settlements, mainly Modi'in Ilit and Betar Ilit, which abut the Green Line. But to demand more than that in exchange for Netanyahu's speech at Bar-Ilan University – for instance, the trick of relocating Migron settlers to Adam or "high-rise construction" – looks like an attempt to put one over on the Americans. And the Americans are quite familiar with the Sasson and Spiegel reports on the settlements and outposts.

# **28 | Historical Political and economic impact of Jewish settlements in the occupied territories**

**By Shaul Arieli, Roby Nathanson, Ziv Rubin, Hagar Tzameret-Kertcher**

## **Introduction**

The Israeli settlement movement in the territory of the West Bank is the result of political, social and religious conceptions of Israeli governments and political and social movements. The Six-Day War, in which Israel captured the West Bank and the Gaza Strip, opened the way for the construction of settlements in these areas.

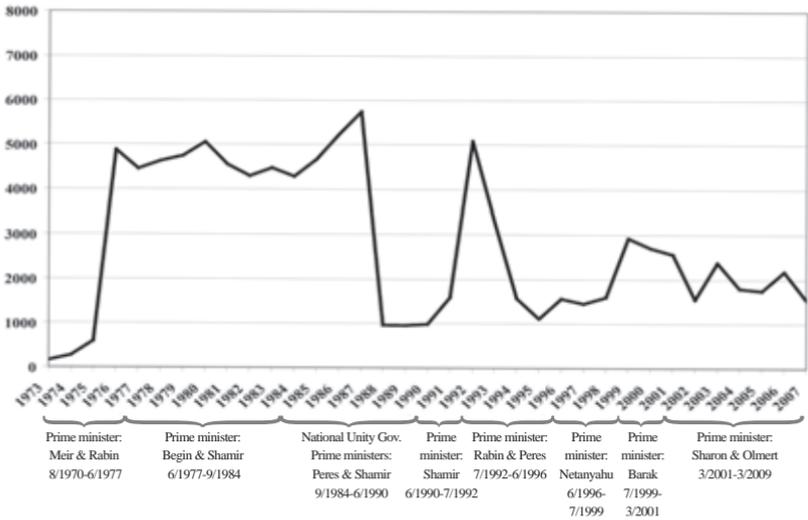
As seen in Figure 1, the Begin government was the most active government in terms of construction in the settlements. However, building activity took place in various intensities throughout the years and under all Prime Ministers since 1973.

## **Historical and political background, 1967-2009**

### **1967-1977 | the Labor Movement's Alon Plan**

Following the war, two camps emerged regarding adequate policy toward the newly acquired territories: those favoring the annexation of the territories and their inhabitants, and those who supported maintaining the political and geographic separation. This argument

**Figure 1 | Construction Completed –  
No. of Residential Dwellings 1973-2007**



[Source: CBS, (1968-2009), Construction in Israel 1967-2007, Jerusalem, and <http://www.knesset.gov.il/govt/heb/GovtByNumber.asp>]

took place, at first, within the Labor movement, which was then the leading party in Israel. At the head of the bloc supporting political and economic integration stood Defense Minister Moshe Dayan and Shimon Peres, both of the Rafi faction.<sup>2</sup> Against them,

2 Dayan's policy was known as "functional division," while Peres' opinion was known as "functional compromise." As Dayan wrote in a letter to Eshkol, September 1968: "as everyone knows, I do not believe that the border between Israel and its Eastern neighbor, be it Jordan or a Palestinian State, should be East of the Jordan River" (Yechiel Admoni, *A Decade of Opinion*, HaKibbutz Hameuchad, 1992). And Peres in his book, *And Now Tomorrow*: "the relationship to be decided for Samaria Judea and the Gaza Strip – in a peace settlement or in a interim settlement – must ensure these elements: open borders, a joint economic infrastructure..." (Shimon Peres, *And Now Tomorrow*, Mabat Books, 1978).

opposing integration, were the heads of Mapai and "Achdut HaAvoda,"<sup>3</sup> Prime Minister Levi Eshkol, Finance Minister Pinchas Sapir, Public Relations Minister and Chairman of the Settlement Committee, Israel Galilee, and Yigal Alon.

The supporters of integration believed that economic integration and freedom of movement for Arabs in all of the Land of Israel serves the interests of Israel and Zionism. The culture and the personal and communal liberties of the Palestinians should be respected, but they should not be afforded the right of self-determination towards an independent Arab state.

Mapai's supporters wanted to transfer the territories, densely inhabited by Palestinians, to Jordan. They envisioned most of the territory of the West Bank as a political trust, to be maintained by Israel until a peace settlement with Jordan – in which Israel will withdraw from territories densely inhabited by Palestinians.

Yigal Alon's plan proved to be the most successful. The plan was presented to the government already in July 1967, and its objective was to sustain Israel's security and Jewish majority, without comprising the rights of the Palestinian population.<sup>4</sup>

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3 Achdut HaAvoda diverged here from its historical standpoint. In 1944, Achdut HaAvoda split from MAPAI owing to its opposition to the Biltmore Plan, which suggested establishing a Jewish state on part of the territory of the British Mandate west of the Jordan.

4 Alon believed that the territorial compromise should be found in the tension between security and demography. In his books, *Connected Vessels* (HaKibbutz Hameuchad, 1980) and *Driving for Peace* (HaKibbutz Hameuchad, 1989) he writes that "we should not return to the 1967 borders, because unsecured borders ensure certain war in the near future." However, he insists that he always opposed a bi-national state.

Alon planned to realize these objectives by keeping Jerusalem and Gaza under Israeli control,<sup>5</sup> and by establishing Jewish settlements in the Jordan Valley and the eastern parts of the Judean Desert and Samaria. Alon also proposed that the Jordan River and the Dead Sea should be the border between Israel and the Jordanian Kingdom. In order that this border will function in practice and not only on paper, he recommended the annexation of a ten- to fifteen-kilometer strip along the Jordan Valley. The Western border of the Jordan Valley had to be based on a line of suitable topographical outposts, while refraining from including a large Arab population in these territories. Although the Israeli government did not adopt the Alon plan, it did begin the transformation of the Jordan Valley into a settlement zone, in order to protect the east border from a possible Jordanian-Syrian-Iraqi coalition ("the Eastern Front").

In the west border of the West Bank, which was densely populated with Palestinians, Alon wished to alter the Green Line slightly, while in the center of the West Bank, which was densely populated by Palestinians, he demanded that the government refrain from establishing Jewish settlements, and believed that the territory be maintained for an autonomous Arab area as part

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5 Alon, like the rest of the leadership, was interested in a "unified" Jerusalem as per the June 26 1967 government decision, which added 70,000 dunam of West Bank territory to Western Jerusalem, including East Jerusalem, which was only 6000 dunam. The government decided not to decide – it did not approve or reject the plan, but it acted upon it.

of a future permanent agreement.<sup>6</sup> Alon, together with his Prime Minister, Golda Meir, hoped to include all of these policies in a peace agreement with Jordan (see Map no. 1).

After a decade of Labour Alignment ("Maarach") government, and on the eve of the political upheaval of the 1977 election, there were 6000 settlers living in the West Bank and the Gaza Strip (not including East Jerusalem), in 28 agricultural settlements. They resided in only three areas: most of them in the Jordan Valley – the eastern security zone, and the rest in the Etzion Bloc and the Gaza Strip.

### **1977-1993 | Sharon's plan and its implementation**

Ariel Sharon was nominated as Minister of Agriculture of the first Begin government in June 1977. He then had another political-executive role: Chairman of the Ministers' Committee for Settlement.<sup>7</sup> Sharon wanted to dedicate his term to the Jewish settlement of the territories captured in the Six-Day War. He believed that the military occupation is temporary, and that the country's borders will eventually be determined according to the settlement and demography. He saw this approach as a natural continuation of Mapai's settlement ideology, and opposed the political and legal differentiation between the

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6 In spite of this standpoint, Alon decided to establish a Jewish neighborhood near Hebron in January 1968, Kiryat Arba was subsequently established, and populated in 1971. In addition, in 1974, Alon proposed the "Jericho plan," stipulating that Israel return Jericho and its environs to Jordan in exchange for an intermediate agreement similar to those achieved with Syria and Egypt in the same year.

7 Government decision 803, 27.7.1977, reads: "the government authorizes the Settlement Committee, run jointly with the Zionist administration, to decide on the establishment of new settlements."

period before the State of Israel was established and the period in which the Jewish people already had its own independent state.

Already in September 1977, Sharon submitted his plan to the security cabinet, which convened for a special discussion on the future of Judea and Samaria. He believed that this plan will help solve fundamental problems confronting Israel on its eastern border. The first problem was the expansion of the Palestinian population, which was growing faster than the Israeli population, to areas west of the Green Line, which already had less presence on the ground. He also ascribed much importance to the topographic control of the highlands of the West Bank and the western slopes of Samaria over the densely populated coastal plane, and Israel's lack of strategic depth against the Eastern Front.<sup>8</sup>

The plan included a number of elements, some of which were already included in Yigal Alon's plan and implemented, and others included in Moshe Dayan's "urban blocs plan," which was not approved at the time. One of these elements was the establishment of urban settlements on the highlands and the western slopes of Samaria. These settlements were supposed to prevent a trickling of Palestinian population into Israel, to set up a Jewish partition between the Palestinians and the Israeli Arabs

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8 On 23 September 1977, three days before Sharon's plan was presented, journalist Aharon Bachar revealed in *Yediot Ahronot* that the plan is based mostly on a work paper, called the "double array," submitted by architect Avraham Vachman in January 1976 to Prime Minister Rabin, who rejected it. In Nir Hefetz and Gadi Bloom, *The Shepherd*, Lamiskal, 2005, p. 314.

residing in Wadi Ara and the "small triangle," and to control key hills overlooking the coastal plane and the airport at Lod.

Sharon chose urban settlements because they were relatively easy to set up, market and populate, as opposed to the agricultural character of Israeli settlement in the Jordan Valley, the Etzion Bloc and the Gaza Strip. The settlements in these areas were established according to Alon's plan, which continued the tradition of the Labour Movement. Also Shimon Peres, who supported the integrating approach, like Sharon and as opposed to Alon, saw a certain importance in the western security zone. He believed that "the settlement in the western slopes of the Judean and Samarian mountains liberates us of the curse of Israel's narrow middle..."<sup>9</sup>

Another element of the plan was the completion of the chain of Jewish settlement established by the Alon plan along the Jordan, from Beit She'an to the Dead Sea, including the "terrace" west of the Jordan Valley, in order to create a separating security zone versus the eastern front and a demographic separation in the territories which were emptied of Palestinians, between the residents of the West Bank and the East Bank. This element was also called "the Eastern Security Zone" by Sharon.

The element of widening the Jerusalem corridor was present in Alon's plan, but it was not implemented. The intention was to strengthen Jerusalem and to separate the northern and southern parts of the West Bank, using a belt of Jewish Settlement and neighborhoods surrounding Arab East Jerusalem, from the

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9 Shimon Peres, *And Now Tomorrow*, Mabat Books, 1978.

Etzion Bloc and Efrat in the south, Maaleh Edumim in the east and Beit El and Ofra in the north.

The paving of East-West roads to connect the Eastern and Western Security Zones was another part of the plan, mostly for the transfer of forces to the east in times of emergency, and establishing Jewish settlements along the roads in order to secure them.<sup>10</sup>

The government approved the plan in October 1977 and it was presented to the Knesset in November (see map 2). The government's approval of Sharon's plan included the required funds for ensuring Israel's security and for delineating its permanent borders according to Sharon's world-vision. As opposed to Alon and Rabin, who believed that the areas of dense Palestinian population in the central West Bank and near the Green Line should not be controlled by Israel and should be maintained as is for a permanent agreement, Sharon believed that they should be weakened and split up, to facilitate Israeli political and military control over the West Bank and the Gaza Strip.

Gush Emunim was an active partner of Sharon and the Likud government headed by Begin. The worldview of the movement, set up in 1974, was based on the beliefs of Rabbi Avraham Yizhak HaCohen Kook, the founder of Israel's Chief Rabbinate, and his son, Rabbi Zvi Yehuda Kook, founder of the Merkaz Harav Yeshiva. The former believed that the holiness of the Land and

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10 Government decision no. 262, 3/1/1978, states: "to approve the building of roads in Judea and Samaria according to the proposal of the Agriculture Minister and according to the map presented to the government."

people of Israel is eternal, and that the Zionist movement heralds the coming of the Messiah. Therefore, the establishment of the State of Israel is an important step on the way to redemption, which had begun with the modern return to Zion, and the conquests of the Six Day War and the unification of Jerusalem are an important phase of the Messianic process. Consequently, the members of this movement perceived the settlement of the Gaza Strip, the Golan Heights, the West Bank and Sinai to be their religious duty.<sup>11</sup>

In seven years and with the aid of Gush Emunim and its heirs, Sharon established sixty-seven Jewish settlements in the West Bank. At first, most of them were no more than a handful of tents and shacks, but these created the physical and legal basis for the settlement of a quarter-million Israelis in the West Bank, not including East Jerusalem, by the end of 2005. The Jewish settlement movement created a dispersed settlement pattern, breaking up blocs of Palestinian settlement. However, this did not create dominant Jewish control – in terms of the size of the Jewish population compared to the Palestinian, or of the territory which the Jewish settlements occupied in practice. The Israeli settlements paralleled those of the Palestinians and were not continuous with them. They were based on urban settlement, not agricultural, spread out on the mountaintops, not on their slopes, and were supported by roads connecting them to Israel, and not to the Palestinian towns.

On the eve of the 1993 elections, which brought about the

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11 For further details see Idit Zartal and Akiva Eldar, *Lords of the Land*, Kineret Zmora Bitan Dvir, 2004, p. 258-267.

political upheaval of the fall of Likud and the nomination of Rabin as Prime Minister, the number of settlers in the territories – not including East Jerusalem – came to 109,100, living in 122 settlements.<sup>12</sup> Sharon's security-oriented settlement policy and the messianic settlements set up in the heart of Judea and Samaria, densely inhabited by Palestinians, created a new reality, with which Rabin had to contend in the Oslo Accords. Sharon himself confronted it when he attempted to delineate the borders of Jewish settlement with the security fence.

### 1993-2009 | Expansion and growth in a time of political negotiations

The Oslo Accords signed between Israel and the PLO in September 1993 were supposed bring a halt to the growth of the settlements, so as to refrain from changes which may influence the final agreements. On the one hand, Israel's governments headed by Rabin, Peres, Netanyahu and Barak did in fact



12 Israel Annual Statistical Review, 1993.



abstain from establishing new settlements, but on the other hand they approved or allowed the doubling of the number of Israelis living in the settlements in those years and turned a blind eye to the outposts set up with the sponsorship of the Settlement Department of the Zionist Federation, which receives its budget from the government.<sup>13</sup>

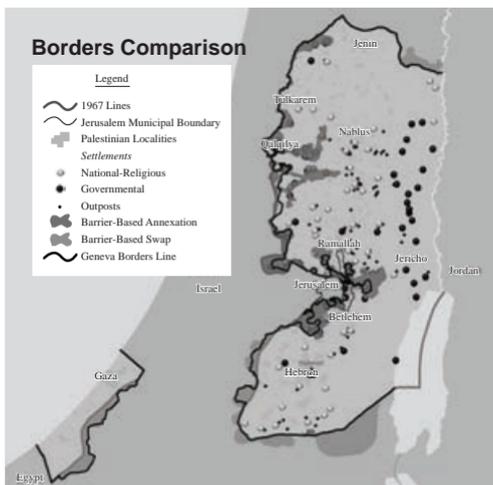
Sharon's rise to power in 2001 did not change the policy towards the settlements; however, President's Bush letter of April 2004, recognizing the new reality created in the territories by the settlements, was understood by him as a green light for the strengthening of existing settlements. Accordingly, during his term as Prime Minister and the term of his successor Olmert, the settlements' population grew by some 100,000 people. In exchange, Sharon evacuated all of the Jewish settlements in

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13 See Attn. Dalia Sasson's outposts report.

Gaza and another 4 settlements in north Samaria in the disengagement plan.

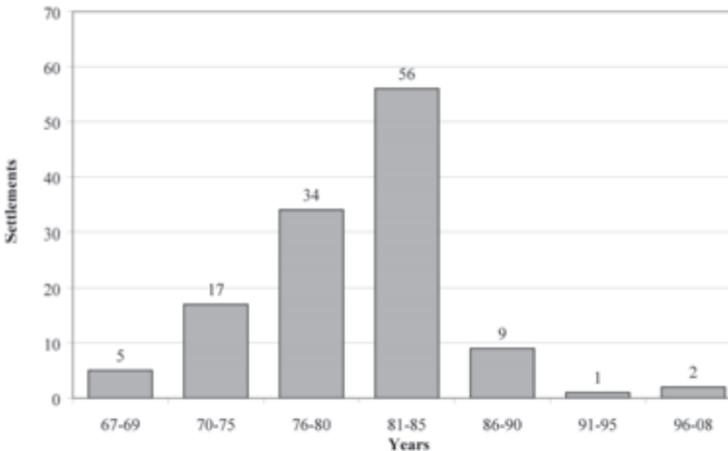
From the negotiations Israeli governments have held with PLO, it is clear that the location of the settlements and their size shape Israel's stance concerning the future border. The Israelis currently demand the annexation of 8% of the West Bank, which include some 82% of the Israelis living outside of the Green Line, including East Jerusalem. The Palestinians acquiesce to only 2.5% of the area, including some 75% of the settlers. In any scenario most of the settlers remaining under Israeli sovereignty will be secular or ultra-orthodox, living in settlements close to the Green Line, while settlements of the National Religious sector located in the central West Bank will be natural candidates for evacuation, in order to allow geographic continuity for the Palestinian state (see map 3).



## Construction in the West Bank, 1967-2007

More than half (56%) of the settlements were built between 1977 and 1983 by Menachem Begin's right-wing government. Other Israeli governments promoted the building of new settlements, but the greatest number of settlements were founded in 1983, a total of 15 during one year. Moreover, according to Figure 2 settlement activity declined dramatically after 1985.

**Figure 2 | Number of new settlements established [1967-2008]**



[Source: Central Bureau of Statistics (CBS), (2008), Localities in Israel 2007, Jerusalem, [http://www1.cbs.gov.il/ishuvim/ishuvim\\_main.htm](http://www1.cbs.gov.il/ishuvim/ishuvim_main.htm)]

With respect to changes in number of construction projects completed annually, in figure 3 we can observe a continuous rise between the years 1967 and 1987. This trend was maintained irrespective of the party in power, whether Labour (then known as the Labour Alignment) to the left or the Likud to the right of the political map.

Between 1987 and 1989, we can observe an acute decline in

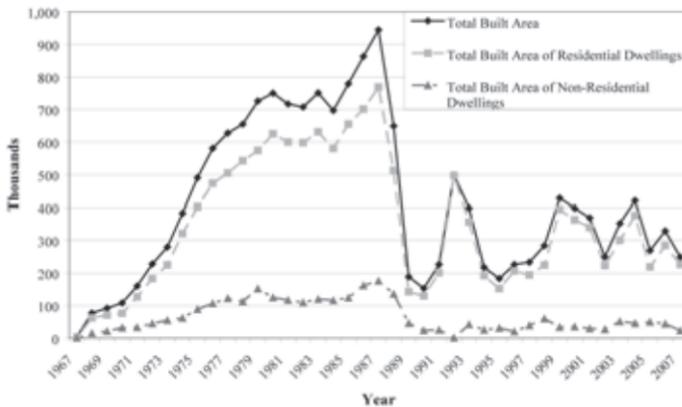
the size of construction areas: from 945,000 sq. m. in 1987, to 649,000 sq. m. in 1988 and 188,000 sq. m. in 1989. We assume that this drop resulted from a sharp decline in demand for purchase of residential dwellings in the West Bank, following the outbreak of the first Intifada in late 1987. This trend cannot be attributed to any political strategy given that a National Unity Government, headed by Likud's Yitzhak Shamir, was in power until December 1988.

Following this decline in completed built area, construction in the West Bank did not recover or even return to the level reached during the 1980s (at the time, average construction completed was 705,000 sq. m. annually; between 1990 and 2002, it averaged 297,000 sq. m. annually). Short-term changes in construction completed can nonetheless be observed between the early 1990s and 2002: 1990 exhibited the greatest plunge, with 153,000 sq. m. of construction completed; a peak was reached in 1992, with 498,000 sq. m. completed. In July 1992, the late Yitzhak Rabin took the reins of government, accompanied by an immediate drop in construction completed until it reached its low in 1995, with 183,000 sq.m of completed construction. In the following years, the rate of construction recovered until it reached its second peak in 1999 (the year when the Netanyahu government was replaced by Barak and Labour), with 428,000 sq. m. completed. The rate of construction completed subsequently declined once more, also during the first Sharon government. We may assume that the Intifadat El Aqsa significantly contributed to that reversal.

With respect to the number of dwellings constructed in the West Bank, as early as 1976, 5,000 units had been completed, at an annual rate left unchanged until 1987 (the number of units completed annually ranged from 4,300 at its low in 1984 to

5,700 at its peak in 1987). The decline in dwellings completed began in 1988, when the rate slumped to 960 dwellings, and continued at that rate for 3 consecutive years, until a mild revival was experienced in 1991, culminating in an increase to 5,000 residential units in 1992. This trend was reflected in the amount of built area, with the space devoted to residential dwellings much lower in the 1990s than in the 1980s or the 1970s: an average of 2,100 residential units were constructed annually during 1992-2002 in comparison to 4,750 units constructed annually during 1987-2002.

**Figure 3 | Construction Completed, [1967-2007] (000s sq.m.)**



Source: CBS, (1968-2008), Construction in Israel 1967-2007, Jerusalem

### **Buildings and infrastructure constructed in the West-Bank**

The bulk of construction within the West Bank is residential: residential built area totalled 14.3 million sq. m.; built area for other purposes totalled 2.6 million sq. m. By 2007, a total of 97,530 dwellings had been constructed, 65% of which contained three or four rooms. On non-residential plots, a total of 795,000 sq. m. of

built area was dedicated to industry, 764,100 sq. m. to education and culture as well as 1,321,000 sq. m. to public buildings.

As seen in Table 1, the total cost of construction in the settlements is almost 18 billion US dollars, of which more than 11 billion were spent on constructing residential areas. For the valuation of the construction in the settlements, a set of 185 aerial photographs was used to make a detailed evaluation of the infrastructures and the built up areas.

### **Population**

By the end of 2007, the total Jewish population had reached 276,045 in the West Bank, representing 5 percent of the Israel's Jewish population and 3.8 percent of Israel's total population.<sup>14</sup> The median age among the settlement population – 20.6 – is the youngest of any segment of Israel's population.<sup>15</sup> Annual average population growth rate among the settlers, 5.6 percent, is three times that for Israel as a whole, 1.8 percent.<sup>16</sup> The rate of natural population growth was even greater: While total natural increase (Arabs included) in Israel was 1.57%, among the settlers it was 3.5%, more than double.<sup>17</sup>

### **Settlement budgets and sources of financing**

The 2006 budgets of the local settlements authorities were approximately US\$ 456 million, of which about US\$ 373 million reflected the ordinary budget and 83 million the extraordinary budget.<sup>18</sup> This amount is 4.1% of the total budget of all local

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14 CBS, (2008), *Statistical Abstract of Israel*, No. 59, Table 2.7, Jerusalem.

15 Ibid., Table 2.10.

16 Ibid., Table 2.4.

17 Ibid.

18 CBS, (2009), *Israel Local Authorities 2007*, No. 1358, Jerusalem.

**Table 1 | The total value of the buildings and infrastructure constructed in the West Bank in terms of cost**

Building Use	Units	Area (Sq. M)	Current cost value (US\$)
<b>Municipal Institutions</b>			
Public Institutions	656	757,058	578,050,417
Synagogues	322	187,620	143,256,740
Ritual Baths	119	18,383	14,036,377
Sports Facilities	232	525,025	400,881,936
Parks	189	843,643	
Shelters	54	13,649	10,421,799
<b>Education</b>			
Kindergartens	255	636,081	485,678,498
Schools	237	661,980	505,453,460
Colleges	11	204,903	156,453,562
Libraries	24	15,336	11,709,717
<b>Residential</b>			
Dwellings	39,483	3,995,100	5,538,140,571
Houses	18,462	3,942,050	6,048,578,741
Caravans	5,539	56,750	116,612,861
<b>Industry and Commercial</b>			
Gas Stations	29	15,970	8,488,108
Shopping Centers	140	251,715	191,318,964
Industry	427	1,247,771	759,612,143
Hotels & Hostels	138	362,818	270,571,807
<b>Agriculture</b>			
Dairy Barns	133	762,088	388,419,246
Farms	243	12,617,860	
Water Towers	54	30,826	3,092,369
<b>Roads and Infrastructures</b>			
Internal roads (meters)		774,521	1,160,365,311
Intercity roads (meters)		307,900	889,448,104
Water, Sewage and Canalization Pipes (meters)		615,700	267,182,864
Power Lines (meters)		615,700	26,639,934
<b>Total</b>		<b>13,685,124</b>	<b>17,974,413,528</b>

authorities and a bit higher than the number of settlers in the total population (3.8%).

Despite the slight difference between the proportion of settlers and the settlement's budgets as a percentage of the total budget of all local authorities in Israel, Figure 4 reveals significant differences in the internal composition of the ordinary budget. As clearly shown, own income as a percentage of the ordinary budget in the settlements is almost two thirds the percentage of own income in the ordinary budgets of all the local authorities (42.8% and 64.3% respectively). This trend is reversed with respect to government participation in the ordinary budgets: In the settlements this source of income reaches 57% whereas in all local authorities it reaches only 34.7%, about 22.3% less than in the settlements.

It can readily be concluded that the Ministry of Housing and Construction as well as the Ministry of National Infrastructure (formerly the Ministry of Energy and Infrastructure) have been very generous to the settlements, especially when we take into account that 95% of the Ministers of Housing since 1979 belonged to right-wing parties<sup>19</sup> and that the Ministry of National Infrastructure was headed by left-wing minister during only 7 years since 1977.<sup>20</sup> It should also be noted that many of the funds belonging to the "Contributions" item were donated by ideological supporters residing in Jewish communities abroad, although no exact figure can be quoted.

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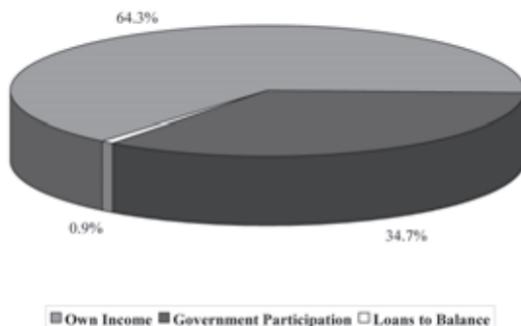
19 [www.knesset.gov.il/govt/heb/minlist.asp](http://www.knesset.gov.il/govt/heb/minlist.asp).

20 [www.knesset.gov.il/govt/memshalot.asp](http://www.knesset.gov.il/govt/memshalot.asp).

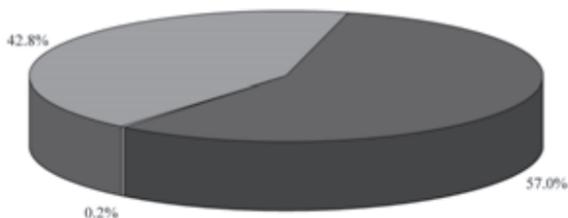
The figures cited previously do not accurately represent total government allocations enjoyed by the settlements. In effect, the settlements have benefited from other incomes, transmitted through numerous "hidden" channels that have been kept in the shadows and were not made public for political reasons.

**Figure 4 | Structure of the income: Local authority's ordinary budget, 2002**

Total



Settlements



Source: CBS, (2009), Israel Local Authorities 2007, No. 1358, Jerusalem.

One of these channels is the Rural Building and New Settlements Districts Administration, located in the Ministry of Construction and Housing. For example, between 2000 and 2002, through several of the Administration's regional councils, the settlements received almost US\$ 68.2 million or about 47 percent of the Administration's budget.<sup>21</sup>

## Conclusion

The Six Day War created a situation on the ground allowing Israel to build settlements and populate them. In the first decade after the war the building activity was relatively restricted, and was limited to areas of sparse Palestinian population. In terms of geographical spread, the settlements built were mostly intended to counter security concerns with the "Eastern Front."

With the rise of the Likud governments, settlements were established over a much wider area, including areas of dense Palestinian settlement and with limited security value. This settlement activity continued, even by governments which conducted intense negotiations over peace accords with the Palestinians; the main difference was that these governments refrained from establishing new settlements, while allowing the expansion of existing ones. In addition, the budgeting towards the infrastructure of settlements was always generous. As Claire Spencer wrote recently: "pursuing settlement activity has been a constant of Israeli governments, whatever their political persuasion"<sup>22</sup>.

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21 Lupowitz, A., *Budgets of the Rural Building and New Settlements Districts Administration*, Research and Information Center of the Knesset, April 2003, Jerusalem.

<http://www.knesset.gov.il/mmm/doc.asp?doc=m00521&type=pdf>

22 Claire Spencer, "New Challenges for EU-Israel Relations after the Gaza War," 2009.

In the past twenty years, despite ongoing peace negotiations, the population of settlers in the West Bank has more than doubled, at a growth rate much higher than that of the general Israeli population. This increase could not have been achieved without the active support of all of the Israeli governments in this period.

## **29 | Did Netanyahu really mean it when he said Palestinian state?**

Prime Minister Benjamin Netanyahu's speech once again demonstrated that Israel's right-wing parties do not have a suitable and practical alternative to the solution of two states for two peoples. The right-wing bloc exists only to negate this idea and breaks up once it has to present a diplomatic alternative that will safeguard Israeli interests.

The declarations about the need to crush the two-state idea have been replaced by rearguard skirmishes bent on preventing its implementation. In 1993, Ariel Sharon wanted to announce that if Likud returned to power he would cancel the Oslo Accords; Netanyahu announced that the autonomy program under Israeli control was the sole alternative. These declarations were quickly exchanged for talk about a "Palestinian state" or a "demilitarized Palestinian state." It was clear to Netanyahu and his predecessors that they only needed the right-wing bloc to become prime minister. Once they settled in, they couldn't adopt even one of the right-wing positions that harm the Zionist concept of a Jewish and democratic state.

Supporters of Habayit Hayehudi and National Union consider sovereignty over the entire Land of Israel a condition that determines the Jewish people's identity and future. This position

dictates a one-state solution, but they differ over its nature and regime. Some of them understand that continued control over a people without rights does not benefit Israel, and they agree that everyone should enjoy civil rights, even if the result is a foregone conclusion – the loss of a Jewish majority and the negation of Israel's definition as the state of the Jewish people. A binational state is not a possibility because this public believes we have been ordained to inherit the land and the way to do so is to expel its residents. That means prolonged friction that will lead to violent national and social confrontations and the disintegration of the state.

Likud members explain their objection to a Palestinian state with the claim that Ze'ev Jabotinsky's idea of an "iron wall" has not yet taken hold of Palestinian public opinion and that an agreement should be avoided until they have relinquished their desire to destroy Israel. But the steps taken for this purpose have merely widened the cracks in the iron wall and in Israel's status, beginning with the cessation of negotiations, the destruction of the Palestinian Authority, the disengagement, the separation fence's invasive route, and finally the negation of the Arab League's peace initiative. These moves helped Hamas win the elections and gain control of the Gaza Strip, led Israel to embark on military operations, and strengthened the Arab world's "rejectionist front."

Netanyahu's speech of regression has aligned him with the positions of Shas and Yisrael Beiteinu. They accept the idea of two states but try to torpedo it with conditions that render it ridiculous. That is what Netanyahu did when he said in his address that he was ready to begin peace negotiations immediately without preconditions: He demanded Palestinian recognition

of Israel as the Jewish people's national home, agreement to a demilitarized Palestinian state, removing the refugee issue from the agenda, and maintaining united Jerusalem under Israeli sovereignty – before starting negotiations.

Even if Netanyahu did say "a Palestinian state," he was not able to pass the rejectionist crown to the Palestinian and Arab side. Netanyahu was mistaken when, in return, he rushed to take the option of continuing settlement construction. Netanyahu is adding the clash with the Obama administration to the rearguard skirmish he is conducting at the expense of the Israeli public, contrary to its position. A survey conducted by the Institute for National Security Studies revealed that 64 percent of the population supports the idea of two states for two peoples, only 17 percent are prepared to expand settlements at the expense of a confrontation with the United States, and 77 percent support the idea of an evacuation-compensation law.

The public should demand that Netanyahu stop throwing billions of shekels into barren plans. Instead, he must renew negotiations immediately without preconditions, accept the regional peace plan and present an Israeli plan that produces a Zionist outcome of a Jewish and democratic state living alongside a Palestinian state.

## 30 | It's all in a final-status arrangement

Prime Minister Benjamin Netanyahu should not be allowed to treat Israel's status as a Jewish state and the homeland of the Jewish people cynically. In an attempt to avoid negotiations, Netanyahu is once again seeking for Israel international recognition and legitimacy that have already been given. The Palestinians accepted this legal recognition in the past and will do so again, but only in a final-status agreement. The two sides cannot claim international legitimacy for their points of view while ignoring certain UN resolutions.

The international institutions that decided on the establishment of the State of Israel – the League of Nations and UN – have seen it not only as the Jewish state but also the home of the Jewish people. The 1922 British White Paper stated that a "national home" would be set up in Palestine for the Jewish people. "For the fulfillment of this policy it is necessary that the Jewish community in Palestine should be able to increase its numbers by immigration," the paper said. In other words, the Jewish state in Palestine was seen as an effective way to ensure that the Jewish people could control their fate and maintain their unique culture.

Immigration was encouraged to ensure that the Jews would enjoy a majority, the basic condition in a democracy for establishing the character of a state. In 1947, the UN General

Assembly also adopted the recommendations of the UN Special Commission on Palestine in the form of the Partition Plan – Resolution 181 of November 29. Here it was stated that both the Balfour Declaration and the Mandate included an international commitment to the Jewish people, and that this was not limited to the Jewish population in Palestine. These commitments can thus also be seen as anchoring the Law of Return of 1950, which gives every Jew the right to live in Israel and establishes the State of Israel as the state of the Jewish people.

Therefore, historic rights and international legitimacy are embedded safely in formal declarations. To these can be added the Palestinian declaration of independence of November 1988, which became the Palestinians' first recognition of the Jewish state when they referred to Resolution 181 and noted how it divided Palestine into two states, one Jewish and one Arab. As a result, the prime minister cannot ensure Israel's future as a Jewish and democratic state by preconditions, but only by agreements on all issues.

First, borders must be seen as the most important way to implement the objective, not as the objective itself, given by divine command. Until 1967, the Zionist movement proved it could implement all its basic aims within the Green Line and that it would be satisfied with this if it achieved peace agreements with its neighbors.

Therefore, disengagement from the Palestinians in the territories and the establishment of a Palestinian state are a Zionist imperative. This is to be done around the Green Line and not on the "map of vital interests" that Netanyahu drew up in 1988, which leaves only 40 percent of the West Bank for a "Palestinian entity."

Second, it will be possible for Jerusalem to receive international recognition as Israel's capital only if the prime minister removes from the myth of a united Jerusalem the 28 Arab neighborhoods and villages added to the city in 1967 and makes it possible for the 270,000 Palestinians there to exchange their Israeli residency for Palestinian citizenship.

Third, repeated recognition by the Palestinians of a Jewish state will not do away with the refugee issue. The past decade shows that a comprehensive agreement on all core issues is the way to settle matters according to Israel's liking. The Arab peace initiative provides an opportunity to solve the problem without the right of return.

Air power is not the only way to ensure Israel's security. Along with the demilitarization of the Sinai, the Golan Heights and the Palestinian state, as the Americans intend, we will need regional arrangements and treaties. These are also embodied in the Arab peace initiative.

Rhetorical demands waste time that could be used for negotiations; they also open the door to a situation in which Israel's existence as a Jewish and democratic state could be harmed. Final-status agreements have twice proved themselves as a way of ensuring Israel's existence as a Jewish state and as a member of the family of nations.

## 31 | Bridging the gap

For the second time in a decade we're learning that we're "within reach" (according to attorney Gilad Sher) and "a hair's breadth away" (according to former prime minister Ehud Olmert) from achieving an agreement with the Palestinians. As the Oslo Accords dissolved and after the 2000 Camp David Summit, Ehud Barak hastened to declare that Yasser Arafat was "not a partner." Toward the end of the Annapolis peace process in 2008, Olmert pointed the finger at Palestinian President Mahmoud Abbas. Is it true Israeli leaders went very far out of their way to meet the Palestinians, who got cold feet at the moment of truth? Or did Barak and Olmert set out to pressure the Palestinians after they had shown a willingness to compromise on a two-state solution instead of their dream of a "single Palestine" and the alleged right of return?

Even though the Palestinians' basic positions are supported by resolutions and international law, they proved their willingness to show flexibility in many areas. They did this to align their positions with Israeli governments' ability to carry out an agreement in light of the settlements in the West Bank and East Jerusalem. Arafat might have been able to explain to the Palestinian public why he was willing to forgo the "Palestinian homeland" and settle for 22 percent of its territory. He could have said the Arab nations were not backing the effort to "correct the historic injustice" that shapes the Palestinian narrative. He might have also cited the international community's stance in recognizing the Jewish nation's right to establish a state in the Land of Israel.

All the same, the Palestinians have always viewed an agreement as a package deal: If they concede on one issue, they should be compensated on another. Olmert, like Barak, tried to shatter the formula of total territorial concessions for peace that determined Israel's deals with Egypt and Jordan. He tried to achieve a partial territorial exchange. Olmert offered Abbas 4.5 percent in exchange for the 6 percent that Israel would annex from the West Bank. He claimed that the difference would be covered by the corridor connecting the West Bank to Gaza. Although the corridor's territory would be minuscule and remain under Israeli sovereignty, its contribution to the Palestinian state would be crucial, Olmert claimed.

By contrast, Abbas agreed to a territorial exchange of 2 percent and insisted that the Palestinian Authority retain an area equal to the area of the Palestinian lands that Israel occupied in 1967. He regarded the corridor as a natural gesture of flexibility that would complement his own gestures. On the ground, the dispute was about the Ariel bloc, which juts 21 kilometers east of the Green Line. A concession by Israel on this would produce a bridgeable difference.

Meanwhile, Olmert and Abbas agreed on a partition of East Jerusalem based on parameters set forth by Bill Clinton in 2000. He proposed to keep 200,000 Jews and 14 neighborhoods built outside the Green Line under Israeli sovereignty, in exchange for 260,000 Palestinians in 28 villages and neighborhoods, which would assume Palestinian sovereignty. The people would lose their status as permanent Israeli residents.

While Abbas stuck with the Clinton proposal, which featured in the Taba talks and Geneva Initiative, Olmert sought a five-

year delay in talks on the holy basin, which includes the Old City, Mount Zion, the City of David, Kidron Valley and the Mount of Olives. According to Olmert's proposal, during those five years, Israel would retain control of the holy basin while an international committee including Arab states such as Saudi Arabia would participate in law enforcement in the area and make a proposal to be approved by both sides.

On the issue of refugees, the highly-contested "right of return" narrative was set aside in favor of more practical solutions on limited refugee absorption and compensation. Olmert thought absorbing 30,000 refugees over 10 years could get both sides to agree. Abbas sought to increase that number to 100,000.

Security requirements were to be met by banning both heavy weapons and the formation of a Palestinian military. Also, international troops were to be stationed in the PA, with special arrangements on air space and early-warning bases.

Arafat rejected the Israeli and American proposals by saying the Palestinian people would reject them. Abbas, in turn, refrained from furthering efforts to bridge the differences when Olmert became a lame duck because of the impending corruption indictments.

Abbas consulted many people, but none would predict that Olmert would receive the support of Barak and Tzipi Livni should an agreement take shape. Abbas feared losing international legitimacy in the form of UN resolutions such as 242 and 338 in exchange for an agreement that would be shelved after Abbas had forgone the right of return, leaving Ariel to the Israelis. All this, he feared, would have been done when the Israelis were incapable of carrying out an agreement.

Annapolis and Oslo once again made clear the gap that moderates and pragmatists on both sides can bridge. These processes underscored that what is truly needed is the ability to carry out an agreement.

## **32 | Israel and Palestine, a brief history of the negotiations**

This article will present a brief history of the negotiations between Israel and Arab counterparts since 1948. The article touches the important and difficult issues of the conflict: Jerusalem, territory, refugees and security.

Exiting Israeli Prime Minister Ehud Olmert recently briefed the Special Envoy of US President Obama, Senator George Mitchell, about the details of the understandings reached in the negotiations with the chair of the PLO and the PA, Mahmoud Abbas, on the central issues of a permanent status agreement between Israel and the Palestinians. If we ignore the considerable skepticism within the Israeli public about Olmert's motivation and about Abbas' ability to implement the agreement he would want to sign, as well as the continuing decline in Abbas' internal Palestinian legitimacy to lead and represent the Palestinian people, we may point at the formation of the possible breadth of understanding between the moderate camps in the Israeli and Palestinian societies. These concern the core issues of the conflict: territory, Jerusalem, refugees and security. This breadth of understanding is the outcome of a prolonged historical and political process that includes the activities of many stakeholders, both formal and informal, who had valuable parts in its attainment.

In order to recognize and understand the long path taken by both sides individually and in the framework of the Arab Israeli conflict, and in order to point at what is still required from them, and to a no lesser extent from the international community that supports the solution of two states to two people, we should go back to the beginning of the previous century. At that time, a clash took place between two valid national claims: the right of the Jewish people, persecuted in most countries of the world, to self determination in its historic homeland, the land of Israel, and the right of the native Arab majority in Palestine to political independence, after it was politically and physically separated from the rest of the Arab people at the end of World War I. Due to scope constraints and practicality aspirations, however, I seek to concentrate on the development of the parties' positions with regard to the three practical "legacies" left by the 1948 war. These include borders, Jerusalem and refugees. Their solutions dictates the solution of the fundamental issues: recognition of the right of each side for an independent state of its own, which exists in secure and recognized borders, and in which each side can maintain national identity and character and a democratic regime. The development of positions was a function of pressures and transformations in each side's internal arena, the Arab and regional arena and the international arena. The conciliation convention held in Lausanne, Switzerland between April and September 1949 ended as a complete failure. However, it was instructive on the important following details:

First, despite the fact that they engaged in bi-lateral negotiation with Israel on ceasefire agreements signed in February-July 1949, the Arab states refused to engage in a direct negotiation with Israel on permanent arrangements. This led to a deep insight in Israel that these states will only talk with Israel if it is capable of threatening

particular interests of each state, or is harming it in practice. Therefore, Israel's priority will always be direct negotiation vis-à-vis each of the states, enabling it to sidestep the commitment to pan-Arab narratives and interests, both real and imagined.

Second, not only did the Arab states try in Lausanne to reverse the wheels of history and demand that Israel accept the same partition boundaries they sought to annul by waging a war, in which they were defeated. They added far reaching demands changing those boundaries in their favor, and not in favor of establishing a Palestinian state. This move reinforced the Israeli understanding that as far as the Arab world is concerned, it is not about the right of the Palestinian people for an independent state but a territorial dispute that may be solved by partitioning territory of the Arab state between Israel and the Arab States.

Third, the Israeli willingness to allow the return of 100 thousand out of 700 thousands Arab refugees, to which the Arab response was that it is not enough, reflected the real argument about who is responsible for the refugee problem, Israel or the Arabs. This touched a deeper layer: assuming that the national and cultural character of democratic states is dictated by the majority, what would be the character of the Israeli state should all refugees return to it?! The Israeli position was that an Arab majority would contradict UN decision 181 determining that it will be established as a "Jewish state", and the UNESCO report that determined that "both the Balfour Declaration and the mandate included international commitments to the Jewish people in its entirety".

Fourth, even western Jerusalem, which according to the partition resolution was supposed to be part of the "special regime" of Jerusalem, and under international control, remained in Israeli

control. Jerusalem was announced as the Israeli capital and the Knesset as well as the government were relocated there. This is despite the 1949 General Assembly resolution to consider Jerusalem a separate, UN governed entity, a resolution that passed with a substantial majority based on Muslim countries block, Catholic countries block and the Soviet Union and its satellites. Israel has learned the lesson about the importance of pre-emptive initiative and resolve vis-?-vis positions of the UN, which bore some debt to Israel owing to its failure to implement the partition resolution and prevent the '48 war.

Israel's withdrawal from Sinai at the end of the '56 war and return to the '49 borders demonstrated the capacity of the great powers, US and USSR to force their will on Israel and its partners following the manipulative "Suez" operation, but undoubtedly also strengthened Israel's hold in territories occupied in the 1949 war, which were subjected to Israeli law. Until 1967, the Zionist movement proved that it can materialize all of its basic aims within the '49 borders, and be satisfied with that, if it had the recognition and peace agreements with its neighbors. The UN, whose pre-war guarantees for Israeli freedom of navigation and demilitarization of Sinai proved to be a "signature on ice", accepted the '49 borders at least by implication only in Security Council resolution 242 at the end of the '67 war. Despite the fact that the resolution begins with "Emphasizing the inadmissibility of the acquisition of territory by war", it continues by determining that Israel shall have just and lasting peace following "withdrawal of Israel armed forces from territories occupied in the recent conflict [only S.A.]". This was the birth of the formula of "territory for peace" that guided subsequently the resolution of the Israeli-Arab conflict, i.e. international recognition of the '49 borders will be given for

withdrawal from territories occupied in '67. Further, the refugee problem shall be settled in a just settlement and not according to article 11 of UN General Assembly resolution 194, adopted in December '48 before the end of the war.

The refusal of Egypt and Syria to the June 19, 1967 Israeli offer via the US to sign peace agreements in return for Sinai and the Golan Heights, the three NOs of the September '67 Arab League convention in Khartoum, and the refusal of the newly established PLO to any resolution other than "a single Palestine" on the one hand, and the Israeli power intoxication that led territorial aspirations and the settlement urge on the other, strengthened the Israeli approach on the need to hold on to territories, but also the Israeli settlement project. What appeared to have begun as the old Israeli equation of settlement=security=borders, which had proved true in the Zionist history of attempts to annex regions necessary for security, was soon to be transformed. Under the new approach, the "historic right" of the people of Israel outweighed any other consideration or right. Accordingly, the Israeli control of the West Bank and Gaza Strip was deemed legitimate, as would have been attempts to annex them. Israel sought to occupy the land as it did after the '48 war, ignoring the differences in circumstances and conditions and with an illusion that this may be done without occupying the Palestinian people who live there. This policy led gradually to a path of continued control over population without rights, which was hostile and estranged to Israel.

The military failure of Syria and Egypt in the '73 war did not prevent the latter from starting a political process that ended with a signature on a peace agreement with Israel, in which it gained back the entire Sinai Peninsula. Jordan, which did not participate in the war, rejected in August '74 the possibility of

interim arrangements with Israel, through which it was supposed to get the Jericho area first, thus beginning the end the "Jordanian option" as far as Israel was concerned. The PLO, headed by Yasser Arafat, gained responsibility for the occupied territory in accordance with an October 1974 Arab League resolution in Rabat, Morocco. It was defined as the "only legitimate representative of the Palestinian people" and was invited to speak in front of the UN General Assembly. This strengthening enabled it to adopt the "phases plan" that includes the seeds of a compromise with Israel. Nonetheless, the latter perceived it as a tactical, rather than strategic change in the explicit aim of the organization seeking its destruction.

The peace agreement between Israel and Egypt signed in March 1979 determined two constants with regard to the territorial issue: the applicable interpretation of resolution 242's territorial article strengthened the Arab position and interpretation, i.e. "all of the territories in exchange for peace", and that the Gaza Strip is the business of Palestinians vis-?-vis Israel. The autonomy plan raised in December 1977 by new Likud Prime Minister Menachem Begin attempted to renew the idea of one state, but it crumbled and was removed from the agenda following its complete rejection by the PLO.

The thwarting by Likud Prime Minister of the "London Agreement" formulated between Shimon Peres and King Hussein in April 1987 led Jordan to exit the territorial game one year later, in July 1988. King Hussein declared that the disengagement of the Kingdom of Jordan from the West Bank, and a final transmission of all responsibilities and authority to the PLO. This marked the end of the Jordanian occupation of the West Bank following the '48 war. Unlike Israel's success regarding territories of the designated

Arab state it occupied in that war, the Jordanian occupation did not gain recognition by the international community except Britain and Pakistan. The Jordanian-Israeli deal of sharing the territories of the Arab state between themselves diminished after 40 years, forcing both of the legitimate actors, Israel and the Palestinians, to discuss the partition of the land of Israel.

In the late '80, following two decades of Yasser Arafat's leadership, the PLO was caught between contradicting trends. On the one hand, in addition to Jordan's exit from the territorial arena, it was assisted regionally by other moves: the '87 Intifadah that clarified for the first time to Israel that occupying another people is associated with a high and sometimes intolerable price; the October 1991 Madrid conference; and the bilateral talks held in December of that year without its presence between Israel and the Palestinians in Washington. On the other hand, stronger regional and global processes weakened it and deteriorated its status: the collapse of its patron, the Soviet Union, in December 1991; the economic situation in the Gulf countries following the decline of the price of oil; and Arafat's unfortunate siding with Saddam Hussein in the first Gulf war in 1991. Eventually, the newly created world hegemony led to the success of the Reagan administration's pressure on the PLO to change its positions. On November 15, 1988 the Palestinian National Council accepted UN resolution 181 that implies the right of Israel to exist and adoption of the two state solution, and in December that year Arafat accepted the US conditions for talks with the PLO, including Security Council resolutions 242 and 338. From there, the road was short to mutual recognition with Israel in the framework of exchange of letters with Prime Minister Rabin in August 1993, on the eve of signing the "Declaration of Principles" (the "Oslo Agreement") on September 13, 1993 in Washington, D.C.

The Oslo process encountered many ups and downs owing to many factors, notably including: progress was determined to be gradual, conditioned by fragile reality that was threatened by radicals in both sides; divergent interpretation of agreement provisions by the parties; Arafat's failed war against the terrorism of Hamas and the Islamic Jihad that aimed to forestall the political process; Israeli acceleration of the settlement project in the territories; the existence of the Syrian track that competed for Israeli attention and capacity; inadequate management of the negotiations on behalf of both sides; and inadequate US mediation. I will briefly discuss the central "milestones" of the Oslo process in the years 1993-2001, with regard to the core issues.

The territorial issue was central from the beginning and in all interim agreements that were signed. Its non-resolution was a key factor in the failure of the parties to reach a permanent status agreement. Despite the fact that the Oslo agreements signed by Israel included the provision that "the permanent status will lead to the implementation of Security Council Resolutions 242 and 338", Israel did not consider the territorial principle of "all the territories for peace", as implemented in the peace agreements with Egypt and Jordan, as valid for the arrangement with the Palestinians. Prime Minister Rabin was the first to delineate Israel's position in clear geographical terms in his speech at the Knesset in October 1995. A transcription of his words into geographical terms would have meant that the Palestinian state, termed by him "the Palestinian entity", would have no more than 75% of the territory of the West Bank and the Gaza Strip. Benjamin Netanyahu who was elected as Prime Minister in 1996 was forced to maneuver between his position that "the PLO state that would be planted 15 kilometer from Tel Aviv will constitute an existential threat to the Jewish state", and his commitment to agreements signed by

Israel and international pressure led by the US to comply with them. Netanyahu succeeded in passing a government decision in 1998 on "the map of vital interests" for Israel, which reduced the possible territory for the Palestinian state to only 40%.

Ehud Barak, who entered the office of Prime Minister in May 1999, began by defining that a solution to the territorial issue will be found by a "just partition of the territories of Judea and Samaria". The practical interpretation to this position led, in the beginning of the negotiations on a permanent status agreement, to a Palestinian state on 66% of the territory, which expanded to almost 80% in the eve of the July 2000 Camp David summit. The Palestinians thoroughly rejected the Israeli position and presented their own formula that matches resolution 242: "100% of the territory, minus critical needs of Israel with exchange of territory". A month before the Camp David summit Israel adopted the first part of that formula, i.e. the '67 borders as a base of reference to the issue of borders. This formed, for the first time, a shared basis for negotiations that remained valid to this day.

Exchange of territory represented flexibility on behalf of Palestinians in relation to the basic Arab position of Israeli withdrawal to the '67 lines and dismantling of all settlements. Israel had already experienced exchange of territory with Arab states, starting with the implementation of the 1949 ceasefire agreements. Then, it received control of the area of Wadi Ara and gave Jordan territory occupied in the south west of the West Bank. Similarly, it received the area north of the Gaza Strip and passed to Egypt territory in the south of the Strip. Later, in the 1994 peace agreement with Jordan, the parties undertook small exchanges of territory in the Arava so as to enable Prime Minister Rabin to save a third of the Israeli localities there which over the years took over

Jordanian lands and water. Arafat knew that no Israeli government was able to completely evacuate hundreds of thousands of settlers residing across of the Green Line. The exchange of territory with a ratio of 1:1 maintained the Palestinian interest relying on resolution 242 on the one hand, but eased the job for Israeli governments to market the agreement to the Israeli public, as it would be reached at the price of removing only a small fraction of settlers.

The failed 2000 Camp David Summit led to flexibility in the Israeli position, which fluctuated between 87-92% to the Palestinian state, but was far removed from the Palestinian position that ranged around leaving only 2% under Israeli sovereignty and insisted on a 1:1 exchange ratio rather than the Israeli demand of 1:9. The Taba meeting held in January 2001, after the parties accepted in principle President Clinton's principles published in December 2000, further reduced the gap. Israel came down to 6-8% while the Palestinians accepted 3-3.5%. Barak intended to compensate for territory to be annexed by Israel by a corridor connecting Gaza to the West Bank and additional components.

The parties turned to engage with the issue of Jerusalem in details only in the framework of the permanent status arrangement, as determined in the "Declaration of Principles". Israel sought to remove the link between "unified Jerusalem" and the larger territorial issue, while the Palestinians insisted on the framework of resolution 242, i.e. the status of east Jerusalem, located on 70 square Km in the West Bank and annexed to Israel in 1967, is the same as that of the rest of the occupied territories. Like the other core issues and despite the religious dimension surrounding it, Jerusalem was part of the "package deal" intended to conclude and bridge the entire "give and take" of the parties on all of the issues. Subject to the flexibility demonstrated by the Palestinians

in their positions on refugees and security, the solution that appeared to be shaped towards the end of the Oslo process was partition of neighborhoods in east Jerusalem according to a demographic principle, including in the Old City, i.e. Jewish neighborhoods under Israeli sovereignty and Arab ones under Palestinian sovereignty. Partition of the sovereignty in the Temple Mount and the Wailing Wall would be done according to the current administrative status quo. Despite the fact that maps were viewed, there has been no official position backed by clear lines regarding agreements and disagreements. For example, both Israel and the Palestinians considered the entire Armenian quarter to be under their sovereignty.

On the issue of Palestinian refugees, the Palestinians were required to accept the most significant compromise since letting go of claims to 78% of what they considered Palestine (Israel within the '67 lines) in 1988. The formulation that began prior to the Camp David Summit created a practical solution that concentrated on solving the non-citizenship of Palestinians by means other than returning to Israel, and including compensation through an international mechanism. Disagreements on the narrative of refugee-hood and responsibility for the problem were not completely settled, but were not too far from it. At the same time, every time the Palestinians felt that they were not gaining enough on territorial issues and in Jerusalem, they returned to positions based on resolution 194, which does not appear in the signed Declaration of Principles.

Parallel to the negotiations with the Palestinians, Barak conducted negotiations in the Syrian track that failed to result in a peace agreement. The unilateral withdrawal from Lebanon in 2000 led to strengthening of the '49 borders, as the UN recognized

the withdrawal as complying with resolution 425. However, it also painted a picture according to which Israel withdrew, for the first time, due to military pressure applied by Hizbullah. This had significant influence on Palestinians. Many have regained the feeling that territories may be returned from Israel without paying a political price. In other words, Arafat's choice of the political process instead of the "armed struggle" was too large and too early a compromise for a Palestinian state on 22% of the Palestinian homeland, which in fact seemed unattainable from Israel. Despite the fact that this move had strengthened the Hamas movement that denounces any compromise, Israel repeated in summer 2005, under the leadership of Sharon, a unilateral withdrawal from the Gaza Strip which assisted the Hamas election victory in 2006, intentionally ignoring Abbas' demand to execute the withdrawal by agreement.

The six years between 2001, when the negotiation for a permanent status agreement stopped, and 2007 when it was renewed in the framework of the Annapolis Summit in the US, were characterized by a range of local dramatic events. The second Intifadah that broke out in October 2000, Sharon's rise to power in February 2001, the death of Arafat and the rise of Mahmoud Abbas in 2004, the Israeli withdrawal from the Gaza Strip and the removal of all Israeli settlements there in the summer of 2005, Hamas' victory in the Palestinian parliamentary election in 2006 and its military takeover of Gaza in 2007, the election of Olmert, and the second Lebanon war in the summer of 2006. During these years, the number of Israelis residing behind the Green Line rose and today reaches almost half a million: 194 thousand in the 14 Jewish neighborhood in east Jerusalem and 290 thousand in 130 settlements and dozens of unauthorized outposts in the West Bank.

Despite the fact that during these years we witnessed a long series of plans such as the American Mitchell Report (April 2001) and the Tenet Report (September 2001) as well as the Quartet's Road Map (2002), it was mainly the informal initiatives that led to reducing the gaps between the parties: the "Ayalon-Nusseiba" initiative launched in 2002 posing principles for a permanent status agreement, and mainly the "Geneva Accords" launched in December 2003. The latter, signed by a long list of ex senior officials in both sides, headed by Yasser Abed Rabbo and Yossi Beilin, completed the last "milestone" which the parties had to cross in the formal track: the '67 borders as a basis for a border and territorial exchange with a ratio of 1:1; partition of east Jerusalem according to a demographic parameter and keeping the Old City as an "open city" model; solution to the refugee problem through either return to the state of Palestine, staying in their current host countries or immigrating to a third country including Israel at the sovereign discretion of the third country.

An influential factor on the territorial issue and Jerusalem was the separation barrier built by Israel. Despite the fact that it was built to answer a security need, facing the wave of terrorism that flooded Israel between 2001 and 2003, its very establishment strengthened the idea of separation, and its route expressed precisely the Israeli position on the issue of borders. The barrier began in a Sharon government decision in October 2003, by biting some 20% off the western side of the West Bank with an intention to build an additional barrier in the eastern side so as to separate the Jordan Valley and Judea desert from the rest of the West Bank. This "security" route was consistent with Israel's political proposal in Camp David in 2000. The route changed in February 2005, drastically reducing it to 9% due to international pressure and in light of Israeli Supreme Court rulings. In April 2006, Olmert

completed the move and authorized a new route for 8%, which was consistent with the Israeli position in Taba in January 2001. It should be noted that in the framework of building the barrier in Jerusalem, some 5 Palestinian neighborhoods with 60,000 residents found themselves outside its "Israeli side". Further, the International Court in The Hague which debated the legality of the barrier built by Israel in the territories published its advisory opinion in July 2004, in which it determined that the route of the barrier and its accompanying regime violate international law, but it also granted Israel, for the first time, conclusive international recognition of the '67 lines as its recognized borders.

The negotiations that took place last year between Israel and the PLO at various levels of government reached the following understandings and gaps. Where the picture is not sufficiently clear, I chose to complete it through understandings that took place between the parties in unofficial tracks. On the territorial issue, Israel continues to insist on the route of the barrier planned for 8% as the permanent border, minus the territory of Arab east Jerusalem, which brings its position to 6.8%. Despite his declaration of November 2007, in the eve of the Annapolis Summit, that he will only accept 2% of territorial exchange, Mahmoud Abbas demonstrated greater flexibility in the negotiations and neared 3% in the overall package deal. The "good news" that may reduce this gap is that Israel has not yet completed the barrier, which to date stretches on only 4.5% of the West Bank's territory, including Jerusalem. Almost all construction work on the barrier was stopped in November 2007, with many places still pending petitions to the Supreme Court or without published confiscation orders. The real and most significant contention is the Ariel block, whose resolution will significantly increase the chance to solve the entire territorial issue. An additional contention is

the status of the "no-man land" in the Latrun enclave, a territory of 46 square Km (0.8% of the West Bank). Israel claims that it was the first to apply effective control over this no-man land and therefore has sovereignty over it, according to customary law, even if it did not publicize an order applying the Israeli law in the same way it did in east Jerusalem. Conversely, the Palestinians claim that the area was occupied by Israel in the '67 war, and is therefore part of the occupied territories. Furthermore, the area was supposed to be part of the Arab state in the 1947 partition plan. In my assessment, this contention will not become a hurdle to a resolution on the border, and its solution would approximate the one offered by the Geneva Accords, i.e. equal partition between the parties. This way, even if the entire area will stay under Israeli sovereignty, Palestinians will be compensated by exchange of territory. A stronger contention prevails over the ratio of exchange. Israel proposes 5.5% around the Gaza Strip and south of the West Bank, and seeks to complete the remainder via a territorial corridor connecting Gaza to the West Bank, though its area is negligible (only 4 square Km). It justifies that by the fact that such connection did not exist prior to the June '67 war. The Palestinians insist on a 1:1 exchange ratio and consider the corridor an Israeli compensation for the flexibility they demonstrated on other issues, including Israeli use of some of the main roads of the Palestinian state via a special arrangement they promise. Should the Palestinians seek to harden their position and decrease the chances of the negotiations, they will return to claim exchange of territory with not only equal area but also equal quality. This will increase the Israeli difficulty to find such territory within the Green Line at the scale of the required 3-4%.

On the issue of Jerusalem, the solution rests on two components. The first is partition according to a demographic basis of the

Jewish and Arab neighborhoods in east Jerusalem, in the spirit of President Clinton's parameter. In other words, division of east Jerusalem between 194 thousand Jews, who will be annexed to the western city, and 260 thousand Palestinians, all of its current residents. The second component is the application of a special and international regime, with the participation of Israel and Palestine, on the "historic basin" that includes most of the holy and historic places in Jerusalem, and stretches on 2500 dunam (the old city, Mount Zion, Ir David, Kidron stream, Mount of Olives and Mount of Vexation). The administration of the holy places will remain unchanged and in accordance with the status quo.

The issue of the refugees rests mostly on the solution suggested initially in Camp David in 2000 and later agreed unofficially in the Geneva Initiative. However, unlike exiting Prime Minister Ehud Olmert, Foreign Minister Tzipi Livni objects to any return of refugees to Israel, even a symbolic number.

The issue of security, which was used in claims made by Israel since its inception, is relatively easier to agree on. Under the rationale that a permanent arrangement should be avoided if it would create a reality of a greater threat potential in the event of non-compliance, Israel seeks to guarantee two interests. The first is that the Palestinian state would not constitute a more comfortable platform to attacking Israel should such a coalition come about in the mid- and long term. The second is to prevent terrorism against Israel coming from or through the Palestinian state. During the negotiations, Israel had internalized the Palestinian basic claim that it is impossible to sign a permanent status agreement that aims to create a better security reality on the one hand, and on the other to maintain military deployment that suits a reality of conflict and violence, and preserves the

occupation. Israel was thus requested to forgo most of its territorial claims in the Jordan Valley which in practical and consciousness terms had served as Israel's defense space against any eastern threat. Furthermore, Israel was requested to forgo control of territories east to the Green Line which are strategically situated overlooking Israel's coastal area, including 73% of its population, as well as civilian and military airports. Thus, the border delineation proposed by Israel is not characterized by consistency with a security rationale, but mainly a demographic and political consideration that seeks to ensure the annexation of a maximum number of Israelis and no Palestinians to Israel. Conversely, over the years the Palestinians hardened their position that they require a force to protect them from future Israeli invasion. Despite the fact that the reoccupation of areas A and B by Israel in 2002 was in response to a wave of terrorism that led to hundreds of casualties and thousands of wounded in the Israeli side, it is perceived by the Palestinians as an unbearably light application of force and violation of agreements by Israel. The pattern of the arrangements required to answer Israeli and Palestinian needs includes several main components. The first is demilitarization of the Palestinian state, including no Palestinian military and a prohibition on inviting or hosting a foreign military in its territory. Similarly, Palestine will be demilitarized of heavy weapon such as airplanes, tanks, artillery and rocket based weapon, and only agreed upon weapons will be permitted. The aerial space will serve the Israeli air force as well as Palestinian civilian aviation. Second, the Palestinians will establish a strong police force capable of enforcing law and order and fight terrorism. Third, Israel will keep and manage two early warning sites. Fourth, international forces will be deployed in sensitive areas to both sides: on the Israeli-Palestinian border, on the borders between Palestine and Jordan and Egypt, in

international passages, in Jerusalem, in early warning sites and along agreed upon routes. Coordination and liaison will apply between all sides.

Finally, one of the central hurdles to attaining an agreement is the question of its implementation, on the backdrop of Hamas' control in Gaza and its refusal to recognize Israel and sign an agreement with it that contradicts Islamic law. I do not wish to address the issue of the internal Palestinian conflict in this article, but I would like to overcome this obstacle through a practical separation between the signing of an agreement and its implementation. The agreement that will be signed will need to pass the required authorizations in both sides, as well as parliamentary voting and/or referenda. The plan of implementation will be conditioned by execution based rather than chronological milestones, i.e. each side will need to demonstrate an effective ability to safeguard the interest of the other side, before that side carries out what it considers as having a threat potential from its perspective. For example, Israel will not pass the control of passages to Jordan to the Palestinian state prior to the establishment of an international and Palestinian mechanism that can guarantee with reasonable transparency the prevention of smuggling attempts of unauthorized weapons to the Palestinian state. As an additional example, Israel will not transfer to the Palestinians areas adjacent to the Gaza Strip in the context of territorial exchange before the Palestinians clearly materialize in Gaza the principle of "one authority, one weapon" vis-?-vis terrorist organizations. On the other hand, the Palestinians will not accept dismantling of UNRWA and cancellation of refugee status before the establishment of an international mechanism with responsibility to the issues of repatriation and compensation.

In sum, as stated in the beginning of the article, I repeat that the parties have been through a long and complex path. Along this path, regional and global actors had a very strong influence on the development of their positions. The paper did not deal sufficiently with regional contexts and nearly entirely sidestepped global ones. Subsequently, the chance of reaching a permanent status agreement, and even more importantly to implement it, must be conditioned by a series of processes and influencing factors not analyzed in this paper. These include the survivability of the 2002 Arab League peace initiative that strives to end the Arab-Israeli conflict subject to given conditions and prices, and that includes peace agreements between Israel and Syria, Lebanon and the Palestinians en route to normalization of relations between Israel and the Arab world. They also include regional, national, social and religious confrontations and tensions involving Sunnis and Shiites, fundamentalists and moderates, pro westerners and radicals, hub and periphery in the Middle East and more. They further include Iran's nuclear program and the counter response to it, the future of Iraq and the US involvement there and in Afghanistan.

A permanent agreement between Israel and the Palestinians necessitates deep, intensive and sincere involvement of countries that support it. It requires massive use of "carrots" with both sides, but also of "sticks" when needs be. Without fear of using clichés, the attainment of such an agreement will neutralize one of the most sensitive detonators that may ignite local and regional eruptions whose repercussions may reach everywhere and every field in the world arena. When such an agreement is reached, it will not be a moment too soon.

## 33 | The people of Israel voted Hamas

In the elections for the 18th Knesset, the people of Israel also determined the future of the Palestinian leadership. The scenario that Mahmoud Abbas and his diplomatic platform will survive and remain viable vis-a-vis Benjamin Netanyahu's government, much like Yasser Arafat in 1996, is highly unlikely. An absence of a diplomatic process, and the expected strengthening of Hamas as a result, will lead to Fatah's abandonment of the diplomatic arena and its linkage with, or replacement by, Hamas.

Arafat was forced to watch Netanyahu, who saw "the PLO state" as an existential danger, put together a right-wing government. The Western Wall Tunnel episode, American pressure, the temporary war against terror, and support of the diplomatic process from a majority of the public yielded few diplomatic fruits – the Hebron Agreement and the Wye River Memorandum – yet kept the process going. The PLO did not lose its superiority to Hamas even while Netanyahu canceled negotiations on a final-status agreement, reduced the scope of Israeli withdrawals as stipulated by the interim agreement, and enabled the doubling of the Israeli population in the territories.

Abbas survived during the Olmert government's term due to the support of moderate Arab states and most of the international community, American aid, and the Israel Defense Forces' presence in the West Bank. A Netanyahu government is tantamount to

compounding Abbas' predicament: an Israeli refusal to discuss the Arab initiative; the absence of a binding document in the wake of the Annapolis process; Hamas control of Gaza, which is gaining more legitimacy following Operation Cast Lead; a strengthening of "the Iranian camp;" a limping economy; and a further increase in the number of settlers.

If Netanyahu overcomes American pressure and the ostracism of Europe and the Arab states, he will have to carry out the "legacy" of Ehud Olmert, Tzipi Livni and Ehud Barak. If Avigdor Lieberman succeeds in limiting the High Court of Justice on security matters, Netanyahu could complete the construction of the security fence along a route that will carve up the West Bank. He could fulfill the National Union's demand to "launder" the outposts in the spirit of the agreements Barak negotiated with the settlers. He will issue tenders for the building of settlements west of the fence, and the troika of leaders who sanctified the fence route as the future border will not be able to utter a sound from the opposition. The simmering tensions in the West Bank will serve as a pretext for Netanyahu to maintain the hundreds of checkpoints that have strangled the Palestinian economy, and Barak can only keep mum.

The response to the Israeli elections was the acceleration of talks between Hamas and Fatah, with Egypt's support, all toward the goal of creating a Palestinian entity to cope with Israel's expected abandonment of the Annapolis process and Lieberman's demand to topple Hamas. This is tantamount to a violation of the renewed cease-fire, if one is attained. If the Palestinian reconciliation process bears fruit, Hamas will renounce its declared goal of establishing a new PLO and will join the existing one, a process that will encourage calls to reintroduce the principle of

"resistance" into the PLO platform and condition its adherence to existing agreements on Israel's abiding by those same agreements.

The absence of a substantive diplomatic process will move Fatah, 16 years after the Oslo Accords, to acknowledge that its strategic decision to opt for the diplomatic route and to abandon "the armed struggle" has failed. The distance from this point to a complete takeover of the PLO, which is recognized as the sole and legitimate representative of the Palestinian people, by the Hamas agenda is short.

Thus, in a stroke of irony, PLO negotiators are awaiting Netanyahu and Lieberman with Hamas-like viewpoints, amid the international pressure that will be put on Israel to advance a solution of two states for two peoples. One may assume that none of them will want to discuss the alternative of one state between the Jordan River and the sea because in such a state, in which a majority of citizens will be Palestinian, Lieberman's citizenship law will come back to hit us like a boomerang.

## Senat 362 for political issues

# 34 | Operation Cast Lead – Causes, Conduct, Preliminary Results and Significance

## 1. Executive Summary

- Operation Cast Lead is another milestone in the conflict between Israel and Hamas, but its significance, causes and results, go beyond the narrow borders of the Gaza strip. The operation will be assessed mainly by its long-term regional consequences, and not for its immediate, palpable results.
- Two critical decisions of Hamas: adding national Palestinian goals to its social-Islamic goals in 1987, and joining the political arena as a party in 2006.
- The growth of Hamas was founded on several elements: the lack of significant progress in the political process between Israel and the PLO, the intensification of Israeli occupation in the West Bank (the Security Barrier, roadblocks and the like). The abduction of Gilad Shalit in June 2006 in order to free Hamas prisoners, the results of the Second Lebanon War, Iranian-Syrian support, the continuous attacks on Israeli residents around the Gaza Strip in order to break the "siege," and the six-month "period of calm" up to the operation.

- The operation had two major public objectives: stopping the fire from the Gaza Strip towards Israel, and stopping the smuggling of arms from Sinai to the Strip. The first objective can only be obtained by pressuring Hamas, and the main way for doing so was by significantly diminishing its military capabilities. The second objective can only be obtained by pressuring Egypt, with which Israel is working both in the political track and through covert warnings.
- The Egyptian mediation initiative, following Security Council Resolution 1860, restored Mubarak and Egypt to the center of influence in three spheres: the local, the regional and the international. The Egyptians are interested in containing the present round of violence, and at the same time to return the PA, headed by Abbas and Fayyad, to the Gazan arena. The Egyptians are striving to create a situation in which Hamas, which is becoming weaker and losing public support, is newly integrated in the PA and maybe in the PLO at an inferior position, producing one Palestinian partner for negotiations with Israel. In the regional sphere, as of now, Egypt succeeded in overcoming the Iranian-Syrian axis, and in the international sphere it even won acclamation from the European Community.
- Failure in achieving the long-term objectives will turn the wheel back: Hamas will become stronger and PLO weaker, Iranian and Al Qaida influence will be enhanced, confrontations in Gaza, the West Bank and East Jerusalem will start again, and relations between Israel and Egypt, Jordan and other countries will be undermined.

Operation Cast Lead is another milestone in the confrontation between Israel and Hamas, but its significance, causes and results, go beyond the narrow borders of the Gaza strip, and even beyond the borders of the Israeli-Palestinian conflict. These are all part of local and regional, social and religious conflict zones, which include many major players – Hamas, PLO, Israel, Egypt, Hizbullah, Iran, Syria, Jordan and Turkey, and also other players in the wider circle such as the US, the EU, the UN and others. Therefore, the military operation in the Gaza Strip and its consequences cannot be assessed and explained without a good understanding of the development of events leading to the operation, and of the various conflicts linked to it. The actual fighting took place in the Strip, but it is interlinked, both in its causes and in its consequences, with the West Bank, neighboring countries in the region, and even further regions. In many ways, the operation will be assessed mainly according to its consequences for long-term processes in the regional context, and not for its immediate results of a "body count," tunnels destroyed or infrastructure damaged. The latter are of temporary effect, as they can be easily overturned by the deeper trends.

## **2. The political and national rise of Hamas**

Since the first Intifada of 1987, the Hamas movement adopted two decisive resolutions concerning its status and social and national future. The first one, at the start of the Intifada, was the decision to add nationalistic ideas to its social-religious platform taken from the position and vision of the Muslim Brothers, its mother-movement. That is, to include the particularistic, national Palestinian aspect in its operations, and even to give it a place at the fore of its actions, together with – and sometimes before – the Islamic aspect of a universalistic religion, expressed in its Dawah work. In its second decision, Hamas chose to institutionalize as

a party, "the Reform and Change Movement," and to take part in a political-democratic contest by joining the elections for the Palestinian Parliament in 2006. These two moves were not aimed at emulating the ways of the elder sister-movement, Fatah, which had to abandon the armed struggle for a political process as a strategy for establishing a Palestinian state. Rather, their objective was to take the place of Fatah, while bringing a radical change to the goals and strategies of the Palestinians. These aspirations were reflected in the rhetoric of the Hamas leaders before the elections; for example, Ismail Haniyeh, the future Prime Minister, said: "the goal of Hamas is to create a broad historical change... Hamas' attempt... is to create a new PLO," and Khaled Mashal, Chairman of the Political Bureau, made clear that "resistance is the strategic option until all of Palestine's land is liberated and until the last refugee returns." In other words, the national-religious doctrine of Hamas rejects any permanent deal with Israel based on compromise, which is prohibited according to Muslim law. Although Mahmud a-Zahar, one of the movement's prominent leaders, said after the targeting of Sheikh Ahmad Yassin and his successor Rantissi that "if we can achieve our goals without violence, we will do so..." in practice, he views violent Jihad as the only possible means for "liberating all of Palestine" in order to establish a Islamic Palestinian entity.

Therefore, Hamas adamantly rejects the distinction made by PLO in November 1988 in the Algiers Conference and during the Oslo Agreements, when it relinquished a "homeland" in all of Palestine in favor of a Palestinian State on 22% of the land. However, recognizing the present strength of Israel, Hamas introduced the concept of stages as a means to achieve its final goals. At the same time, it makes clear that Israel will be compelled to concur with every stage, without being compensated with any political gain.

### **3. Hamas – growth and isolation**

The failure of the political process between PLO and Israel and the corruption of the PLO leaders nurtured and strengthened Hamas, which did all it could to obstruct the negotiations between Israel and PLO by performing terror attacks. Israel's unilateral withdrawal from South Lebanon, which was attributed to Hizbullah's credit and to its strategy – resistance, led the Hamas leaders to intensify their ties with Hizbullah, which had been created when 415 Hamas activists were deported to Lebanon. Political isolation and limited financial means later led Hamas to a "marriage of convenience" with the Iranian sponsor, in spite of their profound ideological differences. But the most significant support for its policy and strategy was received from Israel with the execution of the Gaza Strip Disengagement plan in 2005. This support was given when the Israeli Government, headed by PM Sharon, adamantly refused to any talks or agreements with Abu-Mazen, and insisted on a unilateral move in spite of the many warnings it received as to the strengthening of radical factors in Palestinian society and the weakening of moderates.

This move had immediate consequences. The democratic elections to the Palestinian Parliament, imposed by the Americans with cultural and political blindness, decisively raised Hamas to power, and it compiled the government. But the Palestinian government did not survive the basic tensions between Hamas and Fatah, leading finally to the military takeover of the Gaza Strip by Hamas in the summer of 2007. The response was an intensifying of the political isolation imposed on Hamas by Israel, Egypt, the PLO and most of the international community until it agrees to three conditions: recognition of the agreements signed between PLO and Israel, including the Oslo agreements, stopping support of terror and recognition of Israel. Political

isolation was augmented by the physical isolation imposed by the closure of the Rafah crossing and the limitation of goods coming in from Israel to basic goods only. Everyone assumed that the "siege" will temper Gazan public opinion, leading it to cease its support of the inexperienced Hamas leadership.

Hamas refused to cooperate with this plan, and did it all it could to assure the survival of the Islamic experiment. Hamas worked consistently in order to strengthen its ties with Iran and Syria, to receive financial and political support from other countries, and to legitimize its military force. Iran, from its side, was glad for the opportunity to complete its fundamentalist vice-grip on Israel, already maintained in the North by Hizbullah.

They are supposed to serve two Iranian goals: the first, to serve as a loaded gun aimed at the Israeli home front, in case the latter decides to send its air-force to strike at the Iranian nuclear program, and to divert international attention from it.

The second, to serve as another stake of Iranian hegemony in the region, against Israel, Egypt and Saudi Arabia.

Inside the Strip, Hamas succeeded in controlling the Palestinian factions, and in directing their military actions against Israel, in two main moves:

First, by creating a local balance of terror against Israel, by developing and smuggling long-range rocket weapons, using the tunnels under the "Philadelphi" route, and by exploiting the deliberate helplessness of the Egyptians. Mubarak viewed the disengagement, the closure of crossings from Israel to Gaza and the severance of Gaza from the West Bank as an Israeli attempt

to push Gaza's troubles onto Egypt. He believed that a certain amount of fire between Israel and the Hamas would assure a link between Gaza and the West Bank under any political solution. Therefore, in parallel to his attempts to renew the internal Palestinian dialogue, he tried to compel Hamas to join some umbrella institution under Abu-Mazen.

Second, by training their forces using semi-military methods, and by the fortification of Gaza in preparation for a Lebanon-type Israeli ground invasion.

#### **4. On the eve of the operation**

A series of developments in the past three years have created a sensation of power and even confidence in Hamas concerning its strategic choices. First, the abduction of Gilad Shalit in June 2006 in order to release Hamas prisoners led to Operation Summer Rains in the Strip, which came to an end without any conclusive results and with an erosion of Israeli deterrence. Second, the results of the Second Lebanon War, which had restrained Hizbullah, but also strengthened it in the inter-Lebanese political arena. Moreover, the lack of any real progress in the political process between Israel and PLO/Fatah, under US arbitration, including the Annapolis Process, helped Hamas to promote its doctrine. It emphasized both the hopelessness of the alternative of negotiations, adopted by Abu-Mazen, for advancing the interests of the Palestinian people, and the intensity of Israeli occupation in the West Bank, as exemplified by the Security Barrier, roadblocks, and the like. The continuous attack on the Israeli residents around Gaza in order to raise the "siege" was seen by Hamas as a triumph. So was the six-month "calm," which it believed it had compelled Israel to sign, especially concerning the clause stating that the calm would be expanded to the West

Bank after six months. As Hamas understood it, this was the beginning of the second stage of the victory of its social-national policy and strategy over that of Fatah among the Palestinian population, in the West Bank as well.

On the eve of Operation Cast Lead, the arrogance of Hamas was at its peak. This arrogance was expressed in the refusal of Hamas to conduct the internal Palestinian dialogue with Fatah under Egyptian auspices, and in its attempts to undermine Egypt's status as a sole arbitrator, including its accusation of

pro-Israeli bias. In the military sphere, Hamas decided to put a higher price than in the past on the targeting of some of its fighters by Israel, and fired rockets towards Israel, thereby breaking the "calm" a month before it ended. Later, Hamas refused to renew the "calm," and then challenged its rivals in an unprecedented fashion when its leaders started to relate publicly, in many forums, to the oath of allegiance to the Muslim Brothers movement – the "bay'a." By doing so, Hamas indicated that its struggle and accomplishments should be considered a model for all the branches of the Muslim Brothers in their struggle against the "corrupt" pro-Western regimes (the PA and Egypt) and the "infidels" (Israel).

## **5. Israel releases the spring**

Israel had continuously prepared for a confrontation, a result of the Winograd Commission and the change of guard in the Security Ministry and the IDF. These changes, together with the support of many countries following Israel's restraint in the prior months and the tactical military surprise, led to harsh results for Hamas already in the first two aerial strikes which opened Operation Cast Lead. At first, the political leaders – Olmert, Barak

and Livni – were ambiguous as to the Operation's objectives, but these became clearer with time. The Israeli public and the international community understood that the Israeli government does not intend to destroy the Hamas regime for two reasons. The overt reason – Israel was not interested in the IDF controlling Gaza instead of Hamas, with all the political, security, financial and other problems that this entails. The covert reason – Israel is abstaining from prior mistakes in which it attempted, and was seen as attempting, to help its allies become leaders with the help of the IDF's power. The understanding that there is a need to maintain Hamas as a temporary effective regime, which will prevent chaos in the Strip and will continue to be responsible for 1.5 million Palestinians, was the reason for the gradation in the IDF operation, with the intention of creating a possibility of stopping the operation whenever the objectives are met.

The overt objectives of the operation were only two: stopping the fire from the Gaza Strip to Israel and stopping the smuggling of arms from Sinai to the Strip. The first objective can only be obtained by pressuring Hamas, and the main way for doing so was by significantly diminishing its military capabilities, as they ensure its survival in the Strip. On the part of Hamas, both in the Strip and out of it, the ability to continue controlling the Strip was the most important objective. Israel's second objective could only be obtained by pressuring Egypt. This was performed on the political level, through the known possibility of agitation among the Egyptian populace and through a covert threat of a mass of Gazan refugees who will enter Egyptian territory in case of the full occupation of the Strip by the IDF.

The IDF's military action, mostly from the start of the ground operation, was characterized by massive use of fire,

unhurried, careful movement, continuous aerial assistance for the ground forces and the usage of advanced control and supervision technology. These, together with comprehensive prior preparation of the emergency services under the aegis of the Home Front Command, prevented the citizenry from being substantially harmed, which may have created internal pressure to stop the operation. In addition, the police was deployed in the Arab sector and East Jerusalem.

This kind of operation in a built-up area, together with the cynical exploitation of citizens by the Hamas militants, resulted in high numbers of innocents hurt by the IDF, and amplified the consequences of the operation among Arab countries and internationally. The anger was not diminished by the pictures of humanitarian assistance supplied by the IDF's to the Strip's residents – hundreds of truckloads of food and medical equipment.

However, although international Palestinian supporters are vocal in their opposition to Israel, their governments usually hold a more balanced position towards it.

## **6. A Change of Direction?**

Security Council Resolution 1860 from the 9th of January was not respected by the sides to the conflict at the time. Although Hamas wasn't mentioned in the resolution, it gave it a certain amount of political legitimacy, as opposed to Israel's position of preventing such legitimacy even at the cost of unilateral withdrawal. Despite the fact that the resolution contains all the elements needed for stopping the present conflict, it did not indicate any concrete mechanisms for supervision or execution, as Israel demanded. However, the last clauses of the resolution do indicate the support of its 15 members for the creation of

one Palestinian entity led by Mahmud Abbas, and for a future permanent solution, based on the "two states for two nations" model, already approved in resolution 1850.

Some of the resolution's clauses – at this stage only the first ones – were in fact implemented this week with the Egyptian mediation initiative, which restored Mubarak and Egypt to the center of influence in three spheres: the local, the regional and the international. The Egyptians, who have again become the central player in the region, to the chagrin of Hamas and against its will, are interested in containing the present round of violence, and at the same time in returning the PA, headed by Abbas and Fayyad, to the Gazan arena. The Egyptians are striving to create a situation in which Hamas, which is becoming weaker and losing public support, will be newly integrated in the PA, and maybe in the PLO, while it is at an inferior position, creating one Palestinian partner for negotiations with Israel. In other words, the Egyptians wish to make use of their short-term mediation to create a situation in which Israel will not be able to evade a total solution of the Palestinian problem, with Abu Mazen as the representative of all the Palestinians in the territories. In exchange, Egypt will act more effectively to prevent the strengthening of Hamas by arms smuggling through the tunnels. This will also serve the interests of Egypt, which has experienced the effect of the images from Gaza on the Egyptian and Arab population, accompanied by agitation of the Muslim Brothers in the past months, and especially in the weeks of the Operation.

In the regional circle, Egypt together with Saudi Arabia and the PLO, succeeded in blocking the militant axis of Syria and Iran, which was heard in the Qatar Conference. Proposals for declaring Israel a "terrorist entity" and for a withdrawal of the

Arab League peace initiative, which has been offered to Israel in the past 7 years, were heard there.

Egypt chose to use the convention in Kuwait for the creation of a unified moderate Arab front, calling for inter-Palestinian agreement and for Arab unification versus Iranian involvement. Against the aid promised by Iran to Hamas for the rebuilding of Gaza Strip, the moderate front succeeded in raising guarantees of \$2 billion. Through this package, Mubarak and Abdullah hope to strengthen Abu Mazen and to create one partner for negotiations with Israel. At the same time, they are reminding Israel that if it does not take the Arab League Initiative seriously, the initiative will be suspended. In support of Egypt's execution and upholding of the Security Council resolutions, the leaders of Europe took part in a summit he convened in Sharem a-Sheikh, and also in a more modest tribute to Israel in Jerusalem.

Operation Cast Lead exposed and also influenced the objectives of the new American Regime, headed by Barack Obama. Like Israel, the US believes that the Iranian nuclear program and the ideology of the Mullah regime is a more serious threat and challenge to its foreign policy, and therefore it prefers to prepare for this threat, and not to wear itself out in a confrontation with its Hamas branch in Gaza. Thus we were informed that as opposed to prior estimations, the Israeli-Palestinian conflict is to remain as first priority, and not be replaced by the Syrian issue. However, the President and his Secretary of State intend to take a more substantial role in resolving the conflict through a permanent agreement, instead of backing marginal agreements concerning crossings or the number of roadblocks and outposts in the territories. Israel contributed to this by completing the withdrawal from the Strip on January 20, 2009, before Obama's inauguration.

The fragility of the ceasefire is apparent to all. The fighting may commence at any time, if Hamas cannot enforce it on all the Palestinian factions. Hamas itself may decide to end it in order to repair its image, which was badly damaged; more than 1315 Palestinians died and more than 5000 were injured, 80% of the tunnels were hit close to 30,000 buildings were damaged, and most of Hamas services in Gaza collapsed. Fighting may resume at any time, also by attacks in the West Bank, with Hamas attempting to achieve the opening of the crossings – its main objective for establishing its regime.

Therefore, in the next days, we will see the IDF in waiting positions on the borders of the Strip, restrained but prepared to resume fighting. With the need to reconstruct Gaza and Israel's control over the crossings, Israel's bargaining power has become greater, both concerning Gilad Shalit's release and the interest of Hamas to maintain the ceasefire.

However, the assessment of the Operation's success will depend also on the prevention of smuggling by Egypt, and especially on the latter's ability to form inter-Palestinian reconciliation, led by Abu Mazen, and the renewal of negotiations with Israel immediately after the elections in February. Failing to achieve these objectives will turn the wheel backwards: Hamas will become stronger and PLO weaker, Iranian and Al Qaida influence will be enhanced, confrontations in Gaza, the West Bank and East Jerusalem will start anew, and relations between Israel and Egypt, Jordan and other countries will be undermined.

## **35 | The Arab Initiative: Don't get bogged down by the Details**

Anyone who rejects the Initiative for fear of total withdrawal and application of the right of return should remember how we interpreted previous agreements with our enemies.

The multiplicity of analyses devoted recently to the Arab League's Peace Initiative approach in numbers the articles and essays written at the time on UN Resolution 242. At that time, there was a theoretical argument concerning the depth of the Israeli withdrawal from "the Territories" or "Territories" conquered in 1967. This argument was resolved when Israel signed peace treaties with Egypt and Jordan.

The argument about the Arab Initiative turns repeatedly on interpretation of the territorial clause and on the clause concerning the refugees. However, it is the practical application of these clauses that matters, not the theoretical discussion on their interpretation. Israel is obliged to clarify these issues with the Arab world, with the sincere intent of reaching an agreement. She may discover that the Initiative sits well with Israel's interpretation and Israel's interests.

The peace treaty between Israel and Egypt in 1979 was the first to apply the equation of "all the territories in exchange for peace",

while leaving the Gaza Strip autonomous under Israeli aegis. Sharon's attempt to undo the equation by building "dummy" settlements in Sinai in order to "relinquish" them in return for keeping the settlements in the Rafiah-El Arish sector failed. This attempt now looks ridiculous and irresponsible, since it had the potential to undermine what is now a blessed reality – Egypt's removal, after thirty years from the "Circle of Confrontation".

The equation was further strengthened by the peace treaty with Jordan in 1994. By virtue of trust between Rabin and Hussein, the principle of territorial exchange was added.

The opponents of the Arab Initiative maintain that its drafters demand total withdrawal to the 1967 borders, but the territorial exchange with the Jordanians showed that this is not strictly the case.

In negotiations with the Palestinians, the Barak government's position that UN Resolution 242 does not apply to the occupied Territories resulted in months of fruitless discussions on the issue of borders. Only when the notion of territorial exchange was adopted, about a month prior to the Camp David summit, were there meaningful discussions.

The informal Ayalon–Nuseiba Principles and the Geneva Accords, formulated by Abu Mazan's people and approved by a large part of the Arab world, makes it possible to identify the Arab interpretation of these clauses. In the preface to the Geneva Accords, the parties anticipate agreement with the Arab Initiative when they "declare that this agreement denotes an historic reconciliation between Palestinians and Israelis, and paves the way for reconciliation between the Arab States and

Israel, in accordance with the relevant clauses in the decision of the Arab League in Beirut".

Concerning the territorial issue, the claim of its opponents that it demands total withdrawal and the dismantling of all settlements, including Jerusalem is refuted by the document itself. From the start, the signers of Geneva state that "the border between the State of Palestine and Israel will be based on the line of June 4th, 1967", but immediately add "with mutual changes on a one-to-one basis". Therefore, in fact there would be territorial exchanges whereby Israel maintains its sovereignty over the Jewish sections of East Jerusalem, along with dozens of settlements and of 75 percent of the Israelis who live beyond the Green Line.

The drafters of the Arab Initiative determined that the Palestinian capital will be "Eastern Jerusalem" and not "Greater Eastern Jerusalem", which is twelve times larger and which includes the new Jewish communities that the Geneva Agreement leaves under Israeli sovereignty. The solution for Jerusalem's Old City, retaining the status of an "Open City", demonstrates the flexibility of the Initiative's drafters, who made no specific mention concerning the Temple Mount. This was not intended to relinquish Arab control of Temple Mount, but in order to allow for special arrangements for the administration of the sacred sites.

Solution of the refugee issue in the Arab League Initiative is also along the lines of that set out in the Geneva Accords. Its writers refrained from mentioning the concept of the Right of Return. (Nor is any mention of the term found in the Ayalon-Nuseiba document). On the refugee issue, the Arab Initiative, as in the Geneva Accords, states that the parties recognize UN Resolutions 194 and 242 as the basis for the solution of the problem. The Arab

Initiative immediately goes on to agree that "these rights will be realized in accordance with Paragraph 7 of this Agreement". Paragraph 7, in essence, states that refugees will either return to Palestine or remain where they are. Any immigration to third countries, including Israel, would require the agreement of the receiving state.

Today, under the aegis of the Annapolis Conference, these understandings take their place in the formal negotiations. The parties recognize the 1967 borders as the basis, and will negotiate the scope and location of territorial exchange. On the refugee issue, they waver between Ayalon-Nuseiba and the Geneva Accords.

If a positive reading is insufficient to cause Israel's government to seriously examine the Arab League's Peace Initiative, perhaps the severe reaction of those who rejected it, such as Ramadan Shelach, the leader of Islamic Jihad, can help. Shelach stated that the Initiative is far worse than the Balfour Declaration, as "Great Britain, without being the owner of Palestine, gave her to an entity that had no right to it (the Jews)", and now "the owner of Palestine (the Arab world) is giving it to an entity that had no right to it (Israel)".

## **36 | AN ISRAELI VIEW**

# **Hamas believes it has the upper hand**

The policy of "throwing away the keys" that characterized the IDF withdrawal and removal of settlements from the Gaza Strip in the summer of 2005 played right into Hamas' hands as it sought to achieve political and social objectives based on a strategy of "armed struggle" and non-recognition of Israel.

In the absence of a significant peace process and against the backdrop of Fateh's failure to maintain an effective ruling authority and sound government, Hamas defeated Fateh in parliamentary elections, formed a Palestinian Authority government and rounded out its victory with a military takeover of the Gaza Strip. Israel responded by galvanizing an international consensus in favor of boycotting Hamas and recognizing the Fayyad government. It followed through politically with the goal of bringing about the collapse of Hamas rule in Gaza and constraining its military expansion and the threat it projects to the surrounding towns and kibbutzim. Hence it limited and even ceased the passage of goods into the Strip and encouraged reinforcement of the Egyptian military deployment along the philadelphi strip in order to prevent smuggling.

This is the political backdrop to the Israel-Hamas military struggle. Israel is deploying its military in a series of operations

defined by two basic political assumptions. In view of the cost involved and particularly considering the absence of an actor, new or old, to whom it can transfer responsibility, it is avoiding full reoccupation of the Strip. But it is also avoiding accepting a ceasefire along the conditions proffered by Hamas. This reflects its fear of aggrandizing Hamas' prestige and of facilitating Hamas' military growth, stabilization of its rule in Gaza, enhancement of its status in the West Bank and damage to Fateh's status--to the extent of the latter's collapse and cancellation of the international boycott of Hamas rule.

This operational policy has for the past two years nourished an asymmetrical struggle. Israel launches daily attacks against armed personnel inside Gaza, bringing about hundreds of casualties every month at a minimal cost to itself. And Hamas strikes at Israeli civilian population concentrations in the Gaza region with rockets and mortars--for which Israel still lacks an effective defensive or offensive response.

The Egyptian-mediated negotiations over a ceasefire are drawn-out because of the different ways the two sides approach their objectives. Hamas sees a ceasefire first and foremost as a way of removing the boycott; it is prepared to reciprocate with delayed implementation in the West Bank. Israel seeks to begin with a mutual ceasefire and wants to prioritize and delay for as long as possible an ending of the Gaza siege and a ceasefire with Hamas in the West Bank. Israel, which enjoys the military advantage, wants to integrate release of captured soldier Gilad Shalit into the deal and pay in return the lowest possible price in released Palestinian prisoners.

Until agreement is reached, if at all, both sides continue to

pursue the military track in an attempt to augment ceasefire conditions. Occasionally they even violate their shared informal "understandings" regarding the use of force: Hamas, by firing Grad rockets at Ashkelon and Netivot inside Israel; the IDF, by launching broader and deeper ground operations than usual.

Recent political and domestic developments are also relevant to ceasefire conditions:

- The "Talansky affair" is understood by the Palestinian public as putting paid to President Mahmoud Abbas' promise to deliver an agreement for the establishment of a Palestinian state by the end of 2008. This failure removes the most significant threat mounted against Hamas, which feared the ceasefire would be exploited by Israel and Fateh to present the Palestinian public with an agreement. It even strengthens Hamas' policy of negotiating under fire--a policy increasingly preferred by Fateh activists and by the general public too, as an unavoidable tool for negotiating not just a Gaza ceasefire but peace as well.
- The electoral campaign anticipated in Israel in the coming months is liable to cause most Israeli political parties to adopt more extreme positions, thereby feeding into Hamas' internal-Palestinian propaganda campaigns.
- The most recent visit to Tehran by Hamas leader Khaled Mishaal, held against the backdrop of the Syrian-Israeli announcement regarding renewal of negotiations, produced an increase of Iranian aid to Hamas to total \$250 million a year and a commitment to supply enhanced weaponry.
- With recent statements by Fateh activists in mind, Hamas has

of late concentrated on trying to bring about Qatari involvement in mediating between the two movements. PM Ismail Haniyeh visited the offices of the Qatari representative in Gaza, while senior Hamas official Mahmoud al-Zahar held a similar meeting in Doha. This gambit has media and psychological importance in view of the successful Qatari mediation among Lebanese factions that finalized Hizballah's victory over its rivals in Beirut. Similarly, Qatari involvement is likely to mean a Hamas-Fateh dialogue that favors Hamas and to offer a way for Hamas to counter the views of Egypt, which seeks to maintain exclusivity in mediating between both Hamas and Israel and Hamas and the PA leadership.

Given these developments, Hamas is ironically prepared to relax its conditions and agree to a "test of intentions" before Israel opens the Gaza passages. It assesses that current and anticipated conditions--the absence of serious Israeli-Palestinian negotiations, the weakening of Fateh, a new American president, Iran's stronger position--will enable it to enjoy the "fruits" of a ceasefire more than Israel, until the ceasefire can in any case be improved upon. Israel for its part is still delaying its response, against the backdrop of new political tensions between the minister of defense and the prime minister.

## **37 | How to run the Israeli-Palestinian peace process**

### **Implementing the Annapolis declaration**

PM Olmert should appoint a negotiating team, a ministerial steering committee and a peace administration.

Besides producing a display of international support for the peace process, the Annapolis conference succeeded in generating a one-year timetable for negotiating a final status agreement--until US President George W. Bush packs his bags and makes room for his successor. The latter will then require considerable time to study the Israeli-Palestinian conflict--even assuming it is awarded priority over the anticipated recession in the American economy and additional urgent American issues.

Then too, if by early 2009 there is no progress in the peace process, the chances of finding Palestinian President Mahmoud Abbas still in office are slim, as are those of an Israeli center-left government headed by Ehud Olmert or his replacement remaining in power. Finally, while the regional system--Syria, Lebanon, Iran and Iraq--is not subject to this timetable, its dynamics merely strengthen the need to accelerate the Israeli-Palestinian track.

Time is also not in Israel's favor due to the weakening of Fateh

and danger signs that the Palestinians are increasingly inclined to forego a two-state solution and struggle for a single "state of all its citizens" in which they are the majority. Accordingly, Israel should make haste; it should not fail to meet its negotiations and timetable objectives because of organizational or negotiations management mistakes. The time at hand permits the orderly and consistent management of negotiations devoted to the difficult task of closing the real gaps between the two sides.

Israeli PM Ehud Olmert should appoint a negotiating team, a ministerial steering committee and a peace administration. He should present a long-term (far beyond the next elections) vision and set of objectives regarding the nature of the future political, security and economic relationship between Israel and Palestine.

The peace administration will have to deal urgently with several preliminary issues. First, it should identify and define the two sides' interests. Israel's interests could comprise the non-return of refugees to Israel, the demilitarization of the area west of the Jordan River with regard to foreign armies and heavy weaponry and the retention of most of the settlers under Israeli sovereignty in the large settlement blocs. Palestinian interests could include the establishment of an independent state in the West Bank and Gaza Strip with its capital in East Jerusalem and a territorial link between Gaza and the West Bank.

Second, the peace administration should identify all parties who have an interest in the agreement: supporters from the moderate Arab states, the US and the EU, detractors such as Iran and Hizballah and even the Arab citizens of Israel. Third, a project definition should be prepared based on a determination of the topics to be negotiated: core issues like end of claims,

refugees, Jerusalem, borders and security; and generic issues like water, the environment and systems of government, economy and justice. Fourth, the peace administration should define a mechanism for harmonizing the management of negotiations with factors that influence both the process and daily realities. These might include construction of the separation fence, regulation of movement, Palestinian economic development, the confrontation with Hamas in Gaza, the implementation of roadmap phase I, prisoner releases, etc.

In the second and central stage, and based on the staff work described above, the peace administration should formulate and recommend the positions to be presented by Israel in the negotiations along with modes of managing the negotiations, all in conformance with political directives determined by the ministerial steering committee headed by the prime minister. These positions will serve the negotiating teams, whether openly or covertly, officially or semi-officially.

First, the leadership will determine the parameters, principles and areas of flexibility for negotiating, with definitions similar in detail to those presented by US President Bill Clinton in late 2000. The ensuing negotiations should be managed in separate working groups and in three main clusters: core issues, derivatives of core issues and generic. The peace administration should offer professional support for each negotiating team while the ministerial steering committee should weigh in with political decisions. By the third quarter of the year, the negotiators will be called upon to formulate a detailed draft framework agreement in which important gaps still separating the two sides--assuming they are few--can be presented to a concluding leadership summit.

The signing of an agreement will activate dozens of expert teams charged with formulating detailed annexes regarding a variety of issues. The negotiating team, drawing on peace administration staff work, will be charged with formulating an implementation plan that is highly sensitive to extremist threats from both sides. It will comprise physical conditions for implementation, e.g., timetables for removing settlements, IDF redeployment, completing the separation fence along the agreed border, establishing two capitals in Jerusalem, creating an international mechanism for dealing with refugee issues, etc. It will also deal with reciprocal conditions emerging from the two sides' commitments, such as referenda, elections and effective control over weapons and security forces.

Similarly, the implementation plan should address both desirable and feasible modes of normalization in accordance with the Arab peace initiative, international involvement, aspects of a UN Security Council resolution that recognizes the new agreement, economic investments, transfer of international institutions to the two Jerusalem capitals, etc.

A lot of worthy national decisions were never carried out as a consequence of a lack of capacity to render them operative. Israel must avoid relegating the Annapolis declaration to this category.  
— *Published 31/1/2008 © bitterlemons-international.org*

## Senat 322 on political issues

# 38 | The Gaza Strip and the West Bank – Two Sides of the Same Political Coin

### **Main Conclusion:**

#### **Abstract**

It is to the long-term interest of Israel's and the PLO to include Hamas in the governmental entity representing the Palestinian people because, inter alia, this entity will be responsible for signing the Permanent Agreement that determines the conditions under which the refugees' right of return will be effectively renounced.

In the short term, it will therefore be to Israel's benefit to work with Hamas for the purpose of introducing stability and calm in Gaza. Only such dialogue will be able to guarantee the time required for the rehabilitation of the PLO by means of a string of measures, at the centre of which lies renewed negotiations. By facilitating the transformation of the PLO into an effective alternative to Hamas, these measures will further implementation of a permanent agreement.

Two major events – the military takeover of the Gaza Strip by Hamas and the eviction of Mohammed Dahlan and his supporters from the Gaza Strip – have led to divergent opinions regarding the appropriate course to be taken by the main actors

in the conflict – the PLO, Israel, the Arab world, the European Community and the US – when dealing with the Hamas regime. The prevailing approach, supported by the majority of actors, views the Hamas government headed by Ismail Haniya as illegitimate. This stance demands that the Palestinian Authority's (PA) official government, headed by Mahmoud Abbas, refrain from any interaction with Haniya's government during talks with Israel and the international community. Such a move, it is hoped, will force collapse of the Hamas regime, primarily as a result of the pressure applied by the Palestinian residents of Gaza, who have been under considerable strain due to their meagre living standards and poor quality of life.

At the same time, proponents of this position are attempting to strengthen Abbas and Salem Fayad, the head of the provisional Palestinian government, through the employment of various mechanisms; these include release of Palestinian tax monies frozen in Israel, freeing of prisoners, training of the Palestinian security forces and other, equally important gestures. During its preliminary stage, this program is meant to ensure PLO control in the West Bank; in the second stage, after the anticipated collapse of Hamas, it is meant to pave the way for the PLO's return to Gaza. Critics of this approach are convinced that it is defective in its assessment of the short-term outcomes using such heavy "sticks" against Hamas and awarding such sizeable "carrots" to the PLO.

They also question the touted long-term positive implications of these acts on the prospects of reaching a viable permanent agreement between Israel and the Palestinians.

Reinforcement of the Abbas government in the West Bank

requires more significant measures than those proposed by Israel or taken by Abbas to date.

- In order to strengthen the Palestinian economy, the mere transfer of tax monies is insufficient. Israel must alter the roadblock policy that has been implemented for the past six years in the West Bank. This policy interrupts the Palestinians' freedom of movement, especially that of goods, business people and administrative personnel, along the majority of major roads in the area. It prevents their entry in the Jordan Valley, the Judean Desert, but especially East Jerusalem. Nullification of this policy will have serious implications for IDF operational behaviour in the West Bank, which have been based on "bisecting" and "segregating" movement by means of hundreds of barricades and roadblocks. The IDF will also require considerable time to redeploy in the wake of the adjustments introduced in the barricade wall's route, considering the removal of major roads such as Highways 1, 60 and 443 from the official security fence perimeter area. Such changes will require plans to introduce Israeli oversight capacity at crossing points into Israel after the Palestinians return to using the respective roads.
- In order to strengthen the Palestinian government's law enforcement ability, Israel will have to go beyond providing bullet-proof vests and ammunition; it may even demand that Israel grant Abbas the permission he seeks for the entry of the Jordanian army's Bader Brigade, composed of Palestinians, into the West Bank. To promote the war against terrorism and law enforcement by the Palestinians themselves, Israel should again allow Palestinian police in Area A to carry weapons without the threat of becoming targets for Israeli marksmen. In addition, Israel should permit police stations throughout

Area B to be reopened, sanction the movement of Palestinian security forces between areas and renew information-sharing arrangements going beyond security coordination.

- Significant change in the attitudes of the Palestinian general public but particularly those of Gaza residents requires creation of a political alternative capable of competing with Hamas. The PLO must put in place a system capable of dealing with everything related to the resolution of internal conflicts between external and internal PLO, between the older and younger generation. This involves resolutely fighting corruption as well as preparing a charismatic new leadership cadre modelled after Marwan Barghouti. The artificial, mechanical steps taken by Abbas – e.g., presidential orders such as those issued for the purpose of ending the current session of the Palestinian parliament, the appointment of senior officials in the shadow of Israel's arrest of 41 Hamas members of parliament, or the dissolution of parliament so as to empower Abbas to install the Fayad government as a provisional rather than an emergency government because the latter would require parliamentary approval – has done more damage than good to his regime's legitimacy.

The isolation of Hamas in the Gaza Strip is perceived by the Palestinian public as an Israeli and American attempt to douse the Palestinian struggle in a situation devoid of any meaningful negotiations between the parties and bereft of any Israeli proposal for a political solution. This attitude explains why Hamas's power has not declined nor the PLO been significantly strengthened despite implementation of this policy for the last year and a half, in the wake of the last parliamentary election results. The financial support Hamas receives from Iran and part

of the Arab world is insufficient to rehabilitate the Palestinian economy. But those funds do sustain its ability to pay wages and maintain rudimentary services. Hamas's strategic goals entail institution of its political hegemony and establishment of an Islamic state. The absence of a political process, the IDF's operational policy and the threat of an IDF return to Gaza have motivated Hamas to continue its military build-up with the aim of deterring Israel. This deterrence is being constructed by expanding the types of weapons available, upgrading the organization of its forces into more complex terrorist units than previously known, continuing its support of Al Qaeda's presence in the Gaza Strip and transmitting information to Hezbollah. The "strangling" of Gaza may, therefore, lead Hamas, which has been making every effort recently to enforce law and order, to try to disrupt the quiet.

Hamas is also interested in narrowing the time available to Israel and the PLO for their creation of the economic, security and administrative conditions required for the PLO's rehabilitation and reinforcement. Hamas's presence is observable throughout the West Bank but especially in Hebron and Kalkilya. Due to IDF activities, its capacity to act is limited to scattered operations although it is capable of exporting terror to Israel and threatening senior Palestinian official within the space of a few weeks or months from its position in the West Bank. Should such attacks take place, they will prevent introduction of the required change in the field while mortally wounding the PLO. At that point, only IDF bayonets will prevent the PLO's demise in the West Bank as well.

An alternative policy does not necessarily entail turning the former policy on its head. Such an alternative is supported primarily by Saudi Arabia and some European states as well as

by some Israeli circles. These are convinced that in the long run, common interests can be found to unite the Palestinian ranks under one representative leadership. This leadership would abide by the conditions laid out by the Quartet for the sake of arriving at a unified political solution that would apply to both segments of a Palestinian state. Those so convinced believe that Mahmoud Abbas should maintain a dialogue with Hamas regarding the Palestinian Authority's actions with respect to maintaining the political process with Israel. However, the conditions that Abbas has posed – such as Hamas acceptance of the Fayad government's authority – are incapable of attracting the organization. They are, instead, more likely to bring to a close the short era of Hamas participation in the Palestinian political system, to drive Hamas toward an exclusively military option and to sabotage the moderate route that Hamas has been forced to tread of late.

Within such a context, Israel should implement a policy geared to establishing a cease fire with Hamas for the purpose of raising options and guaranteeing the time required for meaningful steps to be taken in the West Bank. Maintaining a normal life in Gaza requires a certain level of dialogue; Hamas representatives have expressed their readiness to engage in such a dialogue with Israel, to open the Rafah border crossing under international and Egyptian supervision and to cease threatening Israel with breaches along the Philadelphi corridor or the tunnels dug beneath it. Violation of a cease fire by Hamas, which has collected in recent weeks most of the weapons held by Palestinians civilians and established effective control in the area, would invite a legitimate and immediate response from Israel. Such a response would undermine Hamas attempts to rehabilitate and stabilize its rule. Although this policy involves the risk that Hamas will firmly establish itself in Gaza and continue to arm itself, if we assume

that such a scenario will be realized under any circumstances, a ceasefire will nonetheless obligate Hamas to rein in its followers. Israel might consider this to be a reasonable short-term cost when considering its long-term interests.

To reach its goals, Israel must introduce the needed steps in the West Bank to bolster the Fayad government and establish it as a meaningful alternative to the Hamas regime. Not taking these steps will strengthen the pervasive view among the Palestinian public that "Israel only understands force" and thus justify the transfer of its support to Hamas. Forestalling such steps will also strengthen the more militant factions within the PLO, which are interested in distancing themselves from the label of "collaborators" that has been attached to them. Such a vacuum may motivate their secession from the movement and entry into some cooperative arrangement with Hamas. We are already witnessing the construction of a series of understandings between the two organizations in Hebron, with a segment of the al-Aqsa Martyrs' Brigade calling for Fayad to resign as well as the Brigade's defection from the PLO.

At the centre of the requisite moves lies renewal of meaningful negotiations over the core issues – Jerusalem, the refugees and borders – as proposed by Condoleeza Rice in her meeting with Ehud Olmert about two months ago. Abbas, the Arab world and the EU are all making the same demands of Israel. The possibility of arriving at a permanent agreement underlies the Clinton model or the Geneva Understandings, which assume Abbas's ability to continue to again provide an alternative to violence for the Palestinian people. Palestinian voting on a public referendum as well as the holding of new elections pose more serious threats to the political future of Hamas than does inability to integrate

into a political system under Abu Mazen's and PLO leadership. Considered from Abbas's perspective, he should encourage the integration of Hamas if he does not want to find himself leading the opposition on every political issue and thus destroying the already shaky legitimacy enjoyed by the PLO among the Palestinian diaspora.

To summarize, given current conditions, the two sides are in effect obligated to protect one of the most meaningful achievements obtained by the Palestinians – the territorial and political integrity of the West Bank and the Gaza Strip. To ensure that integrity in the long term, both areas require equal representation in the negotiations with Israel on a Permanent Agreement. Movement toward this end will be jeopardized if the PLO is unable to offer a reasonable alternative to the Hamas regime. Such an alternative will be threatened if it, together with Israel, ignores the more than 40% of the Palestinian people that is crammed into 6% of Palestinian territory and lives on less than the \$2 per day they receive primarily from Hamas. The stability rooted in a ceasefire and dialogue is likely to generate the time needed to take advantage of the political window of opportunity provided by recent events in the PA.

## 39 | Fatah isn't enough

Israel needs to finalize agreement acceptable to vast majority of Palestinians.

Prime Minister Olmert's declaration that Hamas must be completely removed from the picture has been translated by him shortsightedly into the conclusion that "we must not create a situation whereby Abbas and Haniyeh continue to cooperate."

Events in the last days indeed led to, for the first time since the Oslo agreements, territorial, diplomatic, and to some extent social distinction between the two main groups within Palestinian society, but they cannot bring about the emergence of two separate solutions for the Palestinian people in its entirety, which for the most part still resides outside the territories.

Israel will need to come up with different conclusions and a different policy that can serve it in the long run.

Hamas' participation in last year's elections was meant to serve an intermediary goal – taking part in the government and sharing power – en route to securing the true objective, in the form of a takeover of the PLO, the Palestinian people's recognized and legitimate representative, or alternately, wresting away its status through the creation of a "new PLO," as Hamas' political leaders declared at the time.

Developments in the last two weeks distanced Hamas, in the

short run, from securing its objective due to the dismissal of its government and the outlawing of its forces, coupled with international recognition of Salam Fayyad's new government.

Yet still, an Israeli attempt to embark on significant diplomatic moves in the form of a final-status agreement, which entails a Palestinian compromise on the right of return, cannot be premised on the PLO in its current composition and power.

The great difficulty inherent in persuading and enforcing such a move on the majority of Palestinians would lead to the agreement's rejection and serve as a valuable opportunity for Hamas that would open the door for it to realize its plan.

Hamas, which controls all aspects of life in Gaza, including the media, would be able to present the historical compromise as treason against the Palestinian people and enlist the diaspora's support. This would undermine the practical legitimate basis of the PLO under Fatah's leadership, and it would be shifted to Hamas.

Therefore, in the mid and long term, Israel must remove Hamas from the picture not by turning it into a separate and independent entity of the Palestinian people, but rather, by weakening it through the loss of support for its doctrine, to the point that the existing PLO would be able to contain it and enforce on it agreements with Israel and recognition of its right to exist.

Therefore, Israel should in fact be stressing the Palestinian people's unity and the PLO's responsibility for a comprehensive agreement that obligates the entire people – in the West Bank, Gaza, and in the diaspora.

Israel should be hoping that the dialogue and cooperation between the PLO and Hamas does renew, but under a reality and a balance of power that are different than the ones prevailing today – securing such change is dependent on Israel's actions as well.

Israel must internalize, similarly to Washington's position and advice that it would not be able to enjoy the benefits of any kind of agreement while 40 percent of the Palestinians in the territories, who reside in only six percent of the land area (the Gaza Strip) continue to bleed and go hungry.

In the short run, the current separation can serve Israel to display a policy of "stick" vis-à-vis Hamas in Gaza and "carrot" vis-à-vis Fatah in the West Bank. Yet this requires an Israeli effort that is much more complex than these two overused words.

## **Economic change needed**

Israel needs to adopt a more sophisticated "stick" policy beyond its basic duty and right to respond with force to rocket fire and terror attacks.

Shared interests with Egypt – in relation to the threat of closer ties between Hamas and the Muslim Brothers, terror acts in the Sinai, and the fear of Palestinian refugees on Egypt's border – can all serve to justify pressure on Cairo to act more effectively against arms smuggling through the Philadelphi route.

The provision of humanitarian aid and the opening of the crossings could improve Israel's image a little. These and other moves, for example – in relation to the prevention of the establishment of al-Qaeda and global terror cells in the Strip alongside the economic and government paralysis – may lead to

a significant weakening in the status of the Hamas movement in Gaza and beyond.

On the other hand, the "carrot" policy is not simple at all. First, such policy alone would not be able to substitute for what is required of the Fatah organization in relation to its own rehabilitation and the clearing up of disputes between domestic and outside representatives, as well as between the veteran leadership and leaders on the ground, who are veterans of Israeli prisons.

Secondly, the Palestinian Authority's economy cannot be based only on fund transfers from Israel and international aid. The economy would have to be rehabilitated under a different reality than the one that currently exists in all matters related to curfews, roadblocks, the usage of main roads, entry into the Jordan Rift Valley, the border area with Israel, and to east Jerusalem.

Without significant economic improvement, the new government would be unable to elicit the most basic trust that it requires from the Palestinian public in the West Bank.

Thirdly, Israel would need to rearrange the operations of Palestinian security forces outside major cities in order to prevent Hamas from acting in Palestinian villages. In addition, there would be a need for a realistic security coordination apparatus that ensures that Palestinian police do not become "collaborators" with Israel and consequently lose the public's trust.

These three conditions are necessary for change to take place, but they are insufficient. Only the renewal of the diplomatic process between the sides in a manner that leads to a final-status

agreement based on principles both sides already know would be able to deliver the goods.

This kind of final-status agreement, which would be presented against the backdrop of an ongoing Hamas weakness in terms of its ability to provide services and security in Gaza – as opposed to stability and a different economic situation in the West Bank under the rehabilitated Fatah government – could serve to create another opportunity for Israel and for the legitimate representative of the entire Palestinian people.

## **40 | The Jewish Settlement in Hebron will go the way of Nezarim**

Efforts to link up Kiryat Arba and Hebron by forging an Israeli corridor will no more lead to an increase in the land area of the State of Israel as did the attempt to establish settlements in the Gaza Strip and Sinai.

Recent attempts to enlarge the Israeli settlement in Hebron show that we have amongst us those who believe in a myth. These people still believe that it is possible to enlarge the State of Israel by a process of settlement in the heart of the Palestinian population. In particular it can be learned from past experience that any attempt by a handful of Israeli families to link up Tel Romeida with Kiryat Arba at the expense of thousands of Palestinians will fail in the same way as did settlement in the Gaza Strip and Sinai.

From the time of the War of Independence in 1948 until this day, Israeli settlement has always been undertaken in territories that had been captured by the IDF (Israel Defence Forces) and depended upon the IDF's protection. But at the end of the day it had no impact upon the land area of Israel. With the signing of agreements (eg with Egypt) and in fact without them (leaving the Gaza Strip) settlement activity shrank behind the lines set by the IDF.

The IDF's control of Sector H2 in Hebron – to protect the Israelis living there – is a necessity imposed upon it by a Government worried about how to deal with the Israeli/Jewish settlement in Hebron, prior to reaching an overall agreement. But there is no excuse for the army and the police to fail in its task of enforcing law and order, and of keeping the populations separated. Today all measures taken by the IDF are at the expense of the Palestinians. The IDF claims that it is not possible to protect the Israeli settlers without seriously interfering with the lives of the Palestinians. This policy has created for the Israelis the illusion that grabbing another bit of land or another Palestinian house will ramify their settlement in Hebron and in Samaria in general.

Believers in this illusion are advised to note the clear position of the international community, that rejects expanding settlements as an instrument in determining the final boundaries of the State of Israel. President Bush, in a letter to Ariel Sharon did recognize that there is a new reality as a result of extensive Israeli settlement in the West Bank, but he made it clear that the final boundaries were to be set by mutual agreement. The ability of settlements such as those in Hebron to influence the determination of Israel's final boundaries is similar to that of the Security Fence. Note that there has already been tacit agreement with the Palestinians that some areas which today are located west of the Fence will remain Israeli within the framework of a land exchange deal (one for one).

The Israeli settlements in Hebron and Kiryat Arba, which Israelis are trying to link together by pushing Palestinians aside, have already been excluded from Israeli claims as far back as the Camp David deliberations in 2000. Even Ariel Sharon who was trying to secure for Israel some twenty percent of West

Bank territory by means of the Security Fence, did not accept Netanyahu's demand to include Kiryat Arba in the deal.

In my view, the final agreement will define a border involving only marginally different from the "Green Line". Not one square meter will be added to the area of Israel because there will a series of minor swaps on the principle of one to one.

It would be advisable to abandon illusionary attempts to "capture" territory, whether it be by expansion of illegal settlements or by acquiring Palestinian property in the heart of Hebron or East Jerusalem. The decision makers and the Defence Forces should give Israeli settlers protection, but not allow them to establish themselves in areas that perpetrate an illusion, thereby damaging the chances of an agreement on recognized borders.

## 41 | Olmert good for Hamas

PM's failure to deal with tough questions gives Hamas time to boost its status.

With Israel's justified refusal to talk with Hamas, and Olmert's destructive refusal to renew substantive talks with Mahmoud Abbas, a disastrous reality is emerging ahead of the day where pragmatists on both sides wish to advance towards a solution.

Sharon's and Mofaz's moves, undertaken "for the sake of security," would serve as an obstacle en route to achieving the required stability at the beginning of the process, and would even be used by the radicals to undermine it.

If Olmert still seeks to remove the diplomatic process from the formalin, where it was placed by his predecessor through the "Road Map" and "disengagement plan," here is a partial list of questions he will have to address:

Is there any chance that the last secular figures in the Palestinian Authority leadership would agree to the continued detachment of Arab east Jerusalem, including the holy sites, from the Palestinian living space?

Would anyone on the other side agree to the continuation of Jerusalem's economic and social collapse, as a result of cutting it

off the natural, daily fabric of life it enjoyed with the Palestinian metropolitan area stretching from Nablus to Hebron?

Would any Palestinian leader agree to the disconnection of the West Bank's two parts through an enclave that includes Maaleh Adumim, which is larger than all of Tel Aviv? And what then – would Israel dismantle the wall, which cost hundreds of millions?

Would it dismantle the large terminals it built for the Palestinians in Kalandiya, Gilo, and al-Zaim? Would it build a new wall between Israeli and Palestinian neighborhoods, or would it allow free Palestinian entry into Jerusalem and from there on to Israel, in a manner that would turn the entire fence into a white elephant?

Is there any way that any Palestinian leader would agree to the continuation of the permit regime at border areas, which does not allow more than 95 percent of his people to be present in the area between the fence and the Green Line?

And what then – would the Israeli government annul it and allow any Palestinian to cross and continue uninterrupted into Israel, or would it attempt to move Palestinian lands and the thousands of Palestinians who are still in the area east of the fence, at the cost of additional billions?

Is there any chance that a Palestinian government, and even one that is only based on Fatah, would agree to the continued existence of the H2 area in Hebron as a ghost town, where tens of thousands of Palestinians are tip-toeing lest they be hurt by radical settlers?

How would State representatives be able to take back all the

security considerations they presented before the High Court, arguing that there is no security without separation? And what then – does anyone think that the evacuation of 35,000 Palestinians would be more logical and possible than the evacuation of 500 Israelis?

Would we only then regret the fact that we entrusted in the hands of a handful of ministers lacking foresight the maintenance of a belligerent, robbing presence of those who were supposed to maintain the Jewish connection to the city of our forefathers even during times of peace?

### **Inspection points on every road?**

Is there any way the Palestinians would agree to the road regime in place today that bans their movement on most main arteries in the West Bank built on their confiscated land?

How would Israel allow for Palestinian movement from the Green Line to major cities on main roads that were pushed without genuine security need into the border area, such as Highways 443, 60, 5, and 446? And what would the architects of annexation propose then, in the name of security – inspection points on every road, at the cost of tens of millions?

Separated roads for Jews and Arabs with a wall at the center, using the same model being built today at a road east of Jerusalem? Or would they be forced to dismantle dozens of kilometers of fence that were built for no reason, similarly to the High Court ruling regarding the cement barrier in south Mount Hebron?

Is there any way that Saeb Erekat would agree to the continued detachment of the Jordan Rift Valley from the Palestinian living

space through a system of checkpoints being operated through oral commands only, rather than written orders?

Would Israel be able to continue preventing Palestinian "absentee landlords" to return from Jordan to the lands they own in the Jordan Rift Valley?

Just like Sharon and Mofaz at the time, Olmert too believes that Palestinian rejectionism grants Israel the time required to create a reality where "new facts on the ground" entrench President Bush's position – namely, that it would be unrealistic to expect that the results of negotiations would be a complete return to the 1949 borders.

Yet if the moves described above continue for a long time, the prime minister would discover that while we're dealing with foolish matters, his maneuvers would only contribute to the perpetuation of a conflict the radicals are interested in, and grant Hamas the time it needs to establish itself without any other moderate alternative within Palestinian society.

## 42 | IDF not innocent

IDF soldiers in Territories have become part of settlement enterprise.

"Shocked by the revelations" of the Hebron incident, top officials were quick to make a distinction between the female settler videotaped cursing at a Palestinian and the soldier who stood nearby and did not prevent the incident; they made a distinction between "the radical settlers" and the IDF, which "remains on guard."

Those top officials refuse to internalize the fact that they are the ones who bound the two, settlers and soldiers, together. In addition to their war on terror, IDF soldiers and commanders have become a part of the settlement enterprise in the Territories, some of them while showing complete solidarity with it and most of them involuntarily, as a result of the weakness of mind and shortsightedness of those who bear the responsibility.

In the first group, we'll skip the generals who in the past recommended the "settlement enterprise in Gaza in order to cure its Arabs of the illusion that we'll be withdrawing," and those who swore before the Supreme Court regarding the "temporary security need" to establish the West Bank settlement of Elon Moreh, even though the settlers themselves admitted it was set up for ideological reason and that the settlement's existence is eternal

We'll therefore focus only on the current military leaders, those who forbade the Palestinians to harvest their olives at groves that are near settlements and illegal outposts, claiming that they would not be able to defend them from settler abuse.

Those who did not launch an investigation when the groves were cut down or olives were stolen and "Jewish trees" were planted in their place; those who appear "in the name of security" and the separation fence at the Supreme Court, deceiving and hiding from the judges the truth uttered by Israeli government ministers; those who declare that they do not create roads for Jews only, yet in practice guide their soldiers to do so.

In the same group we'll also find the military leaders that control dozens of permanent and mobile roadblocks across Judea and Samaria that oversee that movement of millions of Palestinians, yet they are "unable" to prevent the transfer of dozens of mobile homes to the illegal outposts; also those who are able to safeguard 250,000 settlers in the West Bank but do not prevent attacks on Palestinian children making their way to school on roads that circumvent illegal outposts and in the town of Hebron.

Those who trample over 35,000 Palestinians – block the doors to their homes, ban their movement in the streets of their city, close their stores to the point of removing them from their homes – so that a handful of settlers who seek to inherit the City of our Forefathers instead of being part of it can move freely.

## **Israeli public must wake up**

In the second group we can find the "obliged," those who believe in a different IDF but are forced to act differently in a reality forced upon them by the politicians known as leaders.

Those know about the illegality of the outposts but keep them because the right of every Israeli for security in the Territories is entrenched by law; those who prevent Palestinian movement without a decree or permit because they were told that "separation" of movement is part of the "thwarting" of terror; those who believe in Jewish solidarity and are forced to wash their bodies after their brothers hurled various substances on them; those who disconnect east Jerusalem from its natural Palestinian environment, because the ministers repeat mindlessly that our capital is "united" under Israeli sovereignty forever.

If the Israeli government ignores those sobering up, in the form of "Shovrim Shtika", (a group of combat soldiers who testify to injustices done in the Territories) and refuse petitions by the Association of Civil Rights and similar organization, it should at least listen to the attorney general, who recently declared that "the state of law enforcement in the Territories is at a very mediocre level. This is first of all a matter for the army, and the army has priorities and missions that it sees as more urgent."

The government must realize there is no "Green Line" for breaking the law, turning a blind eye, the moral and social failure – and to violence. The doubletalk and the winks undermine the IDF's strength and its ability to fulfill its genuine function when it's called upon to do so. Declarations and the establishment of committees of inquiry to look into what is already known for years is not more than an expression of a lack of the leadership and determination needed for a clear policy of respecting and enforcing the law.

The Israeli public should wake up and demand this. Ignoring these abscesses, which come on top of others from the country's

early days that we still have not found the courage to drain, will not be boosting the spirit of the current generation serving in the Territories, Israeli society's morality, and the country's image.

## 43 | It was us who 'told you so'

### **Pullout objectors did not tell us they refuse to talk to moderate Palestinians**

For three months now, since the Lebanon campaign started, a wide array of speakers – uniformed and otherwise – are making righteous pretensions while bombarding us with declarations: "Disengagement was suicide, "It was perceived as weakness and didn't contributed to peace," and also "the settlers stopped, with their bodies, terror from reaching Ashkelon and Sderot."

These "revelations" are concluded with a typical "I told you so," also backed by full-time talkback writers. They all point an accusing finger at almost all directions, to the point it appears none of us was here in recent years or forgot what happened during that time. This is the time to remind those who already know everything of some truths:

**Yes, we were weak.** We left Gaza because we were too weak to demographically beat, through 7,000 Jews, 1.25 million Palestinians concentrated in 1.25 percent of the western Land of Israel's territory. We left because we were too weak to diplomatically defeat all UN and international law decisions ruling that Gaza is an occupied zone, even if for us it is considered part of our native land.

We left because we were too weak morally to maintain a regime of separation between the two populations living in that same occupied territory. We left because the IDF was too weak to carry the burden of this impossible security, diplomatic, demographic and moral reality forced on it.

**Yes, disengagement did not contribute to peace.** Because the government and those who led it, elected by today's critics, did not seek peace and did not pursue a final-status agreement as we asked. Sharon launched the disengagement plan two weeks after the publication of the Geneva Initiative because he argued that "the stagnation inherent in the current situation damages Israel" and because "the disengagement provided the required quantity of formalin so that there is no diplomatic process with the Palestinians" (according to Sharon advisor Weisglass.)

Disengagement was a unilateral move by a government that in its decision stressed that "this isn't part of the Road Map," and that "Israel should initiate a move that is unconditioned on Palestinian cooperation."

The evacuation was not a step to peace, as the Left that backed it demanded it should be, but rather, a move aimed at "boosting Jewish settlement in Judea and Samaria...which will obviously remain under Israeli sovereignty."

Disengagement was not a step ahead of the establishment of a Palestinian state, but rather, "a move that would render invalid the arguments against Israel regarding its responsibility for the Palestinians in the Gaza Strip," even if Israel continues to control the air, sea, crossings, electricity, water, commerce, and whatnot.

No, political and territorial separation from the Palestinians in the Territories is not suicide. "The holding of 3.5 million Palestinians....," in Sharon's words, is the suicide of Israel as a Jewish state. "Holding them under occupation" and a regime of separation is the suicide of Israel as a democratic state.

The earmarking of tens of billions of shekels to the settlements on the one hand, and the loss of billions in investments and income from the international community on the other hand, are Israel's economic suicide.

The phenomenon of illegal outposts and attacks on Palestinians by some settlers – attacks that could not be stopped even by the attorney general's calls, Supreme Court rulings, and government decisions – those mark Israel's suicide as state ruled by law and order.

**No, the settlers did not stop terrorism with their bodies.** They did not go there to replace the IDF, but rather, to settle protected by its weapons. Some of them arrived in order to get out of neighborhoods in Ashkelon, Sderot, and Netivot, and others came to "inherit the promised land."

The communities around Gaza were forced to carry the burden of the conflict even back when Egypt controlled Gaza. They suffered even more terror attacks, Qassam rockets, and mortar shells when Gush Katif communities were still there.

The settlements, on their 1,800 families, required the security provided by thousands of soldiers and hundreds of millions of shekels, with the tiny chance that keeping them would have an effect on Israel's security and its permanent borders grasped even by Sharon.

This led him to rule that "in any future final-status agreement, there would be no Israeli settlement in the Strip," even though earlier he believed that "Netzarim and Tel Aviv are the same."

**No, you didn't "tell us so."** You told us that you object to the evacuation of Gaza and IDF withdrawal from the Strip without an agreement, but you didn't say you would agree to also evacuate Judea and Samaria, or at least trade off territory, as we suggested, in exchange for a final-status agreement.

You made sure to declare all the time that "there's no Palestinian people," that "the Land of Israel belongs only to the people of Israel," and that "it's better to disengage from the State of Israel than from the Land of Israel."

You said that the government should take care of your security and economic wellbeing, but you didn't say you reject the Israeli government's and Knesset's authority to renounce parts of our native land even in exchange for peace agreements.

## **Backwind to terrorism?**

You said the decision is illegal, but you didn't tell us that you turned to the Supreme Court only to later reject its decision against your petition, and that you would head out as if you were masters of the land to disrupt life in the country's roads and cities.

You told us disengagement would provide Hamas and terrorism with a backwind, but you didn't tell us you are unwilling to talk to any other Palestinian, even if he recognizes Israel and seeks to continue negotiating with it.

The belligerent unilateral perception that stood at the base of

the disengagement and still seeks realignment marks the recent Israeli governments' strategic failure. We were the ones who sought to apply to the Palestinians the formula that worked with Egypt and Jordan – "Land for peace."

Yet you wanted both of them only on the Israeli side of the equation. You must internalize the fact that we cannot convince the Arabs to voluntarily join the Zionist movement. Yet we can make sure they accept us and our existence as a fact in the Middle East.

This can be done through military supremacy – not eroded in roadblocks and permit examinations – that constitutes an essential condition for the State of Israel's existence, but also through the establishment of an independent Palestinian state through an agreement, which constitutes an essential condition for Israel remaining a Jewish, democratic state.

## 44 | A fair exchange for Israel and Palestine

In recent years, a proposal for an exchange of territories has come up frequently. The outgoing head of the National Security Council, Giora Eiland, referred to the idea as "a new paradigm" for a solution to the Israeli-Palestinian conflict in an interview with Ari Shavit (Haaretz, June 4). The main arguments of the supporters of the proposal are that the area between the Mediterranean Sea and the Jordan River is not sufficient for two states; that the Gaza Strip is too small (363 square kilometers) and that Israel needs 500 to 600 square kilometers of the territory of the West Bank for its security. Therefore, they argue, "it is necessary to go outside the box" and bring Egypt and perhaps Jordan into the territorial solution.

There is a great deal of justice in this argument with regard to economic development of the Palestinian state in the territories of the West Bank and the Gaza Strip. It is worth mentioning that all the committees that have dealt with dividing the land of Israel have spoken about "political separation with economic unity" through the joint use of roads, trains and sea and airports. However, when one examines the proposal, one finds that Israel is the main beneficiary of the proposed circular deal, and that all the arguments mentioned can also be answered from "within the box" without creating the illusion of a solution that does not stand a chance in the relationship between Israel and the Arab world.

Territorially, Israel would gain 450 square kilometers, after getting 600 square kilometers of quality land in the West Bank and transferring to Egypt 150 square kilometers of desert land. The Palestinians would leave in Israel's hands 600 kilometers of quality land and would receive an area of similar size and quality in northern Sinai, which would leave them with 22 percent of the territories. This, even if Jordan volunteers to transfer to them 100 square kilometers (which is less than 2 percent of the West Bank and not, as Eiland mistakenly stated, 5 percent). Jordan will have to pay with some of the only agricultural lands in its possession – i.e. the Jordan Valley. And finally, Egypt will have to pay the most significant price – 600 kilometers of lands, which Prof. Ben Arieh defines as "territory that will be of even higher quality than territory in the West Bank."

These figures, together with the Israeli proposal to transform some of the Palestinian refugees into migrants for the second time outside their country, and the return of the diaspora to Egyptian land as a substitute for the lands of the West Bank, render the proposals impossible.

If Israel really needs 600 square kilometers in the West Bank, it can offer the Palestinians exchanges of territory and transfer parts of the western Negev to benefit the Gaza Strip. This would make possible what Eiland is wishing for – the construction of a seaport and an international airport in Gaza, and even a city for a million inhabitants. In this way, Israel and Palestine neither gain nor lose territory, and each of them receives an answer to its needs without involving Egypt and Jordan.

In all the negotiations that have been held, the Palestinians have agreed that in the framework of a permanent status solution the

Palestinian state will be disarmed of heavy weaponry and an army; that it will not be able to invite a foreign army into its territory or sign military pacts; and that during the first years there will be international supervision of the entry points into it. Secondly, if Israel does not try to annex the Ariel and Kedumim salients that protrude 20 kilometers into the heart of the West Bank, and does not move the fence at Ma'aleh Adumim eastward, it is possible to be content with territory the extent of which is no more than 300 square kilometers from the Etzion Bloc in the south to Shaked in the north.

Finally, Israel must re-examine the Arab League's proposal, which for the first time offers normalization between the Arab states and Israel in return for a withdrawal to the 1967 lines. On this basis, it would be possible to renew and expand economic cooperation in various ways: a Taba-Eilat-Aqaba road, Israeli use of the airport at Aqaba and Jordanian use of the planned railway from Nahal Zinn to Eilat and Aqaba, Palestinian export via the Ashdod port or an airport at El Arish, and more. Even if only some of these are economically justified, they will be perceived as a fairer move by the Palestinians, the Arab world and the international community.

# 45 | Palestinian option not dead

## Israel must move to strengthen moderate forces in the PA

The chorus of "I told you so" about Hamas' victory is superfluous, and not only because most of it only appeared after the fact.

From all sides of the political spectrum, we appear not only "shocked," but we also have no intention to learn anything from the episode.

Two main refrains have been heard since the revolution: That a Hamas-led Palestinian Authority cannot be considered a partner, and the second says that because of this, Israel must continue to make unilateral disengagements.

Really?

### **Make up your mind**

Those making the first claim must ask themselves honestly: Did they consider the PA under the leadership of Yasser Arafat, Mahmoud Abbas and Ahmed Qurei was a credible partner?

If so, why have they stubbornly refused all efforts to renew negotiations with them over the last five years?

And if not, why should Israel get so excited that there is no negotiating partner? According to that approach, not much has changed, and the policy of unilateralism based on this logic should remain the preferred one.

## **Different reality**

But this is not the reality of two central points – Hamas' ideology and long term strategy.

Arafat's and Abbas' PLO accepted UN Council Resolution 242 in 1988 and recognized Israel in 1993 from a position of weakness. The collapse of the Soviet Union, pressure from the Reagan administration, Israel's peace treaty with Egypt and Israel's resilience in the face of the first intifada brought the PLO to abandon the "armed struggle" in favor of diplomacy to obtain half its goal, a Palestinian state in the 1967 borders.

But Oslo, due to mistakes on both sides, "brought the Palestinians nothing politically," according to Mahmoud a-Zahar, and Fatah was banished to political exile.

## **Position of strength**

Hamas takes power in 2006 from a position of strength. Most of the Palestinian public believes that only Hamas terrorism sent Israel fleeing from the Gaza Strip, and failed to see disengagement as a process– flawed as it may have been – by which Sharon intended to buy time to strengthen settlements in Judea and Samaria.

In addition, Hamas also promises a war on corruption and official anarchy, in order to present the Palestinian people, who feel they have nothing left to lose, a better alternative to ending the Israeli occupation and to make social advances.

In coming years Hamas will try to reach other types of agreements with Israel before considering tactical negotiations, because "in negotiations, the scales of power always lean towards the stronger side," as Ismail Hania explains.

## **Partner for what?**

Israel has refused for years to answer the question: Partner for what kind of agreement? It is true that Hamas, like the PLO, will not be party to an agreement that leaves Israeli sovereignty over "united Jerusalem, the Jordan Valley and settlement blocs."

Hamas has said it would support the establishment of a Palestinian state in the 1967 borders, but as opposed to the PLO, it will not consider land swaps, dividing eastern Jerusalem, a demilitarized Palestinian state and the like.

Hamas is also unprepared, in contrast to the PLO, to recognize the principle of two states for two peoples, because "All of Palestine, from the river to the sea, is Islamic holy land."

## **No fantasies**

Israel, on the other hand, must not fantasize about turning Hamas into a possible partner for a final status agreement because of its religious outlook.

In addition, it must reject any process by which the Palestinian leadership goes back to developing an illusion of power and refusal to compromise as a preferred method to establish a state and to solve the refugee issue.

Using Gaza-style withdrawals, the Sharon government did all it could to avoid renewing negotiations with Mahmoud Abbas.

This mistake must not be repeated, because that will serve Hamas' long term strategy.

## **Back to the Palestinians**

On the other hand, Israel must go back to the Palestinians to present diplomatic alternatives for a just settlement based on UN Security Council Resolution 242, not the cursed "Road Map for Middle East peace."

Such moves could strengthen moderate forces amongst the Palestinians as a secular opposition to the Hamas government. They could stick to the stance calling for historic compromise between two peoples, and learn a few lessons about corruption and anarchy for the day when they return to power.

The success of this policy requires Israel to cooperate with the United States and Europe, as well as with Egypt and Jordan, who have no joy in considering the implications of Hamas' victory on their own Moslem Brotherhood groups.

The loss of a Palestinian opposition, whether it is due to the mistaken decision to join Hamas or due to Israeli mistakes, will slam the compromise option shut and perpetuate the battle between extremists over this land.

## **46 | Prospects for resolving the Israeli/Palestinian conflict are not yet hopeless**

If Israel makes another unilateral move she will play into the hands of Hamas. She should strive to strengthen the moderate opposition in the Palestinian Authority, and present a sane alternative for a settlement.

There is no point in all this "I told you so" with regard to the Hamas victory in the Palestinian elections. Judging by reactions from all parts of the political spectrum, not only are we pretending to be surprised, we are showing no signs of learning a lesson from what has happened.

Two oft repeated assertions are particularly annoying: The first is that the Palestinian Authority under Hamas is no partner for negotiation. The second is that now more than ever before, Israel should push forward with unilateral disengagement. Is this so?

One may ask of those who assert that there is no Palestinian partner: Are they saying that the Arafat regime served as a partner? And what about Abu Mazen and Abu Ala? If they were indeed partners, how come we avoided all attempts at negotiations with them during the last five years? If those past regimes did not qualify as negotiating partners, then what is all the fuss about now? Evidently the "No partner" model remains

valid, and a policy of unilateral withdrawal, as a consequence may well be the preferred one today.

But this is not how things really stand with regard to two key issues: Hamas ideology and Hamas long-term strategy.

The PLO of Arafat and Abu Mazen in 1988 accepted the UN

Resolution 242, and in 1993 it recognized Israel. They were brought to abandon the "armed struggle" and move to diplomacy in their effort to achieve a Palestinian state within the 1967 borders because of the following factors: Collapse of the Soviet Union; Pressure from the Reagan Administration; Peace treaty between Egypt and Israel; Israel's tough posture during the first intifada. But the Oslo Agreement, because of errors made by both sides, brought the Palestinians to a political dead end, and banished the Fatah to a political exile.

The Hamas of 2006 enters government from a position of strength.

The majority of Palestinians believe that it was due to Hamas terrorism that the Israelis left the Gaza Strip. They failed to see the withdrawal was a move – erroneous as it so happens – taken by Sharon to gain time in order to ramify the settlements of Judea and Samaria.

So therefore with this and the added prospect that Hamas will stamp out corruption and chaos in the Authority, the Palestinian people saw them as a hopeful alternative that would overhaul their society and bring an end to the Israeli occupation.

The Hamas will strive in the coming years to improve the balance

of strength between it and Israel before it would consider tactical negotiations with her, because negotiations always tend to be to the advantage of the stronger partner.

For years Israel has been refusing to come to terms with the issue: A partner to negotiate what sort of a deal? Obviously Hamas, like the PLO before, is not prepared to agree to a permanent settlement in which Israel would occupy a "United Jerusalem", the Valley of the Jordan and the large settlement blocks.

Hamas declares that it is in favour of an independent Palestinian state within the 1967 borders. But contrary to the PLO, it is not ready to agree to an exchange of territory, a division of East Jerusalem, demilitarization, etc.. It would not be willing to stop there, recognizing two states for two peoples. Because in its view, all of Palestine from the Mediterranean Sea to the River Jordan is holy Islamic territory.

Israel should have no illusions about Hamas changing its spots and becoming a partner to negotiating a permanent settlement; this because of the religious element of the Hamas world view. In addition she should avoid anything that would lead the Palestinians to foster an illusion that use of strength and a refusal to compromise are preferred ways to achieve their state and to solve their refugee problem. There should not be a repeat of unilateral withdrawal of the Gaza type, when Sharon did everything not to allow the withdrawal to serve as a platform for reopening negotiations with Abu Mazen. Withdrawal would play into the hands of Hamas and its long range strategy.

Israel should present to the Palestinians once again the political alternative of a fair permanent settlement based upon

UN Resolution 242, and not the "Road Map" that is devoid of solid content. Such an approach is likely to strengthen the moderate elements of Palestinian society, particularly the secular opposition outside the Hamas government. It could lead to a historic compromise between the two peoples.

(Incidentally when these secular elements return to power they will take with them lessons of allowing a system to sink into corruption and chaos.)

To improve the chances of success in reaching a compromise, Israel should seek support of the United States, the European Union, and both Egypt and Jordan. These latter would not relish the influence of Hamas on the "Moslem Brotherhood" within their midst. If the Palestinian opposition is lost to this cause by their deciding to go along with Hamas or by mistakes made by Israel, any chance of a compromise will be blocked and the barren struggle between the extremists will be reignited.

## 47 | Moving forward with Hamas?

### **Sharon's unilateralism strengthens Hamas; Israeli public falls in line.**

A recent poll conducted by the Truman Institute revealed that about half of all Israelis would support dialogue with Hamas if it would bring about a peace treaty. More and more Israelis believe we can rely on the "Islamic Resistance Movement," and that it would be possible to reach a final status agreement with Hamas under better conditions.

People seem to have forgotten that Hamas' basic ideology rejects any existence of a Jewish (or Christian) country in the bosom of Islam. Only believers in Allah have political rights in this area, and jihad must be waged against Israel "until Islam does away with it like it did away with (Israel's) predecessors."

It took three decades – from the organization's founding in 1964 until 1993 – for the PLO to recognize Israel. Arafat and co. did not make this move out of a deep love for Israel, but rather out of recognition that the best chance the Palestinians had for a state of their own was dependent on recognizing Israel inside the 1967 borders.

### **Palestinian concessions**

Negotiations with Israel brought PLO leaders to make divisive concessions in addition to letting go of 78 percent of Palestine. Thus, even while denouncing settlements as illegal, they accepted

the principle that Israel would annex some of them as part of a territorial transfer.

And even while continuing to insist on the rights of refugees to return to homes lost in 1948, they were prepared to tie this right to an implementation apparatus that would present different alternatives to the refugees while in practice limiting the number of returnees to Israel to symbolic numbers alone.

And more: The Palestinians were open to dividing eastern Jerusalem while granting Israel sovereignty on the city's Jewish neighborhoods, including the Old City and Western Wall. They gave up the right to an army, heavy weaponry and the right to forge military alliances.

They agreed to permit Israeli use of their air and electro-magnetic space, and to allow for two or three early warning systems in their country and for an international presence at border crossings.

## **Integrating Hamas**

But the Israeli public was unimpressed by these offers, and today chooses to be impressed by the pragmatism Hamas has shown by observing a temporary ceasefire that stems entirely from domestic cost-benefit political calculations.

The results of PA elections will surely influence the future of Hamas, as well as the future of the Palestinian-Israeli peace process. Those who support a final status agreement, who hope for a Fatah victory, believe that by integrating Hamas into the PLO will force the organization to fall in line with previous organizational decisions, taken as the sole representative of the Palestinian people, including: U.N. Security Council resolution

242, recognition of Israel and the revocation of clauses calling for its destruction in the Palestinian covenant.

On the other hand, a Hamas victory would make it possible for Mahmoud Abbas to resign once-and-for-all and would lay the groundwork for Hamas to take over the PLO. This would open the door to reinstate the clause calling for Israel's destruction.

At the same time, support in Israel for talks with Hamas only strengthens Palestinian elements that believe there is no need to recognize Israel or to sign any final status agreements to get it out of the territories.

### **Zig zag Sharon**

Ariel Sharon, who so far has reneged on every single policy platform he was elected on, can be trusted only to try as hard as he can to ensure there is "no partner" on the Palestinian side. He promises "peace," but has yet to find the political program for that with the exception of the hollow Road Map.

He promised "security" but the bloody confrontations were stopped only by Abbas Egyptian President Hosni Mubarak. He said, "The fate of (Gaza settlement) Netzarim is the fate of Tel Aviv," but created the disengagement plan to derail support for the Geneva Initiative that suggested there really is a Palestinian partner.

He said "the border is an illusion," and moved quickly to build it under public pressure west of the Green line.

Now, as change is happening in the Palestinian regime, the prime minister can say – this time correctly – there is no partner. He'll

say that Hamas – even given the fact that it is strengthened by Sharon's policy of unilateralism – is the choice of the Palestinian people, and that they would pay – even though polls show some 55 percent would support leaving settlement blocks in place – for electing Hamas.

Sharon's flag of unilateralism will wave high, but the same cannot be said for the future of Israel-Palestinian relations. They will be pushed to the old pages of uncompromising violence, until a new leadership arises that believes in compromise.

The only thing left is to hope is that that does not happen too late for the Zionist dream of a Jewish, democratic country.

## 48 | The Borders of the Day After

The Disengagement Plan is but a tactical alternative to a meaningful political process

The question of what would happen in "the day after" the Disengagement Plan is beginning to receive the attention it deserves. The temporary security "calm" allows the Israeli public to contemplate a little further ahead than tomorrow, and to see through the smoke screen Sharon has spread – in the form of the Disengagement Plan – as an alternative to a meaningful political process.

If Mahmoud Abbas (Abu Mazen) succeeds in surviving 2005 and if Bush recognizes the current 'calm' as the fulfillment of Palestinian obligations under the First Phase of the Road Map, Sharon may spread yet another smoke screen – 'a Palestinian state in interim borders'. Although the Israeli approach that seeks to avoid skipping over the Second Phase of the Road Map is supported by President Bush, Israelis should well examine the full ramifications of such a phase.

The Israeli government, led by Sharon, still strenuously resists connecting the plan to disengage from the Gaza Strip and Northern West Bank to any mutually agreed upon continuation of the political process. Especially apparent is the unwillingness to transfer to the Palestinians in an agreed-upon fashion the civil

responsibilities Israel still maintains in C areas. It seems that Sharon seeks to keep such "assets" for the Second Phase of the Road Map, when he will transfer them as part of his vision of creating a Palestinian State with temporary borders in areas A and B of the West Bank in addition to the Gaza Strip.

Sharon seems very eager to implement this option when the time-out he has acquired by the Disengagement Plan comes to an end. It seems this eagerness is based on the assumption that the creation of a Palestinian State with interim borders will enable Israel to institutionalize its hold on the border area and on East Jerusalem. This, according to the same logic, will then transform the conflict to one over borders only, thus allowing Israel to enjoy the fruits of this "solution".

Sharon, master of political survival and tactical moves, typically ignores a substantial strategic issue. In the essence of a state are the built-in rights that accompany its creation. Every state – even one with temporary borders – has the right to full jurisdiction over citizens within its area, the right to control its external borders and internal passages, rights to aerial space, maritime space, communication space, to independent economic policies, to external relations, to the creation of a military force, to the provision of citizenship, to water and other natural resources, to invite international forces and to persecute its citizens.

This is a list of extremely meaningful rights and assets, regarding all of which Israel must ensure its interests in the context of a future Palestinian state. However, without an agreed-upon solution to the issues of Palestinian refugees and to the issue of a capital in Jerusalem as part of a permanent status agreement, Palestinians would never agree to the kind of compromises

Israel demands on all these rights and assets. This view has been clearly expressed by all Palestinian Authority leaders, and has been reiterated by Palestinian Prime Minister Abu 'Ala in his meeting with the heads of the Geneva Initiative.

In addition to this strategic oversight, there are other difficulties with Sharon's vision. First, Palestinian Authority Chairman Abu Mazen does not plan on providing Sharon with the timeout needed for the creation of an alternative reality in the West Bank. This is especially true in light of the very short timeframe within which Abu Mazen must deal with the issues of cease fire and with avoiding Hamas' overtaking of the PA and the PLO. Second, the Second Phase of the Road Map is built on the idea of regional peace, including between Syria and Israel. Sharon may be able to use the Syrian issue as a temporary escape, but he will not be able to avoid the price of such a move or the need to come back to the resolution of the Israeli-Palestinian conflict. Last, there exists the problem of the often mentioned need to ensure the territorial continuity of the Palestinian State. The idea of maintaining control of the so-called Ariel and Ma'ale Edomim "fingers" is currently at the heart of the argument between Sharon and the Americans and does not settle with Bush's vision of a viable Palestinian state. Sharon will thus be forced to give up control of the "fingers" lest he be forced to lose the city of Maale Adumim (a city which, according to the Geneva Initiative based on Israeli-Palestinian understandings, would remain part of Israel in permanent status).

The idea of a Palestinian state with interim borders – much like the Disengagement Plan – was not thought of as a stage on the way towards permanent status. It is nothing but an attempt to create a futile temporary improvement in Israel's situation vis-

à-vis the conflict, while avoiding any sincere attempt to resolve the conflict itself. Sharon should give up this tactical idea of a Palestinian state with interim borders and respond positively to Abu Mazen's request to begin permanent status negotiations. The time Sharon intends to 'gain' through the implementation of the Second Phase of the Road Map will not alter the topics he will eventually have to address, nor change the Palestinians' positions on them. On the contrary – this prolonged period will only exasperate the pain and raise the price Israel will have to pay due to the realities created on the ground in the interim.

The price of permanent status and an end to the conflict is well known to both leaders, as to both peoples. It appears clearly both in the Clinton Proposal and in the Geneva Understandings. Prime Minister Sharon, however, is still seeking ways in which to avoid paying it.

## 49 | What about Peace?

### **Neither Sharon nor Peretz is willing to pay the price for peace**

Former Prime Minister Ehud Barak demanded the Palestinians "end the conflict and (declare they had) no further claims" during negotiations in the summer of 2000.

When his approach failed, Barak concluded there was no Palestinian "partner" to talk peace with, left supporters of a permanent-status agreement stunned and furious, and paved the way for Ariel Sharon – a man whose actions suggested he never really wanted a Palestinian partner to bring the conflict to a conclusion.

Today, as we head to elections, we are witness once again to attempts by Sharon and Labor Party Chairman Amir Peretz to undermine the little bit of renewed faith on both sides to agree to a historic compromise, by means of public initiatives such as the People's Voice and Geneva Accord.

Alongside this cynical abuse of theses gains, Sharon and Peretz throw around hollow promises to achieve a "permanent status agreement" that no Palestinian will accept.

Three months ago, Sharon admitted that "the changing situation in Israel, the region, and in the world has forced me to reevaluate and to change my positions."

## **Bulldozing for peace**

But he continues to believe he can solve the Israel-Palestinian conflict by unilaterally dictating his terms. He does not approach the Palestinians as equal partners for an agreement, but rather says his party supports the establishment of "another nation-state (Which nation, exactly?), the establishment of which will constitute a solution to the refugee problem," and that is only because "we need a Jewish majority."

In return, he says Israel "must forego parts of the Land of Israel." But just what part of the Land of Israel does the Kadima party propose the Palestinians make do with? The answer seems to be the West Bank minus "large settlement blocs and united Jerusalem" (and of course it is all on condition that "their state is not a terrorist state").

In other words, Sharon agrees only to a Palestinian state in 80 percent of the West Bank, with no transfer of territory, while demanding in return that the Palestinians close the files on 1948 refugees and 1967 evictees, establish their capital somewhere outside Jerusalem, halt terror and perhaps even becoming dues-paying members of the Kadima Party.

## **How generous**

But that's not all. Sharon's commitment to the road map, which was supposed to see the creation of a Palestinian state by the end of this year, exemplifies our prime minister's sudden "generosity," because neither side has been able to carry out its obligations under the first stage of the plan.

It seems, then, that in contrast to his declarations that he wants to sign an agreement, Sharon leans towards Dov Weisglas's

assertion that Israel pulled out of Gaza in order to "freeze the peace process" and to lead to an "interim situation which distances us from diplomatic pressure."

In the meanwhile, Amir Peretz, who said at the memorial rally for Yitzhak Rabin that "the Oslo Process is not dead," but quickly told voters he was not in favor of the Geneva Accord and that Jerusalem would remain united in any final status agreement.

Just what does this "authentic leader" think is going to happen? That PA Chairman Mahmoud Abbas is going to suddenly take the offer the Palestinians rejected at Camp David under some "collective agreement"? That he's going to convince Abbas that a Palestinian capital in Abu Dis is the best "cost of living" allowance Israel can give in return for al-Quds?

Or perhaps he'll copy Sharon, and decide after another 4,000 people have died that "a changing reality" has forced him, too, to "reevaluate and change his positions"?

## **Power to the people**

The public has great power, especially leading up to elections. Public pressure forced Ehud Barak to pull out of Lebanon and Sharon to do the same to Gaza and build the West Bank security fence, after declaring repeatedly he would not do so just months prior.

As they go to the polls, Israelis and Palestinians must demand those who speak of "painful concessions" to solidly grasp the sharp knife of clear-minded policy. Israel's political "explosion" has blurred the policy differences between right and left and requires we re-define support and opposition to a permanent status agreement.

The foggy slogans of "opposition" and "supporters" of a permanent status deal politicians who thirst for votes but insult voters' intelligence, take a dull blade to the tiny chance that still exists in the hearts of both peoples to come to a compromise.

Not everyone clamoring for a permanent status solution truly understands, or intends to pay, the painful price such an agreement will exact.

The conditions for a true solution are clear and well-known: A solution for the Palestinian refugees issue without exercising the right of return, 1:1 land transfers based on the Green Line, division of East Jerusalem into two capitals and an end to terror and violence.

Voters on both sides, who believe in bringing the conflict to an end by means of painful concessions, must give their votes to candidates who are unafraid to present a clear diplomatic path such as this loudly and clearly – even if it means sitting in opposition.

## 50 | The Oslo Process and the "Reality Shaping" Conception

The stated purpose of the Declaration of Principles ("The Oslo Agreement") signed between the PLO and the Israeli government in 1993, was to formulate a roadmap for the final resolution of the century long Israeli-Palestinian conflict. In their mutual recognition<sup>23</sup> the leaders of the two peoples managed to break with their public's belief in a "zero sum" struggle<sup>24</sup>. However, in the years following the Declaration the leaders have repeatedly failed to materialize this conceptual break and to create a "win win" consciousness amongst their peoples. On paper, the two sides have declared their recognition of the other's international legitimacy based on the UN Security Council resolution 242. In practice, however, the conceptions directing their attitudes and actions have severely undermined this recognition. The Israelis remained attached to the "Reality Shaping" conception, which upholds the creation of facts on the ground as a method for "shaping" reality according to Israeli interests, and the Palestinians to their "Right to Return" to the territory of the State of Israel and to the claim that "terror is the legitimate weapon of the weak".

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23 As was made public in the Arafat-Rabin letters exchange in August 1993, which was added to the Declaration of Principles.

24 One's gain is the other's loss and visa versa.

The Israelis have failed to recognize that the "Reality Shaping" conception, which inspired Jewish settlement in Israel before the establishment of the state, had lost its international legitimacy after 1967. They have therefore continued to uphold this notion during the implementation of the Oslo Agreement, demanding that the permanent status agreement recognize the territorial changes that occurred after 1967. The Palestinians, on their part, have refused to accept the consequences of the "Reality Shaping" process on the issue of the 1948 refugees and have continued to nurture amongst their people the belief that the dream of return could materialize. The Palestinian leadership has also continued to allow the Islamist movements to propagate notions of resistance to and violence against Israel. Consequently, incitement had escalated to such an extent that the leadership was forced to adopt this Islamist discourse<sup>25</sup>.

Today, the renewal of a viable negotiation process is possible only on condition that both sides abandon their former guiding conceptions and identify, as they did before the Oslo Agreement, the current reality as a "Mutual Hurting Stalemate" (MHS) situation. This conceptual change is possible under the assumption that after a decade of political negotiations and violence both sides know what is the "price" they must pay for the "good" they require. Furthermore, the parties must abandon the "stick" they have been holding up against each other as an alternative to negotiations: Israel its expansion of settlements and the Palestinians the use of terror. The sides must restore the trust necessary for a joint direction of negotiations based on "give and take" relations.

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25 This in spite of Arafat's commitment in his letter to Rabin to solve the conflict peacefully and through negotiation only.

## The "Mutual Hurting Stalemate" Conception

The combination of old and new insights has created among Israeli and Palestinian leaders the "Mutual Hurting Stalemate" conception which led to the Oslo Declaration of Principles. On the Israeli side, four main factors contributed to the adoption of the MHS framework. First, for many years Israel has identified its national interest as the preservation of the Jewish character of the State of Israel. As stated by Ben Gurion, Israel's first prime minister:

"The IDF can conquer the entire area between the Jordan river and the Mediterranean sea. But what kind of a state will we have, assuming that elections will be held and that Dir Yasin is not our policy? We will have an Arab majority in the Knesset. Between the land of Israel in its entirety and a Jewish state, we chose a Jewish state."<sup>26</sup>

Second, the Israeli leadership was faced with figures showing that in the absence of separation between Israelis and Palestinians along the "Green Line" Jews were to become a minority within the population residing west of the Jordan River<sup>27</sup>.

Third, the Intifada that broke out in 1987 proved that control over another people did not provide the necessary security and demanded a high economic price and a high blood toll. Finally, the PLO, which began its operation in 1964 as a proxy of the Arab

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26 David Ben Gurion, "Knesset Protocols", Volume 1, April 4th 1949.

27 Jews are expected to constitute a majority of 51% in 2010 but to decline to 47% in 2020 and to 37% in 2050. The Separation will bring the rates to – 79%, 77% and 74% respectively (De Pergula, 2000).

states, made it clear to Israel in the 1988 Algiers Conference<sup>28</sup> and after that it was the sole legitimate representative of the Palestinian people.

On the Palestinian side, the PLO leadership had undergone formative processes that had led to the adoption of the "Mutual Hurting Stalemate" conception. First, the collapse of the Soviet Union and Arafat's support for Saddam Hussein in the 1991 Gulf War led to a sharp decline in economic and political support for the PLO in the West and in the Arab world. This convinced the PLO that in the absence of American and international support, the 1988 Palestinian Declaration of Independence might become yet another unfulfilled Palestinian dream. Second, the Israeli settlement project in Jerusalem and in the West Bank began to threaten the territorial applicability of UN resolution 242. Finally, internal processes, which led to the recognition of the limitations of Palestinian military power, as well as lessons learned from previous campaigns such as "Black September", presented the political alternative to terrorism as the only viable option<sup>29</sup>.

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28 The Algiers Conference led to King Hussein's Declaration of the political and administrative separation of the West Bank from the Kingdom of Jordan and the recognition of the PLO as the only representative of the Palestinian people.

29 The creation of the "Phases Program", which was the first diversion from the dictates of the National Covenant, can be seen as expressing recognition of the limitations of terrorism.

## **From Signing to Implementing – Failing to Grasp the Limits of the "Reality Shaping" Conception**

In spite of Israel's recognition of UN resolution 242, whose acceptable interpretation is an Israeli withdrawal to the 1967 borders<sup>30</sup>, it has refused to forsake the "Reality Shaping" conception even after the signing of the Oslo Agreement. Zionism's success in expanding the territory of the Jewish state in the area west of the Jordan River, after the removal of the eastern bank from the territory assigned for the Jewish national home<sup>31</sup>, consolidated the conception that considered the creation of facts on the ground the most effective strategy for dictating Israel's permanent borders. Thus, with the 11 points immigration to the Negev in 1942 the leadership of the Jewish community managed to expand the territory of the Jewish state from 17% of the western land of Israel in 1939 to 55% on November 29th 1947. Later, the Arab persistent refusal to acknowledge the Jewish people's right of self determination in Israel led to the War of Independence. The war and the subsequent Rhodos Agreements enabled Israel to set its borders in 1949 over 77% of the land. Further, Israel was able to achieve a Jewish majority as a consequence of the displacement of over half a million Palestinians who became refugees during the war. The 1967

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30 This interpretation was fully implemented in the peace agreement with Egypt in 1978, with Jordan in 1994 and in the withdrawal from Lebanon in 2000.

31 The Eastern Bank of the Jordan River, which became the Kingdom of Jordan following Churchill's 1922 "White Book", stretched over 77% of the original British Mandate territory which was designated for the Jewish National Home as expressed in the Balfur Declaration. Based on this, some Israelis claim that the Israeli concession of territory has already been made, and Jordan is therefore the Palestinian state.

war and the subsequent UN resolution 242 granted international legitimacy to the 1949 borders.

For a period of ten years Israel held the territories gained in 1967 as a "deposit" for future peace negotiations with the Arab countries<sup>32</sup>, which were gradually coming to terms with the situation on the ground and with the UN resolutions. However, the Likud<sup>33</sup> government ideological decision in 1977 to erase the "Green Line" off the maps and to boost the process of settlement in the West Bank and Gaza Strip has reintroduced the "Reality Shaping" conception into Israel's strategic framework. By 1993 the number of settlements in the West Bank and Gaza Strip had reached 140, with a population of a quarter million Israelis (including in east Jerusalem).

During the interim agreement period (1994-1999) Israel, under different governments, did not put a halt to the expansion of the settlement project in the West Bank and the Gaza Strip<sup>34</sup>. Consequently, by 2002 400 thousand Israelis were living in these areas. Concurrently, Israel has attempted to legitimize and preserve the settlements in different agreements and especially

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32 The Labor Party put forward the "Alon Plan" concerning the West Bank. Later, in the Camp David Agreement (1977) it was agreed that the West Bank and Gaza Strip will be the territories of a future Palestinian Autonomy.

33 The Likud Party's ideological founders rejected the Phil Committee recommendations and resolution 181 that enabled Ben Gurion to declare the establishment of the State of Israel.

34 Carried out through construction of bypassing roads, enlargement of jurisdiction areas, development of master plans, issuing contracts, allocation of special benefits, enlarged budgets and the absence of law enforcement against settlers' illegal actions.

during the negotiations for the permanent status agreement, as is clearly stated in Prime Minister Rabin's speech to the Knesset on October 5th 1995:

"...We see the permanent status settlement as one incorporating within the territory of the State of Israel the majority of the land of Israel as it was under the British Mandate. Residing next to Israel will be a Palestinian entity, which will serve as a home for most Palestinians living in the Gaza Strip and in the West Bank territory. We want this entity to be less than a state and to run independently the lives of the Palestinians living under its rule. The borders of the State of Israel in the permanent settlement will be beyond the pre- Six Day War lines. And these are the primary changes, not all of them, as we see them and want them in the permanent status settlement: First and foremost, united Jerusalem<sup>35</sup>, which will include Maale Adomim and Pisgat Zeev. The security border for the defense of Israel will be located in the Jordan Valley, with a wider definition of that term. Changes will include the incorporation of Gush Etzion, Efrat, Beitar and other settlements, most of whom are located to the east of what was the "Green Line" before the Six Day War. Jewish settlements blocks."

Rabin did not arbitrarily choose to name these settlements

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35 United Jerusalem stretches over 61 sq. km of the West Bank territories and includes villages and towns that had no previous municipal affinity to East Jerusalem. East Jerusalem's territory in 1967 was only 7 sq. km. including the 980 thousand sq. meters of the Old City.

blocks. Gush Etzion, the neighborhoods in East Jerusalem and the Elkana-Ornit-Shaarei Tikva block are the only blocks in the entire settlement project, which has been in operation for the last 35 years that have succeeded in changing the demographic balance in a few areas and in creating practical territorial contiguity for Israel in the occupied territories<sup>36</sup>. However, Israel's 1949 success in setting borders that incorporate a Jewish majority within a few isolated settlements was mainly due to the displacement of the Palestinian population. After 1967 the settlements have not been able to repeat the 1949 demographic patterns<sup>37</sup>. The State of Israel was unable to create facts on the ground that would later gain international recognition. This was a stinging failure for Israel since the Palestinians have continued in their patterns of natural and stable settlement and persisted in maintaining a hold on their lands. The failure has led a few Israeli leaders and their constituencies to propose the "replication" of the 1948 displacement pattern through an active population transfer.

The Palestinians, who have enjoyed international support for their objection to the settlements – viewed as violation of international law – have refused to accept the territorial imbalance between them and Israel. They have argued that their most considerable

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36 This is why the Palestinians have agreed to Israel's annexation of these territories, stretching over less than 200 sq. km out of the West Bank's 5,878 sq. km, in a future border corrections agreement.

37 The later pattern of the settlement project was aimed at preventing the establishment of a Palestinian State in the West Bank and Gaza by inserting artificial Jewish residence blocks between Palestinian population centers. It did not create settlements' contiguity along the Green Line in a way that could enable the expansion of Israel's territory.

concession was yielding the dream of "Greater Palestine" and settling for only 23% of its original territory. They have interpreted resolution 242 in accordance with the 1978 Sadat formula and the 2000 Asad formula – a full Israeli withdrawal to the 1967 lines, with a few minor border corrections for Israel's vital needs (Gush Etzion, the Israeli neighborhoods in East Jerusalem and others).

This Palestinian conceptual position throughout the negotiation process has gradually penetrated the Israeli consciousness. The Israeli stance, which initially offered the Palestinians 40% of the West Bank and Gaza (A and B territories) plus a few more areas "not essential to the State of Israel" had accepted by 2000 the Palestinian stance that requested 100% (the West Bank and the Gaza Strip) "minus what is extremely essential for Israel". This turn over, despite its significance, occurred too late. Even though it was proposed in the Clinton Proposal in December 2000, it did not bring the sides to reach a settlement over the territorial question before the fall of the Barak administration<sup>38</sup>.

In addition, the weakness of the political branch had enabled and encouraged the IDF to take hold of the reins and influence the framework for a resolution and the chances of its success. For a number of historical, political and organizational reasons, Israeli prime ministers have authorized the security branch, and the IDF most of all, to lead and direct the interim period

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38 At Camp David the Israelis proposed 650 sq. km while the Palestinians proposed 100 sq. km. At the Taba negotiations, which are still debated, the Israeli Proposal was of 359 sq. km, while the Palestinian was of 140sq. km.

following Oslo<sup>39</sup>. The security branch was responsible for preparation work, participation in the negotiations and on occasions direction of talks, implementation of agreements and maintenance of security. It did not, however, have full and continuing communication with the political branch regarding the latter's projections for the permanent status settlement. Instead, the military presented its own short-term frameworks and positions and failed in two areas. First, it impeded on the success of the negotiations on the territorial question by convincing the political branch to uphold positions and solutions based on "worst case scenario" projections and by underestimating the strategic contribution of a stable political settlement to national security. The army, guided by a "map of security interests"<sup>40</sup>, worked towards a political settlement that would preserve Israeli control over territory and roads, and would ensure operational preparedness for a surprise attack and terrorism. By so doing the military prevented the political branch, which did not share the former's strategic conception and needed its support to win legitimacy amongst the Israeli public, from taking the necessary steps towards solving the territorial problem<sup>41</sup>. Likud Prime Minister, Netanyahu on his part, accepted the military's framework during his administration and passed a government resolution adopting it. By this he ensured

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39 Later, during the negotiations for the permanent status agreement, the security branch refused to relinquish its central role, despite its declarations to the opposite.

40 Originally, the map was named "Vital Interests Map" and included almost 60% of the West Bank territory. During the Netanyahu period it was divided into "Security Interests" and "Other Interests".

41 The military has internalized the historical lesson of the Agrenat Committee following the Yom Kipur War, which has strengthened the military's sense of responsibility for all matters of security.

that his government and he were prevented from negotiating with the Palestinians over territories the military considered essential for Israel's security and therefore non-transferable. Second, the lack of consistent military backing for the political branch's law enforcement steps against the settlers, as well as the constant friction between the Israeli and Palestinian populations in the territories, have created a harsh everyday reality for the Palestinians, who define it as "occupation by other means"<sup>42</sup>.

## **From Signing to Implementing – The Palestinian Failure**

The failure of the Palestinian leadership to prepare its people for reconciliation with Israel<sup>43</sup> took many forms, ranging from incitement, to derogatory and hateful mentions of Israel in textbooks<sup>44</sup> to the erasure of Israel from maps of the region.

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42 The Israeli dilemma stems from a longing for the territories combined with a rejection of their Palestinian residents. Therefore, Israel has tried to separate from the Palestinians but not from the unpopulated Palestinian territories. There was a lack of empathy for the Palestinian point of view. The discourse and priorities were based solely on the Israeli interests.

43 A transformation in the Palestinian public discourse has ripened over the years, especially straight after the creation of the PA. It was a part of an internal discourse that could have led to the acceptance of Israel. An example of this are the outbursts of spontaneous expressions of joy during the signing of the Oslo Agreement, the popular demonstrations in which demonstrators carried olive branches and the discourse about the building of the Palestinian State and about its relations with Israel.

44 In a national education textbook written in 2000 seventh graders are asked: "How many of the Palestinian villages were destroyed and replaced by imperialist settlements?" Nevertheless, two researches have found these textbooks to be better than their Jordanian and Egyptian predecessors.

Some on the Palestinian side argue that an educational-pedagogic change is not a preliminary catalyst for a political process and for a change in social relations but rather results from such a process. Nevertheless, it is important to stress that the Palestinian Authority has not done what was within its capacity to change the anti-Israeli public discourse. Contributing to the grave outcomes of the political process was the PLO's tolerance for extremist Islamic organizations denying Israel's right to exist and opposing any negotiation with Israel. The PA's attempt to maintain unity among Palestinian ranks enabled the Hamas and the Islamic Jihad to exacerbate existing Israeli-Palestinian tensions by carrying out terrorist activities. This, in turn, forced the PA to adopt the extremists' discourse in order to appease the troubled Palestinian street. By so doing, Arafat has created the political and social conditions for the development of the Tanzim as a nationalist competitor to Hamas and Jihad, and to the participation of PA security forces in terrorist attacks against Israel.

Arafat's abandonment of his 1993 unconditional pledge to renounce terrorism is unforgivable in the eyes of the Israeli and American publics; even if he claims Israel has left him no political alternative<sup>45</sup>.

The second factor impeding on the political process was the decades long preservation of the refugee problem. The Palestinian refugee problem began when Israel closed its borders after the 1948 war and prevented the return of displaced Palestinians to

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45 Oren Shahor, in an interview with Ronen Bergman quotes Arafat words from 1995: "...Ben Gurion shaped the state through honor and through the sword. We too are searching for the political path, but, like Ben Gurion, it is not the only path available to us."

their homes, villages and lands<sup>46</sup>. This difficult decision by Israel's first Prime Minister, Ben Gurion, was both problematic from a moral perspective and legitimate from a national perspective, considering the events leading to the war. With the passing of the years and the exacerbation of poverty and destitution in the refugee camps the stories of the land and property left behind became a unifying national ethos, which is until this very day an important part of the Palestinian identity. On the national and historical level, the "Naqba" and the refugee question have become a dominant component in the shaping of the Palestinian collective consciousness<sup>47</sup>. The greatest failure of the Palestinian leadership was in its inability to face its people and explain to them that the "Right of Return" of refugees would be only to the future Palestinian State and not to Israel. It failed to internalize the change in the international community's position on the question, as expressed in the change from UN resolution 194 to Security Council resolution 242<sup>48</sup>, to the Clinton proposal in 2002. Nevertheless, by the time of the permanent status negotiations the PLO had readopted the call for "personal return" of individuals, as was put forward in the two resolutions. This constituted a change from its historical stance that rejected resolution 242 and appropriated the "personal right to return" from the refugees by insisting on a collective national return.

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46 An option given to the Palestinians in UN General Assembly Resolution 194 article 11

47 Pundak Ron, "The Road toward a Peace between the State of Israel and a Palestinian State: A Brief Perspective", March 2000.

48 While resolution 194 clearly mentioned a choice for the refugees between return and compensation, resolution 242 only mentions that "a fair settlement of the refugee problem must be reached".

At the same time, the Palestinian negotiators tried to blur the consequences of the recognition of the Right to Return they demanded from Israel by proposing various implementation schemes. They blatantly ignored the growing suspicion among Israelis that the Oslo Agreement was a part of a Palestinian "phases plan" which viewed the attainment of the occupied territories as the first step towards the dismantling of the State of Israel. This Palestinian unawareness or lack of consideration for Israeli worries is fully expressed in an official document composed by Dr. Asad Abd Rahman, a member of the PLO Working Committee and the Minister for Refugees and Displaced Persons, in June 1999<sup>49</sup>:

"Contrary to what has been said in the past, I think that the return of the refugees will have little effect on the present Jewish residents. Furthermore, they [the refugees] will help increase agricultural production, which has begun to decline as a result of the political and ideological deterioration in the Kibbutzim.

...The figures tell us that over 78% of the Jewish population lives today in an area covering less than 15% of the total territory of Israel...the remaining territories are basically the lands of the Palestinian refugees. Except for a few residence centers,...these areas are deserted. Only 154,000 Jews live there...Therefore, the

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49 This contradicts the more conciliatory attitude among some in the PLO, as was expressed by Abu Iad's article "Putting Down the Swords" published in Washington in 1990: "Israel must accept the Right to Return on the level of principle, but we understand that a full return is no longer possible. We are not utterly unrealistic when we consider how to realize this right."

return of the Palestinian refugees will not lead to the displacement of a large number of Jewish immigrants from their present place of residence."

## **Back to the MHS Conception – Back to the Negotiation Table**

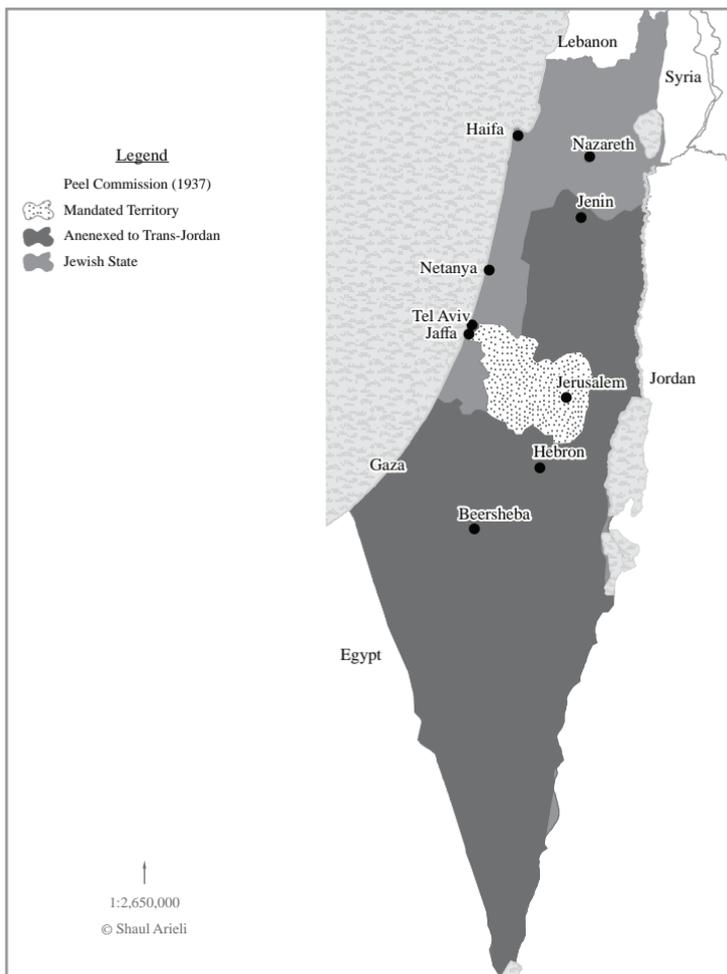
The war that has been raging in the last three years between the two sides might bring them back to the negotiation table. Both must understand that there is no other solution but the recognition and acceptance of the other's needs. Today, after much blood has been shed in vain, these needs are very clear. Furthermore, Israel's resilience in face of terrorist attacks, and the continuation of the Palestinian armed struggle despite Israel's persistent retaliation, has made it clear to both sides that the use of violence does not promote the interest of neither sides. As long as the conflict, in its current state, continues Israel is threatened by the Palestinian demographic growth, which might lead to a renewed Palestinian demand for a bi-national state. Such result might force Israel to deal with the demographic challenge at the risk of compromising the state's democratic character. History tells us that the Palestinian side will also be severely harmed by such grim results.

The responsibility for bringing about a peaceful political resolution lies in the hands of the Israeli and Palestinian publics. The people must undo the traditional binds restricting their leaders from taking courageous steps. The leaders, on their part, must once again take hold of the reins of the political process and implement on the ground the conceptual leap taken by the Israeli and Palestinian leaders in 1993. This can be achieved through the Geneva Initiative of December 2003, which principally completes the Oslo process: It bases its proposed solutions on a

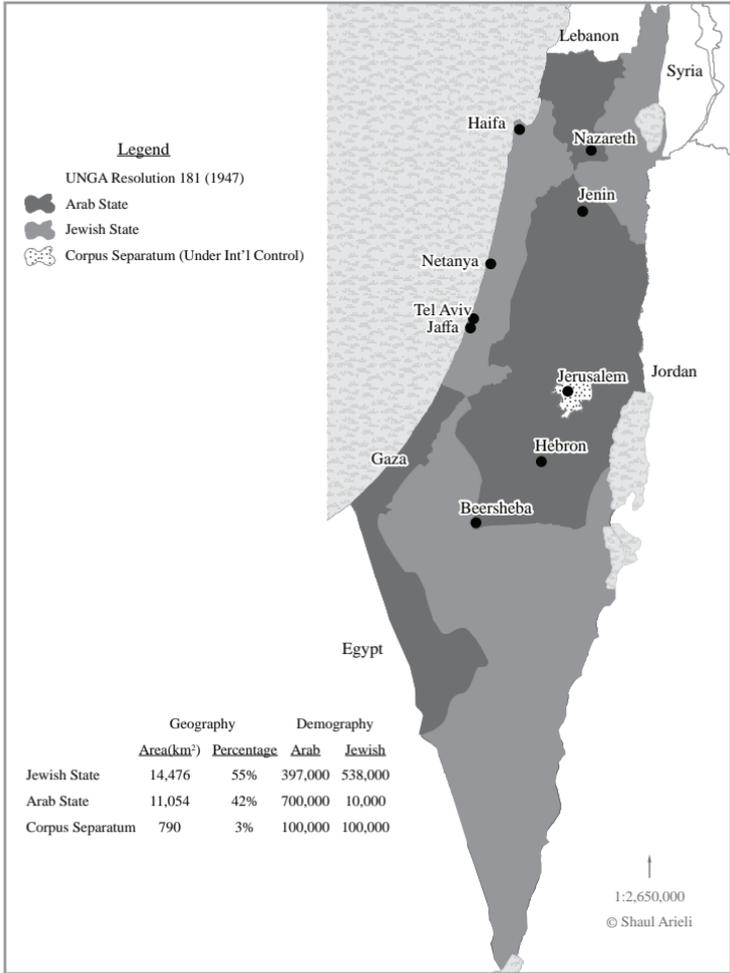
full implementation of Resolution 242. It supports and completes the "Road Map" as a model for the Map's third stage – since for a gradual process such as the Road Map a known final status agreement on all fundamental issues is necessary, or else each side believes the process leads solely to his perception of a final resolution. The Geneva Initiative should serve as a final "light at the end of the tunnel" in order to ensure that the Road Map does not collapse like the Oslo Process.

The Geneva Initiative also propagates an educational and democratic process. Thanks to it, the extremist and violent consensus is being questioned for the first time in three years and a debate ensues between extremists and moderates within the two societies. The moderates have managed to acknowledge the impossibility of some of their dreams and have abandoned the pursuit of such fantasies; the Israelis have abandoned the dream of "Greater Israel" and the Palestinians the dream of return to the entire territory of the State of Israel. The extremists still hold on to these dreams of "all or nothing" which will eventually lead to both sides losing what they can today achieve through the Geneva Initiative.

# 1937 | Peel Commission



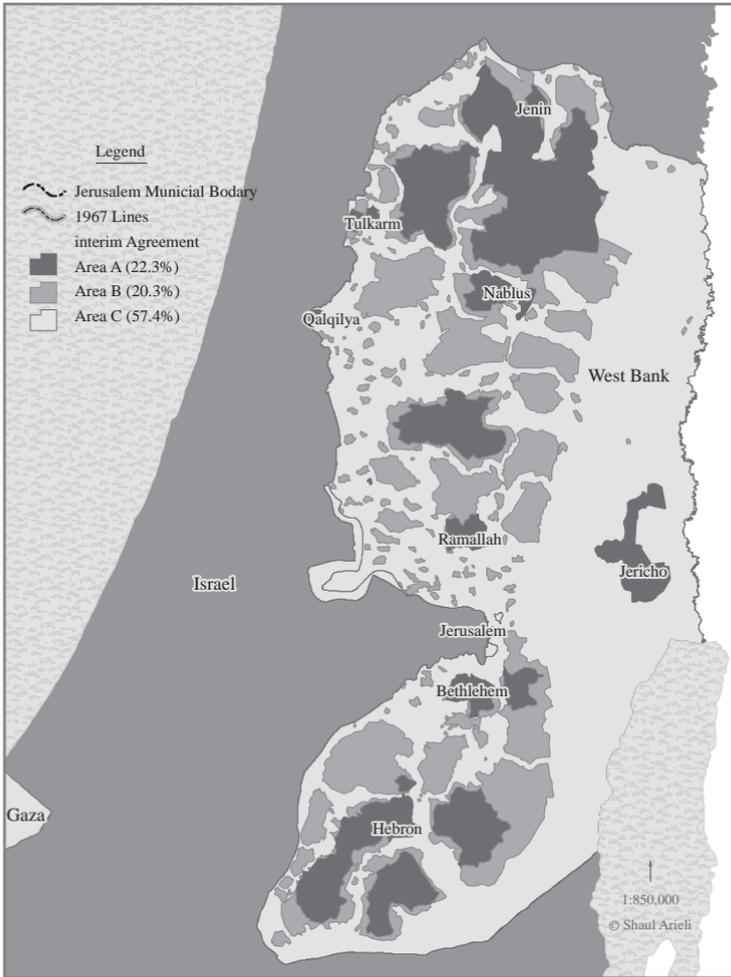
# 1947 | UNGA Resolution 181



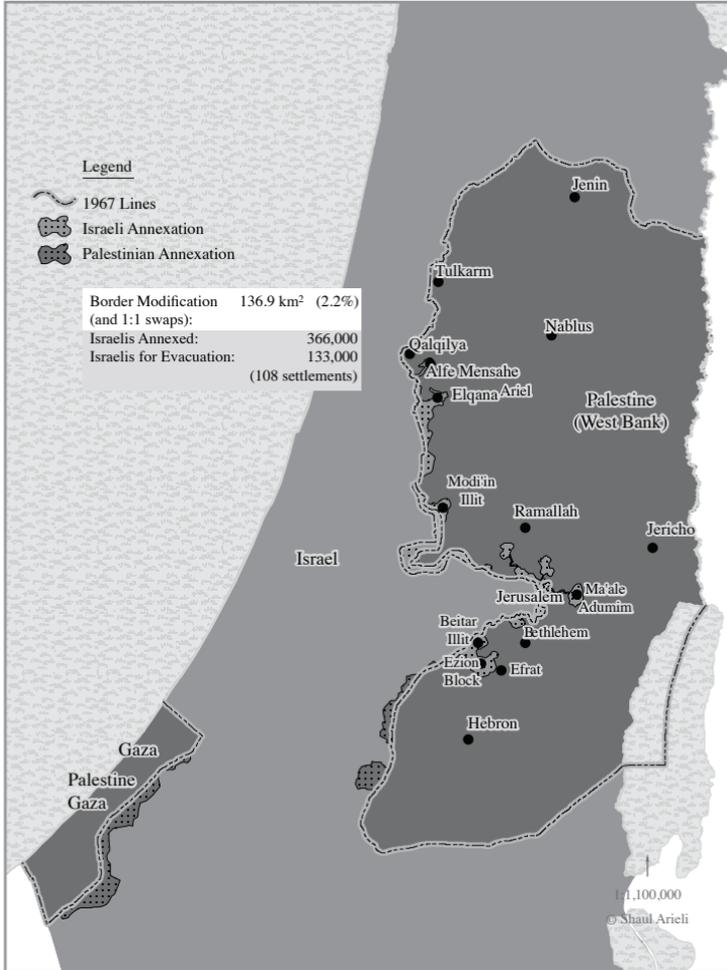
# 1948 | Areas Annexed to Israel in Independence War



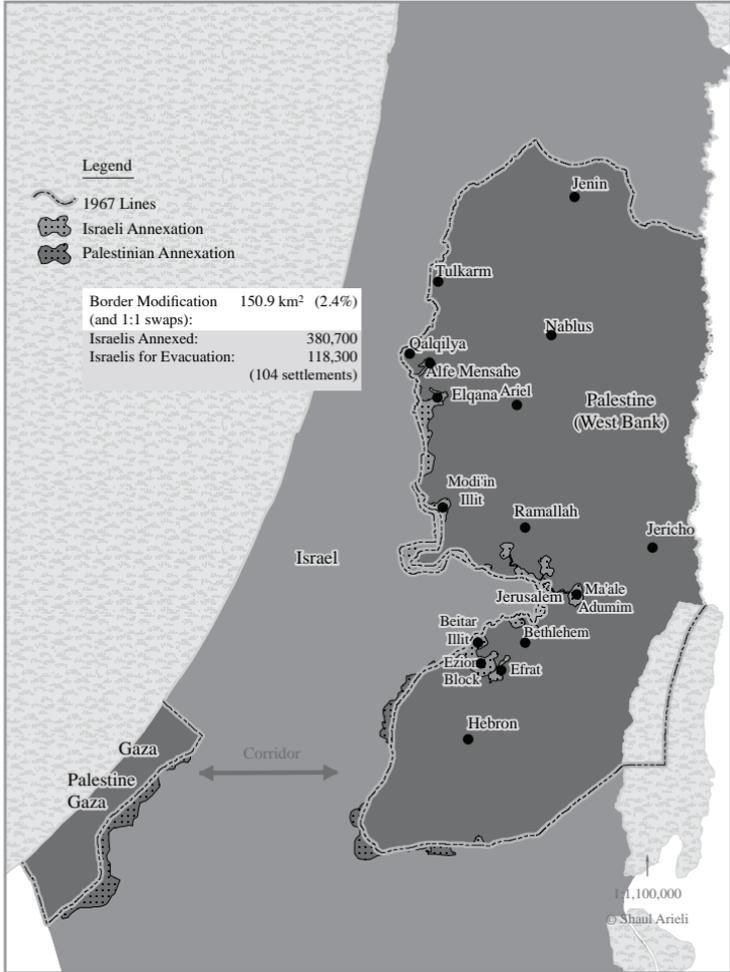
# 1995/1999 | Palestinian Areas, Interim Agreement



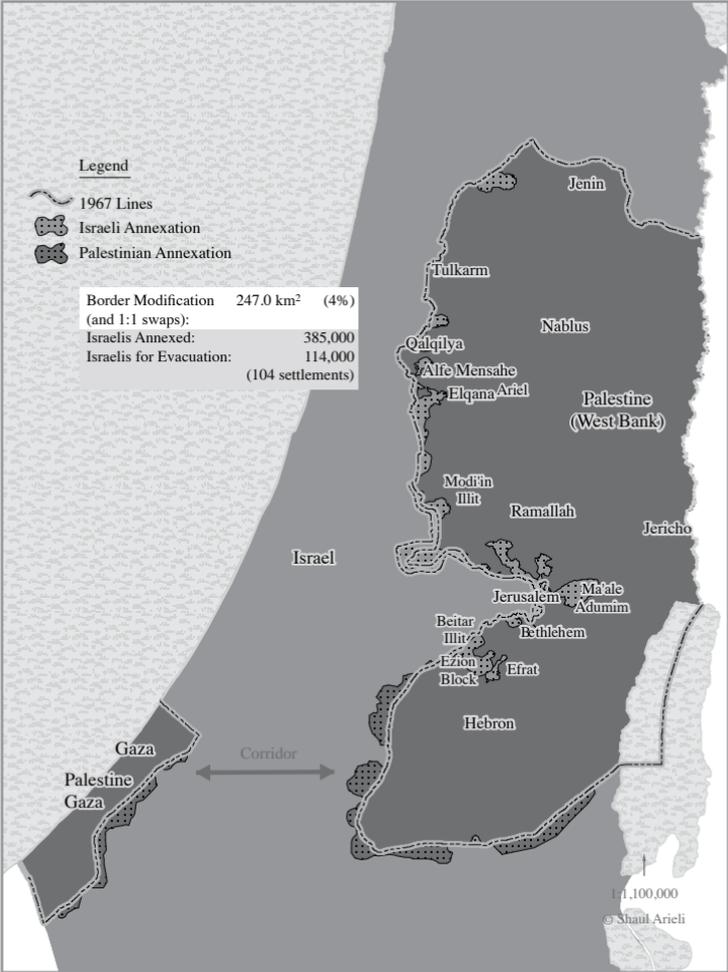
# 2003 | Geneva Initiative



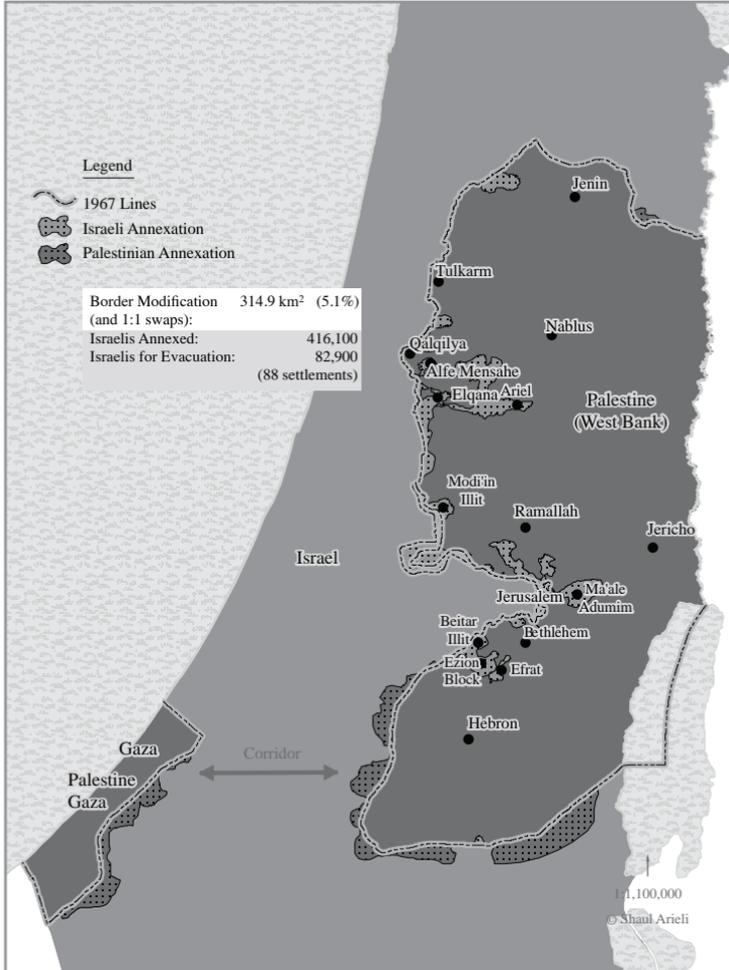
# Borders – 2.4 Percent



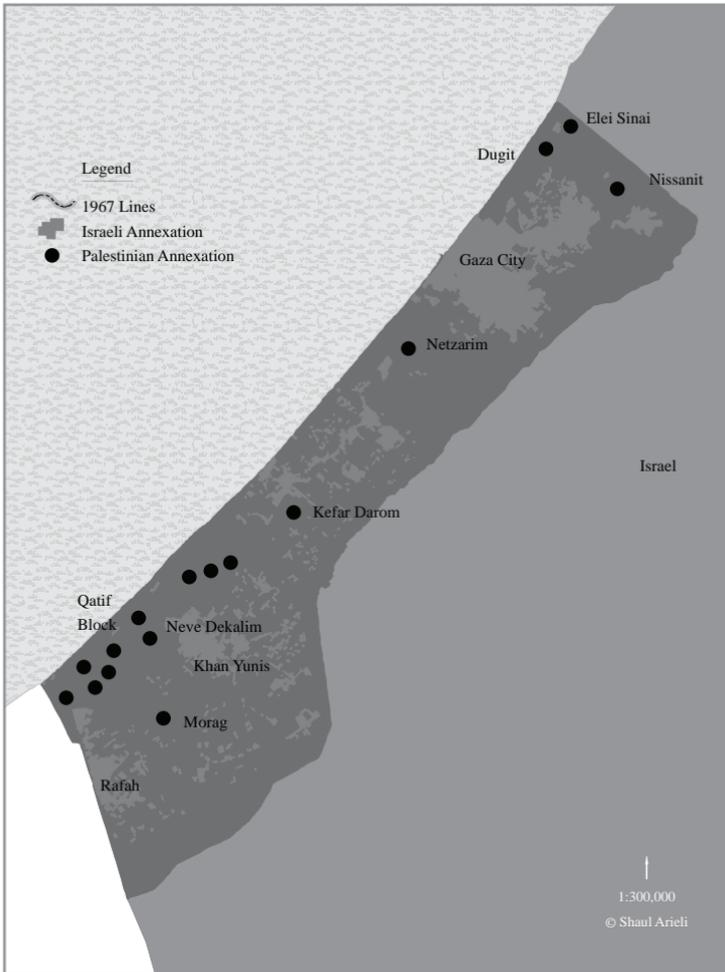
# Borders – 4 Percent



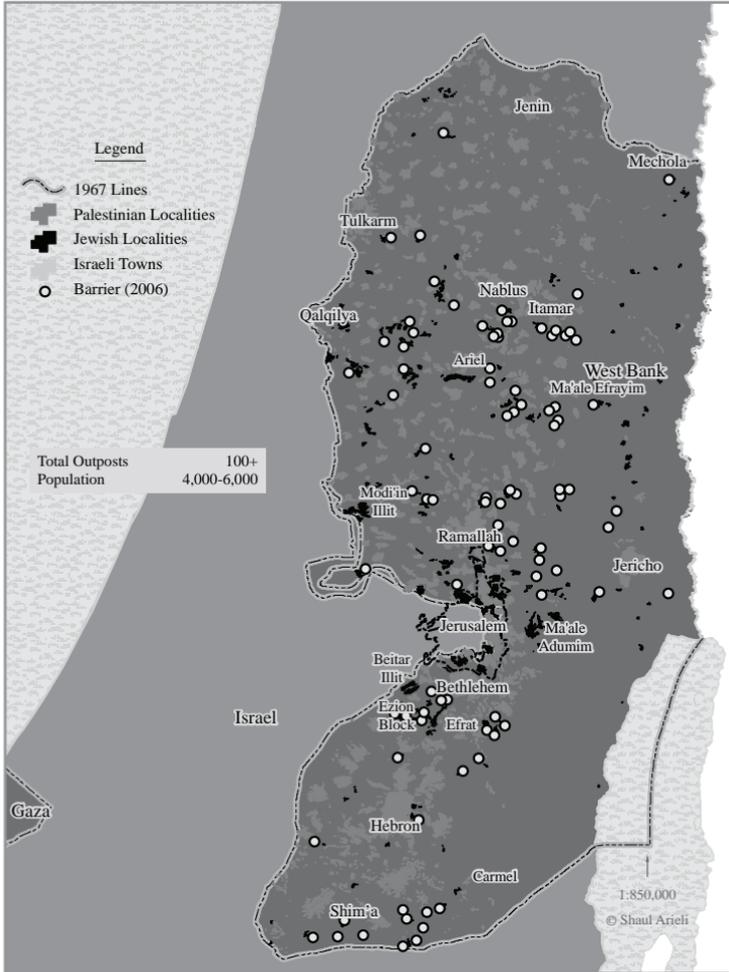
# Borders – 5.1 Percent



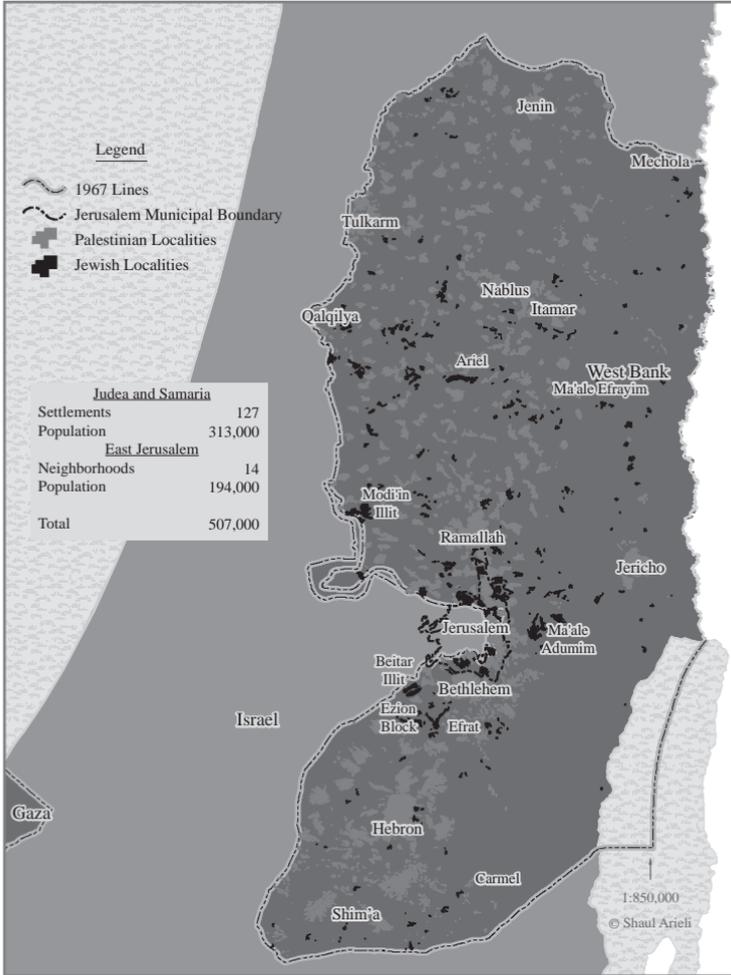
# 1968-2005 | Jewish Settlements in the Gaza strip



# 2009 | Outposts



# 2010 | Israeli Settlements in the West Bank and in East Jerusalem



# **Chapter 2**

# **Disengagement & Convergence**

# Contents

page

<b>1. Unilateral moves are a recipe for an explosion</b> [Haaretz   21/03/2010]	283
<b>②. Israel's convergence program</b> [Senat 285   July 2006]	286
<b>3. Unilateral stupidity</b> [Ynet   05/06/2006]	292
<b>④. Disengagement, the "seam" zone, and alternative conflict management</b> [Strategic Assessment   August 2004]	296

# 1 | **Unilateral moves are a recipe for an explosion**

Even if PA declares independence, Israel still controls basic infrastructure; negotiations are necessary.

The failure to conclude the peace process after 17 years and formulate a final-status agreement has driven the Palestinians, like Israel, to adopt a unilateral policy to achieve what negotiations haven't.

Could this policy, led by Palestinian Prime Minister Salam Fayyad and President Mahmoud Abbas, succeed, or will its fate be similar to that of the Israeli disengagement plan and the separation fence?

Evacuating the Gaza Strip settlements removed that land from the territorial demands package. But it strengthened the illusion that reducing direct Israeli control over 7 percent of the territories and 40 percent of Palestinians would help us "contain" the West Bank population within Israel. We were deluded into thinking that the country would remain both the "greater land of Israel" and "Jewish and democratic."

But even the separation fence, which stemmed from a security need but tried to give Israel 20 percent of the West Bank, has managed to keep "only" 4.5 percent of the territory on the "Israeli

side." It leaves out Gush Etzion and Ma'aleh Adumim, which are adjacent to the Green Line, as well as Ariel and Kedumim, which are far from it.

Fayyad wants to establish pre-state institutions that would validate the 1988 Palestinian declaration of independence and meet international legal standards. But even if the European nations approve an initiative to recognize a Palestinian state before negotiations are completed, Israeli control of 60 percent of the West Bank foils any Palestinian act of independence. Israel controls the international border crossings, central thoroughfares, air space, water and electricity, making it impossible for Palestinians to do basic things like building an airport or a road network, and developing their economy.

But the biggest danger in unilaterally imposing moves rejected in negotiations is the potential for an escalation. Even if Israel's unilateral moves were initially intended to reduce the friction between the sides, their results prove they have failed.

Israel's unilateral withdrawal from the Gaza Strip strengthened Hamas' control there and dragged Israel into two military operations. Setting the fence route on the basis of political considerations - the settlers' interests - turned the anti-fence protests, like those at Bil'in and Na'alim, into a symbol of Palestinian resistance. This resistance is gaining increasing international support.

Fayyad's plan blatantly ignores Israel. The Palestinians are demanding more international pressure on Israel and are threatening to stop the security coordination, following the escalation in recent weeks. This may drive the Netanyahu

government to stop even the little it has done to remove roadblocks and deploy the Palestinian security forces. The construction freeze, even if it was only feigned, will stop, and several terror attacks will be all the government needs to find the budget to complete the fence, annexing as much land as possible.

At this point, with the encouragement of Iran, Syria and others, the road to a collision between radical settlers versus the "armed struggle" and "one Palestine" enthusiasts will be short. The land will go up in flames, and the Palestinian Authority's little security and economic stability of recent years will disappear.

The Palestinians must work toward resuming negotiations, and the international community, led by the United States, must work more vigorously with the Netanyahu government. Cooperation is required not only to prevent violence and strike agreements, but to implement the agreements given that both nations ultimately drink from the same well.

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## Senat No. 285 on Political Issues:

# 2 | Israel's Convergence Program

### **Main Conclusion:**

- The three areas to be affected by the Convergence Program are: Jerusalem, the Jordan River Valley and the main blocs of Israeli settlements, particular those along the "Jerusalem perimeter".
- The area to remain under Israeli control encompasses 43% of the West Bank. It currently containing 380,000 Israelis who live in 52 settlements, as well as 270,000 Palestinians, the majority living in East Jerusalem.
- About 40,000 Israelis living in 31 settlements are to be evacuated.
- The position taken by the Palestinians, the Arab world and the international community support any step aimed at reducing Israel's occupation of the Territories. Nevertheless, this position denies acceptance of the reality Israel wishes to impose by unilateral measures.
- Israeli political parties located to the right of Kadima will reject any unilateral measures not accompanied by political returns whereas the ultra-right as well as the left will not endorse the program given the absence of effective negotiations.

## Introduction

The Convergence Program has been put forth as the core of Ehud Olmert's term of office as Israel's Prime Minister. He publicly stated this agenda during his victory speech, delivered at the conclusion of the 17th Knesset elections: "During the coming years, we will aspire to fix the permanent borders of the State of Israel as a Jewish and democratic State enjoying a Jewish majority."

During the speech, he stressed that "...we will attempt to achieve this goal by means of a negotiated settlement" and the "there is no better alternative to a peace agreement." However, "should (the Palestinians) not take part in the process, Israel will take its fate into its own hands.

Based on a broad national consensus, together with the deep understanding we share with our friends throughout the world, especially the United States, we will proceed even without consent from [the Palestinians]."

In order to assess the significance and features of the permanent borders that Olmert seeks to delineate, we will analyse the political agenda formulated by his party, Kadima, and trace the map anticipated with respect to the three criteria presented in that platform.

**Territory requisite for the defence of Israel.** In order to arrive at a concrete image of the respective territory, we can refer to the 'Map of Defence Interests' approved by the Netanyahu government in 1998, which incorporated the Jordan Valley in its broadest terms. According to the Sharon doctrine, the 'Allon Road' and its 'upper level' (i.e., corridors) as well as the IDF artillery zones located in the Judean Desert, covers

an area estimated at about 1,850 sq. km. or about 33% of the West Bank. This area is home to about 10,000 Israelis, living in 29 recognized settlements. A more modest alternative to the Jordan Valley is based on Road No. 90, which will apparently remain under Israeli control should the unilateral withdrawal be executed in the absence of a negotiated settlement.

**Jewish Holy Places and National Symbols, Headed by a United Jerusalem, Israel's Capital.** This criterion defines Jerusalem in terms of its new boundaries, roughly drawn according to the separation barrier's alignment. The estimated scope of the territory lying east of the Green Line, about 74 sq. km., is an area almost equal to that of East Jerusalem (70 sq. km.). Included are Kiryat Arba and the Jewish settlement in sacred Hebron, City of our Fathers, especially the area along the road connecting these settlements to the Green Line, an area totalling an additional 65 sq. km, in which about 7,000 Israelis live.

**Maximum inclusion of functioning Jewish settlements, while stressing blocs of settlements.** The separation barrier currently being completed is an appropriate device for locating the respective blocs of settlement. We should recall, however, that the breadth of the barrier's seam represents, according to the Sharon doctrine, the State's 'western security boundary'. First, three main settlement blocs comprise the area referred to as the 'Jerusalem perimeter': Givat Zeev, Ma'ale Adumim and the expanded Gush Etzion. Their total expanse, about 165 sq. km., contains about 88,000 residents, distributed among 17 settlements. Second, the Ariel-Kedumim bloc, which will eventually be subdivided in two "strips" according to a government decision dated 30 April 2006, covers about 123 sq. km. and houses about 38,000 Israelis in 14 settlements. Third, there is the Hashmonaim bloc, covering about 12 sq. km., home

to about 36,000 Israelis dwelling in 5 settlements. A number of smaller blocs should also be added, for instance, Shaked, Alfei Menashe and Tzofin, covering a total of about 153 sq. km.; about 25,000 Israelis live in the respective 14 settlements.

The general picture obtained from this analysis indicates that Olmert is attempting to use the unilateral convergence program as a lever to retain, with or without the separation barrier, territory encompassing about 2,440 sq. km. or about 43% of the total area of the West Bank. This territory contains about 52 settlements (including the Jewish settlements in and around East Jerusalem), in which the resident 377,000 Israelis represent about 90% of all the Israelis living beyond the Green Line. About 270,000 Palestinians also live in this area, the majority in East Jerusalem and the remainder in Hebron's H2 area. As to the remaining territory, Olmert is offering the "convergence" of about 40,000 Israelis, living in about 31 recognized settlements, among which we can cite Ali, Alon Moreh, Beit-El, Ofra, and Shiloh.

What are the chances that such a map will earn the "broad national consensus, together with the deep understanding we share with our friends throughout the world, especially the United States"? The map will certainly gain near cross-the-board approval by Israel's political system, as if it guaranteed the transformation of its boundaries into Israel's permanent borders. Moreover, we can assume that the parties ranging from Kadima left would even surrender the Jordan Valley and the Judean Desert within the framework of a permanent settlement that would have retained Israeli sovereignty over only 10% of the West Bank. Alternatively, it appears that all the parties right of Kadima, lead by the Likud, will object to every substantive unilateral move that involves evacuation of settlements without any political

returns. Parties such as the Mafdal and the Ichud Haleumi will certainly object to any evacuation. On the Palestinian side, Fatah and the Hamas will privately endorse any Israeli withdrawal. Fatah, however, will openly express doubts about any process that they perceive potentially strengthening their extremist opponents. They will consequently reiterate their contention that the sole basis for determining Israel's permanent borders remains Security Council Resolution 242 and the agreements reached between the parties in its wake. Turning to Hamas, if we accept all their declarations to date, it will undoubtedly publicly reject any borders determined by Israel while repeating their denial of any recognition of the State of Israel.

As to the Arab world, it remains adamant in maintaining its position, stated in the Beirut Declaration of March 2002, calling for a comprehensive peace and normalization with Israel in return for full Israeli withdrawal to the June 1967 borders and establishment of a Palestinian state with its capital in East Jerusalem.

The Europeans have budged not an inch since the nine members of the European Community declared (Venice, June 1980) that Israel is to "...put an end to the territorial occupation which it has maintained since the conflict of 1967" and that they would "not accept any unilateral initiative designed to change the status of Jerusalem." As to the blocs of settlements that Israel wishes to annex, the Nine "are deeply convinced that ...these settlements, as well as modifications in population and property in the occupied Arab territories, are illegal under international law." Israel cannot, therefore, anticipate any sympathy from Europe. The opposite may be the case: The convergence program may only intensify the boycott against Israel's presence in the Territories.

For its part, the United States, under former president Bill Clinton, deviated from the fundamental American position. In December 2000, as part of his plan for reaching a permanent settlement, Clinton proposed beyond annexation of territory and agreed-upon compensation to be granted the Palestinians, Israel receive an additional 3% of the territory lying within Judea and Samaria, free of any need to compensate the Palestinians. It was, however, the current president, George W. Bush who, in a letter dated 14 April 2004 addressed to Ariel Sharon, informed him that although "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." In the same letter, Bush hurried to add that "[i]t is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes...."

In conclusion, the Government of Israel, headed by Ehud Olmert, can either evacuate the settlements east of the separation barrier or exclude Palestinian neighbourhoods situated beyond it. The considerations directing these moves, numerous and diverse as they may be, will all be guided by the principle of improved Israeli security and reinforcement of Israel's awareness of the need for political and demographic separation between the two parties. However, it would be very difficult to accept assumption that unilateral steps will facilitate arrival at recognized permanent borders. The common Palestinian, Arab and international stance regarding this issue is clear. Although all parties will support, in principle, any measure reducing Israeli presence in the Territories, they will certainly not approve any reality that Israel desires to create by means of the unilateral actions implemented in the form of convergence.

## 3 | Unilateral stupidity

### **Israel once again strengthening hands of anti-peace Palestinians**

The realignment plan brings about a new pinnacle in the substantial change that has occurred since 2000 with respect to Israel's policy vis-à-vis its borders. Apart from the approach that the territories are an asset to be traded for an eventual peace deal, we have adopted an approach in which we unilaterally draw a line in the sand to define the borders of the Jewish state. This is complete folly.

The old approach found expression in peace agreements with Egypt and Jordan. The failure of talks with Syria pushed Ehud Barak to withdraw unilaterally from South Lebanon in May, 2000, without any agreement whatsoever – but with the United Nations' recognition that Israel had indeed fulfilled that organizations call to withdraw to the international border.

### **Disengaging**

Five years later, Sharon disengaged from Gaza under immense international and domestic pressure, in an attempt to strengthen Israel's hold on Judea and Samaria. It was a policy that stubbornly refused any hint of cooperation or agreement with the Palestinian Authority.

The move was praised in the international community, but failed to give Israel any recognition for moves in Judea and Samaria such as the separation fence, and it even contributed to Hamas' victory in the Palestinian Legislative Council elections in January.

The Olmert government's zeal to set an eastern border without trying too hard to explore the possibilities of renewing negotiations for a permanent status agreement is wrong on several points.

## **Military recognition**

Israel's military might has played a major part in the Arab world's recognition of Israel. This includes the Palestinians.

The Yom Kippur War ignited a process focused on implementing the UN Security Council Resolution 242 – land for peace – and the PLO signed on to this process in 1988.

Israel's superiority served moderates in the Arab world, who claimed they must recognize and compromise with Israel. They told extreme and rejectionist elements that the time had come to obtain with words that which they had failed to obtain with guns.

Arafat had a profoundly negative reaction to Israel's withdrawal from Lebanon, claiming the move weakened him against supporters of the armed struggle. That, and Mahmoud Abbas' more recent plea for control of the Gaza Strip, are testimony to the weight that Israel's military superiority holds amongst the Palestinian negotiations team, especially when Israel presents the Palestinians with an alternative to armed struggle.

## **Igniting agreement**

Still, Olmert is not, at this stage, planning a full IDF withdrawal from Judea and Samaria, but a significant removal of bases and settlements would be enough to ignite those forces opposed to an agreement with Israel.

Israel is the only country in the world to have won international

recognition for territory added to its proposed area as a result of its war of independence since the second world war.

But the international community does not consider the Six Day War a comparable situation. The 1967 borders are the basis for any peace agreement between Israel and her neighbors.

## **Land-for-peace**

The Palestinians' agreement to land swaps (such as the one carried out under terms of the peace treaty with Jordan) that would allow Israel to maintain sovereignty over most of the Israelis that live over the green line, but would require Israel to forego sovereignty over other areas inside the green line.

Therefore, any Israeli attempt to set borders without Palestinian agreement will be doomed to failure in the face of a strong international consensus that has lasted for 39 years.

In contrast with Israel's Lebanon pullout that fulfilled the conditions of Security Council Resolution 425, even if Israel withdrew to the '67 border, we would not be considered in full compliance with 242 because of that resolution's key requirement for a "just solution to the refugee problem."

## **Tiny numbers**

Assuming that the Israeli government will one day annex just the "seam line" area, we are talking about 8.5 percent of the total territory of the West Bank.

The establishment of a Palestinian capital in East Jerusalem is axiomatic regarding a final-status agreement, and would shrink the area mentioned above to 7 percent.

Even if Israel believes the Palestinians will eventually cede control of the Ariel and Kedumim settlements that jut 20 kilometers (12 miles) into the heart of the West Bank, we know the Palestinians will demand reciprocity in the form of green line territories

Thus, de facto, Israel's attempt to set borders without Palestinian agreement, with no chance they will be accepted by the international community and hurting pro-peace Palestinians and giving support to anti-peace groups, and similarly the surrender of the ability to remove the Palestinian "plug" from the "bathtub" of Iranian, Hizbullah and al-Qaeda claims – is an argument about no more than one percent of the total land of Israel.

### **Worthy goal, but...**

The drive for permanent borders is a worthy goal and extremely necessary. The Olmert government must try to reach an agreement and win international support – the prices are well known to both sides.

Pulling down isolated settlements as part of a renewed program of negotiations will show the Palestinian side that Israel is serious.

A redeployment of Israeli settlements and military in the West Bank may have its advantages. But Israel must not portray such a move as the establishment of permanent borders. They will come only as the result of an agreement.

## **4 | Disengagement, the "Seam" Zone, and Alternative Conflict Management.**

Israel's long-term strategic goal is to end the conflict with the Palestinians. This can be done only in an agreement that establishes and anchors modes of political separation between Israel and the Palestinians and provides for cooperation in various aspects of normal coexistence. This separation will enable Israel to retain its Jewish character, preserve a democratic regime in which an Arab minority will have equal rights, and be an accepted part of the Middle East and the international community.

The policy of managing a conflict while deferring its solution is legitimate only if this is consistent with the strategic goal, in this case, if it promotes conditions leading to negotiations. Incorrect management of the conflict is liable to escalate the existing confrontation, aggravate instability, and keep the parties away from the negotiating table. The bilateral diplomatic process between Israel and the Palestinians, now frozen under the claim that "there is no partner," has been replaced by a violent confrontation that is exacting a high price in blood from both sides. The Israeli government headed by Ariel Sharon has chosen to manage the conflict unilaterally and dismiss the attempt to settle it through direct negotiations with the current Palestinian leadership.

This article argues that the Israeli government's policy, reflected in the construction of the separation fence in the Judea and Samaria "seam" zone<sup>1</sup> and in the prime minister's disengagement plan<sup>2</sup> is preferable to the position of the leaders of the Jewish settlements in the territories, who advocate maintaining the current situation. On the other hand, the government's policy tends to postpone the achievement of the strategic goal, and is therefore liable to force Israel to pay an unnecessarily high cost. After presenting the respective plans of the settlers and the government, the article will propose an alternate plan, including a different route for the separation fence. Adopting this plan would allow Israelis and Palestinians in Judea and Samaria to live regular day-to-day lives. This plan is based on the policy that began under the Rabin government, which strove to confront Palestinian terrorism without abandoning aspirations to a negotiated solution of the conflict.

## **The Settlers' Plan to Maintain the Status Quo**

In light of the escalating confrontation and deteriorating security situation<sup>3</sup>, the Israeli government was forced to respond to pressure from the population within the Green Line to erect a separation fence. A barrier of this sort was consistently avoided by previous governments in order not to detract from Israel's claims in eventual negotiations on permanent borders. Faced with the tangible prospect of a fence, the settler leaders and right

- 
- 1 Approved by the cabinet in two stages – in June 2002 and in October 2003.
  - 2 The Israeli government approved the disengagement plan on June 6, 2004.
  - 3 Nearly 1,000 Israelis have been killed and thousands wounded since October 2000.

wing parties tried to block its approval by the national unity government. They were concerned that the fence would limit – if not determine – the territorial debate and exclude regions that they still hoped to include in the settlement enterprise<sup>4</sup>. They would have the prime minister and the Israeli public hold steadfast, in the belief that the reality being created in portions of Judea and Samaria will determine the political map<sup>5</sup>, and also win subsequent international recognition, as happened with the 1967 borders.

Their assumption is that the lightly populated Jordan Valley, which constitutes Israel's "eastern security region" in the "essential interests map" approved by the Israeli government under former prime minister Binyamin Netanyahu, can remain under Israeli control for the foreseeable future. The settlers therefore seek to strengthen the communities along the Allon Road, which runs on the Jordan Valley-eastern Samaria border southward to Jerusalem, and create a contiguous strip of communities from "parent" settlements in the elevated areas to the Allon Road by erecting dozens of outposts<sup>6</sup>. For example, seventeen outposts are located between Ariel and Mevo Shiloh approaching the Allon Road, six outposts are designed to connect Itamar eastward to the hill range, and fourteen outposts connect Ofra and Beit El to northern Jerusalem (map 1).

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4 This drive fulfills Sharon's call following the Wye Agreement of October 1998 to "seize every hill."

5 The argument rests on facts like the abandonment of Qalqilya by 8,000 Palestinians since the fence was built, and the emigration of 10,000 Palestinians of the educated class with dual citizenship from Ramallah and other West Bank cities.

6 Most were constructed illegally.

In what it regards as a worst-case scenario, this right wing policy envisions the establishment of a Palestinian autonomy or state covering less than 40 percent of the West Bank and Gaza Strip. In what it regards as a best-case scenario, in the current circumstances or following another war, which it regards as unpreventable, the Palestinians will move eastward to the Kingdom of Jordan, where already the majority of the population is Palestinian.

After thirty years of settlement efforts, the demographic reality in most of Judea and Samaria is different from what the settlers expected. The 400,000 Israelis living beyond the Green Line are outnumbered by 2.2 million Palestinians, except in a narrow strip in western Samaria and East Jerusalem<sup>7</sup>. Nor is there any basis for the belief that future international legitimacy will be forthcoming for the expansionist vision or operational plan. Since the adoption of UN Security Council resolution 242 in November 1967, which gave tacit recognition to the State of Israel's sovereignty over 77 percent of the land of Israel west of the Jordan River<sup>8</sup>, there has been no shift in the international position. UN Security Council resolution 338, adopted after the 1973 Yom Kippur War, did not change this attitude. According to the Clinton proposal of December 2000<sup>9</sup>, Israel would annex 3 percent of Judea and Samaria and approve a compensatory territorial exchange, but this proposal was removed from the diplomatic agenda with the end of Clinton's term as president.

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7 See Elisha Efrat, *Geography of Occupation* (Jerusalem: Carmel, 2002).

8 As did the Rhodes agreements of April 1949.

9 "94-96 percent of the area of the West Bank should be allocated for a Palestinian state. The Palestinian side should be compensated for the territory to be annexed to Israel with alternative territory of 1-3%."



**Map 1. Connecting Settlements in Samaria to the Allon Road.**

Most alarming, however, is that continuation of the current situation is liable to harm the Jewish character and democratic regime in the state of Israel. The more time that goes by without a solution, the less practical the idea of two states for two peoples becomes. In a bi-national state, the Palestinians will justifiably demand equal political rights (one man, one vote), and Israel will have to choose between its democratic identity and its Jewish identity.

## The Pitfalls of the Prime Minister's Plan

The prime minister, Deputy Prime Minister Ehud Olmert, who in December 2003 advocated unilateral separation of Israel from the Palestinians, and many others in the Likud have realized the necessity of establishing a Palestinian state and of implementing a solution to the conflict. Prime Minister Sharon, contending that there is no "partner," seeks to orchestrate the process unilaterally, in order to avoid conceding what to him would be an acceptable territorial solution<sup>10</sup>. This approach postpones the solution, at the cost of a painful and unnecessary price for both sides.

The route of the fence, which the prime minister himself has approved, apparently indicates his concept of a territorial solution. Officially the Israeli government is erecting the fence as a defensive measure, to protect itself against terrorism and other crime<sup>11</sup> caused by the economic gap between the two societies<sup>12</sup>, and against illegal residence of Palestinians, which affects the demographic balance within Israel (200,000 Palestinians currently reside illegally on the Israeli side of the Green Line). More than anything else, however, it appears that the Israeli government wishes to use the route of the fence, which

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10 Due to his concern over the imposition of other political solutions (such as the Geneva initiative), Sharon ensured that President Bush clarify in his letter of April 14, 2004, "The United States remains committed to my vision and its implementation, as described in the roadmap. The United States will do its utmost to prevent any attempt by anyone to impose any other plan."

11 Palestinians working without a permit, agriculture-related theft, vehicle theft, drugs, and more.

12 Per capital GDP is \$16,300 in Israel and \$940 in Judea, Samaria, and Gaza (see World Bank Report, 2003).

includes many settlements in Judea and Samaria, to influence the determination of Israel's permanent borders.

The process of classifying territory essentially began with the interim agreement signed in September 1995 between Israel and the Palestine Liberation Organization (PLO), which created three areas in the West Bank: Areas A, B, and C. The built-up area of Palestinian villages and cities was delineated as areas A and B. Most Palestinian agricultural land was not included in these areas, particularly in areas defined within the interests of Israel in a permanent settlement: western Samaria and Judea, the Jordan Valley, and the area surrounding Jerusalem. The fence demarcation reflects this approach, but the fact of the physical barrier creates a different reality than mere categorization of territorial areas.

The Ministry of Defense website lists ten principles according to which the demarcation was to be determined<sup>13</sup>. The principles are appropriate, but the route was actually determined primarily by two interests. One, as listed, was to "avoid including Palestinians on the west side of the barrier." The other governing interest, "include a maximum number of Israelis and a maximum amount of area on the west side of the barrier," is not officially listed, but is perhaps implied by the fifth principle: "Consideration of the lives of the population along the seam line, and the aspirations of the Palestinian and Israeli population."

An effort was made to enable the Palestinian population to continue working their lands, through agricultural gates and a regime of institutionalized permits along the length of the separation fence.

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13 See <http://www.seamzone.mod.gov.il/Pages/Heb/tvai.htm>

It was promised that land appropriated under military order would be returned to its owners when it was no longer needed for the security fence<sup>14</sup>. The Supreme Court, however, ruled on a petition regarding the area northwest of Jerusalem that this solution does not give suitable weight to the damage that the route actually causes the Palestinians<sup>15</sup>. Only the latter interest, therefore, can explain the fence demarcation, which is routed around areas A and B wherever possible, leaving Palestinian land on the western side of the fence with the settlements<sup>16</sup> or without them<sup>17</sup> – without any sufficient security justification (map 2).

Does this fence route resolve the security, economic, and demographic threats, or does it aggravate them? The data on the fence demarcation indicates that nearly 400,000 Palestinians live between the Green Line and the fence route that has been approved<sup>18</sup>. This number does not contribute to preservation of the demographic balance, even if citizenship status does not change in the coming years. To this number must be added two groups comprising 200,000 Palestinians.

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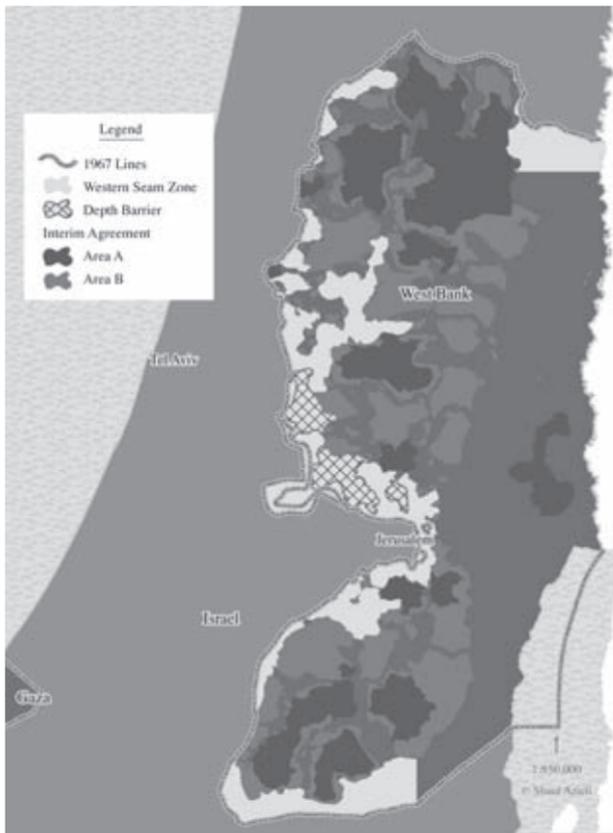
14 Implementation of the gates solution failed for Druze-owned land in the Golan Heights, as well as in the settlements that include within their boundaries privately owned Palestinian land, which the owners are legally entitled to work.

15 Supreme Court Ruling 2056/4.

16 For example, the Jus a-Ras area, and the Tzofin and Sal'it settlements.

17 For example, the Bak'a al-Sharkiya area, which has been revised, or the Barta'a and Zeita areas.

18 This number includes the 186,000 Palestinian residents of East Jerusalem and the 112,000 Palestinians living between the main separation fence and a proposed eastern fence in the Nili, Na'aleh, and Highway 443 area. Due to the changes planned in the fence route, this number may change.



**Map 2. The Western "Seam" Zone**

The first group is those whom the fence will surround in every direction, except for a single access road. These people will be cut off from much of their land, their wells, and reasonable access to key Palestinian cities. The second group is those who will be separated from their land, which will remain on the western side of the barrier<sup>19</sup>.

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19 For example, see Qalkikya, Batir, Husen, Rafet, A-Zavia, Havla, Jeus, and other towns.

These two populations, which are mostly rural, are becoming poorer and needier. This situation will increase the pressure to get work in Israel, to commit agricultural theft, to resort to crime of various kinds, and to reside illegally in Israel in Arab villages and mixed-population cities, especially Jerusalem, for long periods. It is also likely that these populations, which are directly affected by the construction of the fence, will increase their support for terrorist operations, and perhaps even assume active terrorism roles themselves.

Annexing the western seam zone is a central component of the prime minister's map, as it has been, in government plans, since 1995. To this should be added annexation of the Ma'ale Adumim area, Kiryat Arba, and the Jewish community in Hebron<sup>20</sup>, and the "eastern security zone," although there are signs that this zone is regarded as less necessary in terms of territorial annexation; it is eyed mainly as bargaining material in future negotiations<sup>21</sup>. Not surprisingly, the map resulting from connecting all these zones resembles the map that Israel presented to the Palestinians at the Camp David summit in July 2000. This obvious resemblance disproves the claim that the fence route is motivated solely by security and does not pretend to be a future political border.

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20 As Sharon announced in his Passover 2004 speech before leaving for his meeting with US President George Bush.

21 In this concept, Sharon has adopted the attitude of former Minister of Foreign Affairs Shlomo Ben-Ami, who persuaded Barak, regarding the permanent settlement, to focus on the western border, at the expense of the eastern border. Shlomo Ben-Ami, *A Front Without a Rear* (Tel Aviv: Maskel, 2004), chapter 4.

This policy of designing reality<sup>22</sup> and imposing it through the fence, even if much more modest in proportion than the aspirations of the leaders of the Jewish communities in Judea, Samaria, and the Gaza Strip, will eventually require international legitimacy. This legitimacy, however, was granted to Israel only when it demonstrated its military supremacy in defensive wars, at a time when the Arab world, including the Palestinians, refused to become a partner in dividing the land and accepting the State of Israel as a legitimate entity of the Middle East. This situation changed after the Arab countries accepted UN Security Council resolution 242. Thus, when Israel signed peace agreements with Egypt and Jordan, in 1979 and 1994, respectively, it in effect accepted the interpretation that the "withdrawal of Israeli armed forces from territories occupied in the recent conflict" means evacuating all territories occupied in 1967.

Against this background, it is easy to understand why the prime minister persists in refusing to accept the Palestinian leadership as "partners," including former Palestinian prime minister Abu Mazen and his successor, Abu Ala, who were appointed as a result of pressure by Israel. There is no point in talking of an attempt to foster and strengthen a moderate leadership, because such a possibility would deprive Israel's unilateral measures of legitimacy. Prime Minister Sharon believes that legitimization of his measures will come from the current US administration, since most countries in the world embrace the accepted territorial interpretation of resolution 242. Like Menachem Begin, who sought to guarantee the continuation of Israeli rule in Judea and

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22 On designing reality, see Shaul Arieli, "Coordinating with a Disappointed Populace," *Ofakim Hadashim*, July 2003, pp. 8-9.

Samaria by signing a peace agreement with Egypt and giving up the entire Sinai, Sharon is attempting to obtain US recognition of the future annexation of the western seam zone and other areas listed above in return for the dismantling of seventeen Jewish communities in the Gaza Strip and four in northern Samaria through a plan he calls "disengagement."<sup>23</sup>

Perusal of the disengagement plan shows that in addition to the evacuation of 7,500 Jews now residing among 1.3 million Palestinians and holding 17 percent of the land in the Gaza Strip, the absence of any "partner" will prompt Israel to continue its effective control of the Gaza Strip. Israel will control the airspace, territorial waters, fishing areas, crossings into Egypt, the border with Egypt, and the passage of goods. Israel will also supply electricity, water, and other services. Implicit is that Israel will bar any link connecting the Gaza Strip with Judea and Samaria, and will also conduct Israel Defense Forces (IDF) operations of varying intensity against the terrorist organizations.<sup>24</sup>

Despite the various interpretations given of Bush's letter to Sharon, even the Americans, who wish to restart the diplomatic process, are supporting the prime minister's measures only in the short term. They are aligning their position with that of Europe, and giving an obscure commitment regarding the territorial issue in a

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23 The name may be replaced and the plan may become more measured, but it will remain in essence a unilateral step, similar to the gradual withdrawal from Lebanon in 1983, 1985, and 2000, from which no peace treaty emerged, due to Israel's refusal to withdraw from the Golan Heights.

24 These operations are liable to exact a painful price in blood from the IDF.

permanent settlement<sup>25</sup>. There is nothing new in Bush's declaration that Jewish settlement blocs will remain under Israeli sovereignty, because the Palestinians already agreed to this in July 2000 at the Camp David summit. The dispute is over the borders of the blocs.

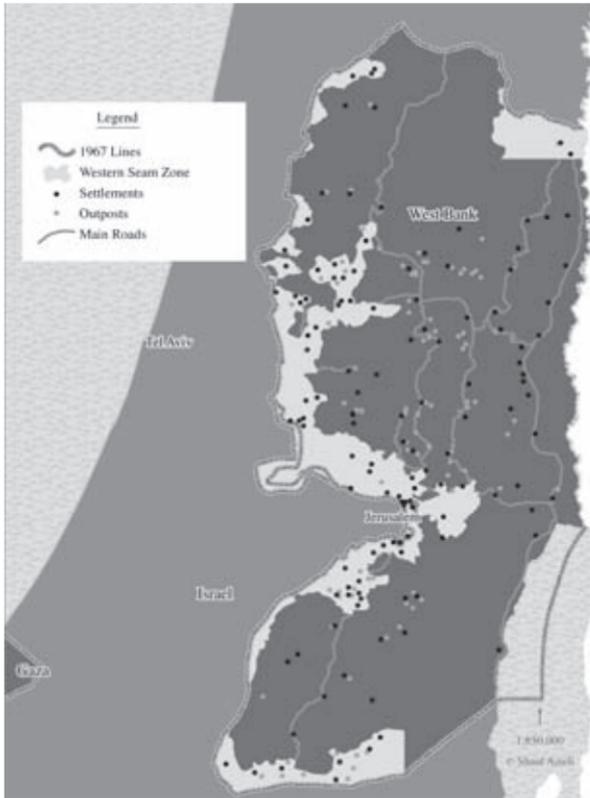
The picture emerging from Sharon's basic plan concerning the future of the Palestinian state is quite clear: Israel will annex 20 percent of Judea and Samaria, and will have 82 percent of the western land of Israel, which will house 5.3 million Jews and 1.3 million Arabs. The remaining 80 percent of Judea, Samaria, and the Gaza Strip (18 percent of historical Palestine) will house 3.5 million Palestinians, who will have to absorb hundreds of thousands of refugees in the state of Palestine. It is obvious that no significant Palestinian leader will agree to such a plan after Yasir Arafat, who agreed in 1993, in opposition to most of the Palestinian leadership, to accept 23 percent of Palestine, refused Barak's suggestion at Camp David that Israel annex "only" 13 percent of the West Bank.

Not only has the prime minister's plan no chance of being accepted by the Palestinians as a permanent solution; it will also force the two peoples to continue existing in a state of "non- partnership" and non-disengagement from Judea and Samaria for a long period. Implementing the disengagement plan and completing the western seam zone according to its current design will enable

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25 "It is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949, and all previous efforts to negotiate a two-state solution have reached the same conclusion. It is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities," Bush's April 14, 2004 letter to Sharon.

the Israeli government<sup>26</sup> to withdraw the IDF and remove Jews from the Gaza Strip, but will leave fifty-eight Jewish settlements, dozens of illegal outposts, and dozens of the security forces installations and bases east of the fence. The settlers will continue traveling on more than 700 kilometers of main traffic roads, which the Palestinians are forbidden to use (map 3).



**Map 3. Settlements and Roads East of the Fence**

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26 As the prime minister promised Minister of Finance Binyamin Netanyahu and other ministers.

What about violence and terrorism? They will be diverted in the short term from Israel, which will be protected by the western fence, to Jewish settlements and illegal outposts. The security forces will have to bear an extra heavy burden – guarding 700 kilometers of the fence; guarding the Jewish settlements, dozens of outposts, and 700 kilometers of roads east of the fence; and preventing terrorist operations. As if that were not enough, the Israeli government must hope that the Palestinian Authority does not completely collapse or fall apart, which would force Israel to re-establish the civilian administration and care for 3.5 million Palestinians.

In short, the prime minister's plan, based on the ostensible assumption that Israel has no "partner," on the intention of establishing facts on the ground that will later gain international legitimacy, is liable to escalate the conflict in every aspect that it seeks to address: demographic, since 400,000 Palestinians will be left between the fence and the Green Line; economic, since an additional 200,000 Palestinians will become dependent on a regime of permits in order to farm their land; security, because the affected population will be incited and the Palestinians will conclude that only terrorism on the model of Hizbollah in Lebanon and Hamas in the Gaza Strip will bring about a Palestinian state; and political, since Israel's standing will continue to erode when the consequences of the prime minister's full plan become clear. Is the slight chance of annexing another small part of the western land of Israel, in addition to the areas already agreed on previously, worth this price?

It appears that most players in the international community, as well as pragmatic parties on both sides, realize that an agreement on the end of the conflict is possible, if based on the principles of Security Council resolution 242: (1) a solution to the problem of

refugees that does not involve their return to Israel; (2) an Israeli withdrawal to the 1967 borders with mutual border adjustments; (3) establishing Jerusalem as the capital of two states; and (4) a cession of violence and terrorism. The road inevitably leads in the end to an agreement based on these four principles, and it is therefore necessary to present a different mode of managing the conflict, which will lead the parties to the same objective, without an added painful and unnecessary price over what was paid in recent years.

## **The Proposed Alternative**

The proposed alternative rests on three pillars. The first is the removal of settlers and IDF bases from the Gaza Strip and northern Samaria, which is likely to strengthen the moderate Palestinian "partner" – if the area is transferred to its control – and jumpstart the roadmap, which has been accepted by the Quartet and the international community and which both sides have accepted in principle. The second is the construction of the fence along a different route. The third consists of measures aimed at creating conditions for reaching and implementing an agreement with international support.

Even under the pessimistic assumption that there is no "partner" for a permanent agreement at the present time, achieving Israel's strategic objective – an agreement ending the conflict – requires the strengthening, even the creating, of a moderate party that regards the four above-mentioned principles of resolution 242 as a basis for a permanent agreement. The possible Palestinian "partner" at the present time is apparently still the PLO<sup>27</sup>. This organization is the only Palestinian organization that has accepted resolution 242

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27 In the future, it may also include pragmatic elements in Hamas.

and the idea of two states for two peoples<sup>28</sup>. If Arafat is considered to lack credibility and to be someone who cannot or does not want to end the conflict, Prime Minister Abu Ala or other moderate elements with personal power bases can be strengthened.

This plan undertakes to create a regular pattern of give and take, while giving the other side a feeling of success at every stage, in order to achieve the defined objectives. The Israelis and Palestinians will exchange assets according to parameters to be agreed, which will reinforce a basis of common interests and foster trust in the entire process. Moving the process forward and ensuring its durability in the face of terrorist organizations and extremists in both camps depends on the realization by both sides that a permanent settlement must be based on accepting the four above-mentioned principles. Without this realization, the parties will repeat the process that caused the Oslo process to collapse.

The evacuation of the Gaza Strip and northern Samaria<sup>29</sup> should be accompanied by complementary measures, some conditional, designed to create the infrastructure for a Palestinian state, while preserving the interests of the state of Israel. Israel, the stronger and more organized of the two sides, will freeze construction in all Jewish communities in Judea and Samaria, as the prime minister promised the US president, prevent the construction of illegal outposts, and dismantle those that have already been built.

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28 At the Algiers conference in 1988, approved in the amendment of the Palestinian National Covenant by the Palestinian Legislative Council in April 1996, and at the Palestinian Legislative Council conference with Clinton in Gaza in December 1998.

29 Removing six Jewish communities: Ganim, Kadim, Sa-nor, Humash, Mevo Dotan, and Hermesh.

Depending upon Palestinian actions, Israel will permit transit between the Gaza Strip and the West Bank, under a rigorous "safe passage" procedure, and allow the Palestinians to begin construction of a seaport. This project will create 30,000 jobs in the Gaza Strip, cause a boom in stone quarrying on southern Mt. Hebron, heighten the demand for cement produced in Israel, and boost Israeli and Palestinian transport. Israel will reopen the fishing area in the Gaza Strip, which will provide a living for thousands of fishermen, and permit operation of the Dahania airport, according to the 1998 security protocol. At the same time, during this year, the Palestinians will carry out the reform program, headed by the transfer of power centers from Arafat's exclusive control to the Palestinian government,<sup>30</sup> and will implement the security plan drawn up with Israel, Britain, and the United States. Israel will reserve the right to continue fighting terrorist organizations, and will do so, according to circumstances.

Construction of the fence in Judea and Samaria will accompany the process, continue independently of the Palestinians, and be based on the following parameters: the settlement blocs near the Green Line that can be connected to Israel without harming the Palestinians' day-to-day life will be included within the fence; other blocs will be protected within a defensive space; and the rest of the fence will follow the Green Line.

A comparison of the demarcation approved by the government with the proposed demarcation (map 4 and table 1) shows that almost the same number of Israelis will be west of the fence, but

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30 Consolidation and control of the security apparatuses, transparency and control of the budget, and approval of negotiating positions.

the proposed route includes just over a quarter of the area proposed by the government decision. Approximately 30,000 Palestinians<sup>31</sup> are in this area between the fence and the Green Line, and the route does not harm other Palestinians by separating them from their land, infrastructure, wells, and roads to major Palestinian cities.

The Supreme Court ruling against the fence route being constructed northwest of Jerusalem is designed to guide the security forces in determining criteria for changes to both the current and future fence route. Proper implementation of the ruling depends on the security forces adhering in practice and not just in theory to the ten principles that the defense establishment outlined for planning the route. The three parameters have governed the alternative proposal for the fence route presented here, and the Supreme Court twice referred the security forces to this route. Commenting on the recently-banned demarcation, it noted, "this damage is disproportionate. It can be reduced substantially by an alternate route....Such an alternate route exists. It is not a figment of the imagination. It has been presented to us,"<sup>32</sup> and later, "The proposals by the experts of the Council for Peace and Security, whose security expertise is acceptable to the military command, are worthy of consideration."<sup>33</sup> Adopting this route will not change the decision of the International Court of Justice at the Hague, which ruled that the entire fence on the West Bank should be dismantled, but it can certainly be accepted as a temporary security route, as part of the comprehensive plan for promoting a settlement proposed here.

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31 This number represents East Jerusalem residents.

32 Supreme Court Ruling, 2056/4, p. 33.

33 Ibid, p. 36.



**Map 4. The Alternative Proposal for the Fence Route**

**Table 1 | Comparative Data on the Government Route and the Proposed Alternative**

Parameter	The Government Route			Proposed Route		
	Approved government route	Ma'ale Adumim and Kiryat Arba (estimate)	Eastern security zone (estimate)	Proposed alternative route (including Ma'ale Adumim)	Ariel, Immanuel, Karnei Shomron as a separate bloc	Eastern security zone (excluding a fence)
Length	686 km	80 km	200 km	508 km	52 km	150 km
Area	904 km <sup>2</sup>	150 km <sup>2</sup>	1,700 km <sup>2</sup>	266 km <sup>2</sup>	62 km <sup>2</sup>	812 km <sup>2</sup>
Israelis	316,000	38,000	12,000	301,000	29,000	7,500
Palestinians	389,000	10,000	14,500	31,000	0	6,500

The comparison in table 1 shows that in three aspects – security, economics, and demographics – this proposal has an obvious advantage, as follows:

- Security – The shorter fence route and the drastic reduction in the number of agricultural gates will greatly reduce the number of soldiers required to maintain the seam zone. Not separating Palestinians from their land will reduce their motivation to seek revenge. Avoiding damage to day-to-day life on the traffic routes between Palestinian communities; in commercial and economic centers, especially in East Jerusalem; and to their ability to obtain services provided by the Palestinian Authority will diminish the points of friction between the IDF and the Palestinian population. The presence of most of the Palestinians on the other side of the fence will lower the number of special operations by the IDF, the police, and the General Security Services needed to prevent uncontrolled entry into Israel.
- Economics – Avoiding a separation between the Palestinians and their lands and wells, avoiding damage to thousands of olive and other trees, keeping traffic routes open for the Palestinians, and refraining from cutting off East Jerusalem from the rest of the Palestinian population in Judea and Samaria will make possible continued Palestinian activity at both the community and municipal level.
- Demographics – The Palestinian population west of the barrier will have a much higher standard of living, due to its access to labor and commerce in Israel. This is likely to provide an incentive for illegal immigration of Palestinians from Judea and Samaria. Freezing the situation and recognizing the borders of

the western buffer zone in the context of a permanent settlement is liable to harm the State of Israel's demographic balance.

Adopting the proposed plan means that even in case of an undesirable suspension of the process at this stage, the two sides will be in a more constructive dynamic to continue after Israel evacuates the Gaza Strip under an agreement with moderate and middle-of-the-road Palestinians. The fence in Judea and Samaria will be constructed on a more modest route, which will provide an appropriate answer to threats but keep damage to the Palestinian population to a minimum. The international community will be a partner in, and witness to, the effort to reach a fair solution to the conflict. The Palestinians will control the entire Gaza Strip, which will facilitate economic activity, and might also attract foreign investment.

This alternative can be developed in two directions. One, which is less preferable, is to endorse the second stage of the roadmap, and establish a Palestinian state with temporary borders. Israel would continue to dismantle isolated Jewish communities east of the fence and preserve its control of the area west of it and of the Ariel-Immanuel-Karnei Shomron bloc. Israel will also retain control of a limited area in the Jordan Valley, based solely on Highway 90, the north-south road that runs through the Jordan Valley near the Jordanian border (map 4). During this period, the Palestinians will continue building the institutional, physical, and security infrastructures of the state in formation. The two sides and the international community will prepare the organizational and physical foundation for the cooperation necessary for managing two municipalities in Jerusalem, solving the refugee problem, absorbing Israelis forced out of Judea and Samaria, and connecting Gaza with the West Bank. The second and preferred option is to begin gradual implementation of a

permanent agreement achieved through negotiations between the parties. As such, all the activity described above will probably be part of a general plan for implementing a permanent solution.

In conclusion, the proposed plan requires large scale international involvement, and the effort and optimism of all the parties involved. It appears, however, that above all, pressure by the two societies, Israeli and Palestinian, on their leaderships to find a way out of the useless cycle of blood that the extremists on both sides are seeking to perpetuate will have the most significant effect on continuation of the process.<sup>34</sup> The price that the two societies have paid and continue to pay, while deriving no benefit whatsoever from it and without changing the basic problem facing them, will continue to constitute a motivating factor to persist in outspokenness and political pressure.

The State of Israel should draw the optimal point for its future according to the geographic, demographic, and democratic aspects on the 1967 borders, with border adjustments acceptable to the Palestinians in Jerusalem and western Samaria. This decision will renew the strategic choice made by David Ben Gurion: "The IDF can conquer all the territory between the Jordan River and the sea. What country can we have, however, assuming that there are elections, and Deir Yassin is not our policy? We will have a Knesset with an Arab majority. Between the completeness of the land and a Jewish state, we have chosen a Jewish state."<sup>35</sup>

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34 For example, the demonstration with 150,000 participants on May 15 in Rabin Square in Tel Aviv, and the letter by 70 Palestinian intellectuals, administrators, and academics condemning the violence.

35 Knesset speech, Volume 1, April 4, 1949.

**Chapter 3**  
**The Seperation**  
**Fence**

# Contents

page

<b>1. Who'll want to drive on Route 443?</b> [Haaretz   27/05/2010]	323
<b>2. A Wall of Folly</b> [Van Lees Institute   05/09/2010]	326
<b>③. Remember the separation fence?</b> [Haaretz   29/03/2009]	361
<b>4. Bil'in, A Story for Us All</b> [Ynet   22/07/2008]	364
<b>5. Dishonesty hurts us</b> [Ynet   01/08/2007]	368
<b>6. Reworking the Route of the Barrier</b> [Middle East Progress   07/09/2007]	371
<b>7. Fences going every which Way</b> [Maariv   14/12/2005]	376
<b>8. The Distance between the Fence and a Permanent Status Agreement</b> [Haaretz   13/03/2005]	380

# 1 | Who'll want to drive on Route 443?

As of tomorrow, Palestinians will be allowed to make limited and monitored use of Route 443, which connects Modi'in and Jerusalem through the West Bank. This development follows the Supreme Court ruling last December that ordered the army to lift its ban on Palestinian traffic on the road. Public debate has centered on this aspect of the matter, ignoring the road's role in Israel's policies on the area surrounding Jerusalem.

It's clear that Israeli defense officials have learned nothing from the construction of the separation fence, judging by the way they have set out to implement the Supreme Court ruling: putting up, at a huge expense, fences and crossing points. They are merely repeating the errors pointed out in the 2007 Brodet Report on the defense budget, which found that "the manner in which the fence was erected is another example of faulty and wasteful planning and execution .... The military saw itself as a subcontractor carrying out orders to build a fence."

Today, too, the military is remaining loyal to a political plan based on considerations that have nothing to do with security, thereby making a mockery of both the spirit of the Supreme Court ruling and of any potentially positive movements on the political horizon.

The security needs that arose from terrorist attacks on Route 443 have been met by the separation fence, which was built near the Green Line but took in nearby Jewish West Bank settlements. Israel did not seek to secure Route 443 according to the same security model as has been applied to the West Bank's other roads. Instead, it saw the road as a way to determine the permanent borders of a new "Jerusalem corridor."

This was to be achieved by a web of security measures to exclude Palestinian vehicles from the road and the takeover of areas for expanding Jewish settlements, mainly Givat Ze'ev. A 15-kilometer stretch of the fence that was built in the outskirts of Ramallah and three kilometers north of Route 443 annexed thousands of acres of land to Givat Ze'ev. It left five kilometers of the road on "the Israeli side." Israel chose to bar Palestinians from using the road - first by physical obstacles and later by military order - to avoid having to make the tens of thousands of Israeli vehicles that use the road go through intensive security checks.

Israel also wanted to avoid the trouble of putting up a crossing point that would have been necessary at the fence at Beit Horon, and of expanding the existing crossing points where the road enters Israel proper. This made it necessary for the Defense Ministry to build 22 kilometers of roads, as well as a 1.4-kilometer-long tunnel, for Palestinian use. Two of these roads pass underneath Route 443 and another runs east of Givat Ze'ev.

The Supreme Court ruled that in principle it was not possible to repudiate the road's original purpose, as affirmed by the Defense Ministry in explaining the confiscation of lands for building the road in the 1980s - namely connecting the villages along it to

the Palestinian town of Bitunia, which abuts Ramallah. But the permission the ministry received in the ruling voids of content the decision to return Palestinian traffic to Route 443. It basically turns it into a dead letter.

The Supreme Court made it possible, and the Defense Ministry has chosen to remain loyal to the political purpose and not the ruling's purpose. Instead of moving the barrier to exclude the five kilometers of road, it has spent tens of millions of shekels to build two new checkpoints at the entrances to Route 443 and a crossing next to Camp Ofer - all in the name of security.

What does the Defense Ministry think will make Palestinians use Route 443 when it demands an additional security check after which they will encounter a barrier preventing them from continuing on to Ramallah?

Israel has shown political shortsightedness, too. In a permanent agreement with the Palestinians, Route 443 could be used by Israeli traffic under special arrangements. However, instead of using the Supreme Court ruling as a platform for shaping a reality of joint use, Israel has chosen to add an additional security installation to the security fence with the aim of grabbing everything. But the chances are greater that we'll be left with nothing.

## 2 | A Wall of Folly

### **‘The war’ the IDF is waging via ‘the seam zone’<sup>1</sup>**

"War is the continuation of policy by other means" is one of the famous sayings of Clausewitz. The separation fence built in the West Bank during the past seven years undoubtedly serves as part of "a seam zone plan designed as a component in fighting Palestinian terror..."<sup>2</sup>, but is the war on terror the only war in which the separation fence serves as a component for implementing policy? We will seek to address this and other questions pertaining to the separation fence. Which policy is actually being implemented in building the fence? Which policy is being pursued via the planned route of the fence? And the main focus of this paper: How is the IDF waging this battle? What is the professional and ethical price the IDF must pay for it?

### **The policy: ‘We are here and they are there’**

The "seam zone" is a unique Israeli demarcation of a strip of land extending over several hundred square kilometers, east of the Green Line. It is bounded by a fence, separated physically and legally from the other parts of the West Bank. It is all only another stage in the history of the Israeli-Palestinian conflict and an expression of the political policy of recent Israeli governments

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1 A lecture delivered in January 2010 at the Van Leer Institute in the framework of Dr. Amiram Oren's workshop "Space and Security." The article will appear in a collection published by the institute.

2 The Ministry of Defense's seam zone website:  
[www.seamzone.mod.gov.il](http://www.seamzone.mod.gov.il)

in regard to its territorial component.

The fence – built due to the security threat against the everyday lives of the residents of Israel, engendered by the second intifada that erupted in late 2000– expressed the understanding in Israeli society that the dream of Greater Israel had shattered against the Palestinian "iron wall" of the past two decades – primarily for demographic reasons, but also due to the armed struggle, including terror. The personal security of Israel's residents and the low price Israel paid during the first two decades of its control of the territories (Swirsky, 2005), helped to maintain ambiguity regarding the political future of these territories and allowed Israel to avoid establishing physical facts that could be perceived as its political stance vis-à-vis its borders. The first and second intifadas dramatically changed the cost-benefit considerations and gave rise to the idea of physical separation as part of Israel's political separation from the territories. Thus, Yitzhak Rabin, as prime minister, said that he "regards the separation issue as a central topic" (Benn 1995). Similarly, Ehud Barak saw separation as "a supreme national need of demography, identity and Israeli democracy" and coined the concept of "we are here and they are there" (Edelist 2003, 442). Just before Ariel Sharon replaced him as prime minister, Barak stated: "Ultimately, the only path for Israel is separation from the Palestinians – if possible via an accord, and if this turns out to be impossible, then via a measured and proportional security separation initiative."<sup>3</sup> Sharon clearly expressed the departure from the path he had championed for years: "I believed and hoped that we would be able to hold on forever ... but the changing reality in the country, in the region and in the world required me

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3 Knesset Records, February, 14, 2001.

to adopt a different assessment and changes in positions.”<sup>4</sup> Those who opposed the construction of the fence also recognized its political significance and believed that it would set the boundary for a terrorist state that would arise on the other side of the fence.

The chief of staff at the time, Shaul Mofaz, and his deputy and successor, Moshe Ya'alon, opposed the construction of the fence. They ignored the political objective of building a fence, or at least acted in this way, and contested its security aspect. They saw it as a sign of defeatism and military passivism, especially in light of the unilateral withdrawal from Lebanon in May 2000. In their view, the fence was a defensive barrier, something that establishes a routine, with regular patrols, and invites the enemy to take the initiative and to be aggressive. They warned that the Palestinians would simply not allow Israel to build the fence: The Palestinians, they argued, would intensify the terror attacks, steal the construction materials and dig tunnels under the fence into Israel. We would build the fence during the day and fight for it at night, and would not solve a thing, said Mofaz, the chief of staff (Drucker and Shelah 2005, 262). But the sad economic and security reality of mid-2002 led Sharon, whose popularity had plummeted in public opinion surveys during that time, to rule in favor of constructing the fence and he instructed the defense establishment and the IDF to build it.

The political echelon imposed the construction of the fence on the IDF, which did not want it. And, despite the decision of the political echelon, the IDF continued to act in accordance with its original position. According to the May 2007 report of the Brodet Committee (which studied the defense budget after the Second

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4 Speech by Prime Minister Sharon, August 15, 2005, website of the Prime Minister's Office.

Lebanon War): “The army regarded itself as a subcontractor fulfilling instructions to build a fence ... The army did not see the fence as its project.” That is, despite the enormous security significance and ramifications the construction of the fence entailed, Chief of Staff Mofaz, as well as his successors Ya'alon and Halutz, refrained from devoting the requisite professional commitment to it. The repercussions of this conduct were severe, as elaborated in the Brodet Report.

The way in which the fence was built is another example of flawed and wasteful thinking and conduct. The committee was not convinced that in-depth study had been invested in the process of constructing the fence or that all of its security and economic aspects had been taken into consideration. The committee did not see any cost-benefit analysis and comprehensive study. No discussion was conducted about this.

## **The goal of the route: Permanent borders between Israel and Palestine**

The policy regarding the path of the fence is already a more complex story. It was Tsipi Livni, serving as minister of justice, who expressed this in the clearest way when she said that the separation fence would constitute "the future border of the State of Israel," and that "the High Court is drawing the borders of the state via its rulings on the fence." (Yoaz 2005).<sup>5</sup> Barak too, when serving as minister of defense in the government of Ehud Olmert, noted that "when we build a fence it is clear that there are areas that are beyond the fence, and it is clear that in the permanent accord ... these areas that are beyond the fence will not be part of the State of

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5 The article quotes the vice president of the Supreme Court, Mishael Cheshin, as saying: "That is not what you argued in court."

Israel."<sup>6</sup> Prime Minister Sharon, the father of the route, claimed in regard to the objective of the fence route that "... the Palestinians should have understood that what they did not receive today, it might be impossible to give to them tomorrow" (Bahur-Nir 2003). He also emphasized that "the demographic consideration played an important role in determining the route of the separation fence due to the fear of annexing hundreds of thousands of Palestinians who would join the Arabs of Israel" (Verter and Benn 2005). Olmert, his successor, could only reiterate: "The direction is clear; we are moving toward separation from the Palestinians, toward the demarcation of a permanent border of Israel."<sup>7</sup> That is, the route of the fence has clear political objectives in regard to the permanent borders between the State of Israel and Palestine – annexation of the areas beyond the Green Line where most of the Israelis live, while maintaining the existing demographic proportion between Jews and non-Jews. The opponents of territorial compromise – the leaders of the right-wing parties and the Yesha Council, who sought to move the fence as far eastward as possible from the Green Line – also admitted that in their fight over the fence route, "We tried to undermine the plan to build the fence on the Green Line, but if we are honest with ourselves, we did not disrupt this route to the extent of undermining the ability to establish a Palestinian state" (Shragai 2003).

The political echelon, in cabinet votes, decided on the route of the fence, which ranged deeply into the territory of the West Bank (considered occupied territory). However, the IDF (assisted by the High Court Petitions Department of the State Prosecutor's Office) was forced to undertake the work of defending this

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6 Interview with Army Radio. December 4, 2007.

7 In an interview on the "Mishal Kham" program on Israel's Channel Two, February 7, 2006.

political route in the High Court petitions submitted against it. Only the IDF, which represents all of the government authorities in the occupied territory, is permitted (under the laws of occupation) to violate the basic rights of the Palestinian residents – by defining the fence "as an essential security need" and by issuing temporary "expropriation orders" for land required for building the fence. The government sufficed with Sharon's letter to President Bush in which he declared that "... the fence is a security barrier and not a political one, temporary and not permanent, and thus will not affect the issues of the permanent accord, including the definition of final borders."<sup>8</sup>

The IDF could not choose to act as the National Security Council did. According to the State Comptroller's report in 2003, the NSC, headed by Major General Uzi Dayan, "should have filled this role [of a coordinating body with authorities and responsibilities, S. A.], but stopped coordinating the [seam zone, S.A.] plan on its own initiative, contrary to the rules of sound administration and without receiving government approval for this." The IDF recognized the advantages and duties of being the most important and dominant staff organization for the Israeli government on issues of security and foreign affairs. It was forced to reluctantly accept the prime minister's decision. The defense establishment's initial plan in regard to the route, which was based on previous studies it had conducted, set a security line adjacent to the Green Line. When Sharon started to move the fence eastward and to reject the proposals for the line that were submitted by GOC Central Command Yitzhak Eitan, an argument developed between the prime minister and the deputy

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8 Prime Minister Sharon's letter to President Bush, published in *Haaretz*, April 15, 2004.

chief of staff at the time, Major General Gabi Ashkenazi. Sharon supported pushing the fence eastward, while Ashkenazi – who believed that the route should include "the maximum number of Israelis and zero Palestinians" – sought to move the route westward (Drucker and Shelah 2005, 267-270).

The IDF's inability to avoid engaging in this matter led it into a situation that the scholars Moshe Lissak and Yoram Peri had warned against a decade earlier: The IDF cannot act in the Palestinian territories based on Israel's classic security doctrines. During wartime, the IDF knows how to act solely according to military considerations. But in the intifada, it cannot detach itself from political and ideological considerations. For this reason, the IDF finds itself in confrontations with central political figures and with the settlers. Lissak warned about a tangible danger of politicization of the military system, which could undercut the foundations of public support for the IDF's high command, both on the right and on the left (Lissak 1990).

Yoram Peri argued that because the intifada is a war with a political character, the IDF must develop a political military doctrine that ultimately violates the army's political neutrality (Peri 1990). It seems that some of the senior IDF officers whose areas of responsibility included the question of the fence route chose to avoid an open confrontation with the political echelon and not to persist in their professional assessments. The IDF did not fight for its professional view and in many cases subordinated it to political considerations that are unrelated to security. First, the IDF was mobilized to defend the fence route, which served as a component in the "battle" to implement a policy that was essentially political rather than security-based, as the High Court explained:

In regard to the authority of the military commander to build the security fence in the area, it was determined in accordance with the laws of belligerent occupation that the military commander is entitled to order, based upon military considerations, the construction of a separation fence in the area of Judea and Samaria ... This authority arises only when the fundamental reason for building the fence is a security-military one. The military commander is not authorized to order the construction of a security fence if the reasons for it are political. The security fence cannot derive from motives of annexing land from the area to the State of Israel. The objective of the separation fence cannot be the demarcation of a political border.<sup>9</sup>

Secondly, the IDF failed in its professional obligation and in its integrity. In some cases, it sacrificed security needs on the altar of internal political considerations. Thus, for example, Supreme Court President Beinisch ruled in the Bil'in-Modi'in Ilit case:

It seems that in light of the desire to ensure the construction of the eastern neighborhood in the future, the fence route was drawn in a place that has no security advantage. The current route of the fence also raises questions pertaining to the security advantage it offers. It is clear that the route mainly traverses territory that is topographically inferior, both *vis-à-vis* Modi'in Ilit and *vis-à-vis* Bil'in. It leaves a number of hills on the Palestinian side and two hills on the Israeli side. It endangers the forces patrolling along the route. Against the background of the security outlook presented to us in many other cases, according to which there is security importance in building the fence in topographically dominant areas, the existing route raises questions. In general, in

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9 HCJ 2056/04 Village Council of Beit Surik et al. v. Government of Israel et al., PD 58 (5) 807

many cases of planning the fence route, the military commander presents the occupation of dominant hills as a significant security advantage, while in the case before us a route was drawn that is at least partly located in inferior territory in relation to the hills.<sup>10</sup>

Peri goes on to warn against the creation of tension between the IDF and the legal system resulting from the difficulty in defining rules of conduct permitted in the framework of a war against a popular uprising. He also warns of deterioration in the IDF's culture of reporting. All of this ultimately came to pass in full severity. Thus, for example, Supreme Court President Barak stated in the Tzofin East case:

In the petition before us, a severe phenomenon became apparent: In the initial petition, the full picture was not presented to the Supreme Court. The court rejected the first petition based on information that was substantiated only in part [...] The petition before us describes an incident that is unacceptable and, according to it, the information provided to the court did not reflect the complete considerations that stood before the decision makers [...] We hope this will not happen again.<sup>11</sup>

This conduct ultimately hurt the IDF, as stated by the authors of the Brodet Report:

The army saw itself as a subcontractor following instructions to build a fence, without clarifying for itself the significance of the expense and the cost of maintenance, which will reach hundreds of millions of shekels annually. The army ... is not internalizing

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10 H CJ 8414/05 Ahmed Isa Abdallah Yasin, Head of Bil'in Village Council v. Government of Israel and Military Commander in the West Bank.

11 H CJ 2732/05 Head of Azoun Municipal Council v. Commander of IDF Forces in the West Bank, Takdim Elyon 2006 (2), 3672.

that such a large expenditure will also have an impact on its own budget.

## **Managing 'the war'**

This section will describe and analyze the IDF's management of the "war" via the fence route and other elements of the seam zone as "other means for continuation of policy" – primarily in order to design permanent borders of the State of Israel based on the principle of annexing “maximum territory and Israelis, and minimum Palestinians.”

## **Rhetoric of principles**

The Ministry of Defense and the IDF accompanied the construction of the fence with a splashy and up-to-date website that presented the operational outlook in regard to the fence.<sup>12</sup>

The declared purpose of building the fence:

The ‘seam zone’ plan is designed to comprise a component in the war against Palestinian terror, with the aim of reducing the ability of terrorists to infiltrate from the territory of the Palestinian Authority into the territory of Israel.

In regard to the operational concept, the website states:

The guiding principle [for the military activity, S.A.] is: ‘more defense, less offense.’ The comprehensive response to terror is based on a combination of the defensive and offensive components. The fence is an essential defensive element for complementing the array of confronting terrorism. Without a fence, the IDF is compelled to increase the offensive component in order to foil terror within population centers. This leads to ongoing friction with the Palestinians (limitations on movement,

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<sup>12</sup> [www.seamzone.mod.gov.il](http://www.seamzone.mod.gov.il)

deployment in population centers, etc.) and also demands the activation of a larger scope of forces.

In practice, the opposite occurred. The IDF actually intensified its activity and involvement in the Palestinian fabric of life, despite the fact that the fence provided a reasonable solution for preventing the uncontrolled entry of Palestinians and vehicles into Israeli territory. We today are witness to hundreds of roadblocks of various types that sever the continuity of travel between the Palestinian communities in the West Bank, and the manned roadblocks constitute a daily point of friction between the IDF and the population. In addition, we are witness to a traffic regime in the territories outside of the seam zone whose guiding principle is to divert Palestinian traffic from the main roads and relegate it to old and renovated roads in a way that significantly changes their fabric of life.

The defense establishment reached the peak of unsubstantiated rhetoric when it published the principles it had formulated for determining the route of the barrier. One of the principles, for example, seeks "security for the force operating along the barrier." But in the Bil'in case, for example, President Beinisch – in a precedent-setting way – deemed it appropriate to sharply criticize the considerations of the military commander in regard to the route there: "It is indisputable that the route mainly traverses territory that is inferior from a topographical perspective [...], which endangers the forces patrolling along the route. The existing route raises questions and it can only be explained by the desire to include the eastern part of Matiyahu East on the western side of the fence." Even in places where it was possible to plan the fence route differently, the route was drawn at a distance of only tens of meters from the homes of

the Palestinian villages: This was the case in the villages of Beit Surik, Biddu, Bir Naballah, Beit Hanina, Al-Jib, Nahlin, Batir, Husan and many other places. Such close proximity would have enabled any attacker to freely shoot from one of the adjacent homes, while taking cover and hiding. An anticipated and immediate response to such shooting would necessarily lead to harming "uninvolved Palestinian citizens," and thus result in an additional intensification of violence.

Moreover, it is reasonable to assume that the construction of the fence in such close proximity to the homes of residents and to the area of their everyday lives would generate hundreds of false alarms triggered by the fence's sensors. This would exhaust the alerted troops and lead to unnecessary IDF activity against innocent people who have no hostile intentions. In other areas (such as Fakua, Jilaboun, Kafin and Nil'in), a topographic route was chosen that was clearly inferior to the route of the Green Line. In East Jerusalem, a fence route was demarcated in the heart of an area populated by Palestinians. This creates vulnerability for the unit in the field, which faces danger from both sides of the barrier.

Yossi Chen, formerly a senior Shin Bet official, summarizes a study in which he compared the fence route to the Green Line: For the purpose of the study, nine regions were examined. In five of the enclaves and in the northern part of the Marja enclave (whose total area is 42,462 dunams), there is no security advantage in diverting the fence from the Green Line. On the contrary, from a topographical perspective, due to the proximity to built-up Palestinian territory and due to the problematic nature of the agricultural gates, there is even a disadvantage in the location of the fence route (Chen, 2006).

"Simplicity in operating and maintaining the barrier over time" – the defense establishment also sought to achieve this principle. However, in one area the defense establishment acted correctly: It sought to achieve the maximal uniformity possible in regard to the fence models and thus limited the number of companies that built it. In other aspects, the IDF was compelled – due to the political nature of the route – to flagrantly violate this principle. For example, let's look at the length of the fence: The armistice agreements in 1949 created a Green Line of 313 kilometers. The fence route already approved by the government is 760 kilometers! That is, the line grew longer and more circuitous, contrary to security principles, with the goal of keeping a maximum number of settlements on the western side while excluding nearly every Palestinian village.

Beyond the cost of building the barrier, which reached 12 million shekels per kilometer of fence and 16 million shekels per kilometer of wall, the tripling of the length of the Green Line created unnecessary expenditures of hundreds of millions of shekels for its ongoing operation.<sup>13</sup> And that is not all. The following declaration can be found on the Ministry of Defense's website, in contradiction to any principle of "simplicity in operation":

With the goal of enabling agricultural work, maintaining uninterrupted movement between the villages and cities, and ensuring access to municipal, sanitation and social services between the villagers and the district city along the fence, many passages were established for the Palestinians to use. In this

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13 The assessment is that the annual operational cost of the seam zone reaches billions of shekels. The Brodet Report also notes that "the maintenance cost will come to hundreds of millions of shekels per year."

framework, 37 gates have been built so far (out of a total of 53) for the passage of farmers who are residents of nearby villages, 34 control points [...]

When examining the fence route approved in October 2003, it is evident that the barrier was planned in a way that would include a maximum of Palestinian lands – without the homes of the landowners. And it is clear that the accumulation of territory came at the expense of the security of the operational forces, which would be required to operate dozens of agricultural gates to allow Palestinians access to their lands that remained beyond the fence. The state itself argued in affidavits that it submitted to the High Court that “every passage point increases the danger of infiltration by terrorists into Israel and constitutes a point of friction that intensifies the risk to the defense forces assigned to the passage point.”<sup>14</sup>

In other words, instead of excluding most of the Palestinian lands from the seam zone wherever possible, they separated the lands from their owners. Therefore, they were forced to build many gates that constitute a security threat and tie down the elite forces required to operate them.

The absurdity of the passages for Palestinians reaches a peak in Jerusalem. There are 12 passages there, including three large ones – Rachel, Kalandia and Zeitim, which were built at a cost of hundreds of millions of shekels and whose operation employs hundreds of examiners. They are designed to enable Palestinians in East Jerusalem to visit their colleagues in the West Bank after being separated from them by the wall.

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14 H CJ 4289/05.

## **Arguments and counterarguments**

The following cases are examples of security fraud, with the state employing security arguments to justify the political fence route in one case, while citing completely opposite and contradictory security arguments in other cases – again, in order to justify the political route of the fence. The same small group of attorneys represented the state in High Court cases on the fence route, accompanied by Colonel Danny Tirza and subsequently by his successor, Colonel Ofer Hindi. This experienced group was supposed to maintain consistency in the state’s arguments, but in practice a uniform stance was not maintained.

An extreme example of such lack of uniformity was the contradiction between the state’s responses to the petition against the fence route in Gush Etzion (submitted in July 2006 by attorney Nasir Giat and attorney Osama Halabi) and the state’s responses to the petitions against the “permits regime” (submitted by the Association for Civil Rights in Israel and Hamoked – Center for the Defense of the Individual in December 2006). (The High Court has yet to rule on either of the two cases.)<sup>15</sup> In the first petition, the state’s representatives sought to defend the fence route, which enclosed five Palestinian villages in the area between Gush Etzion and Jerusalem by exempting (in a complete departure from regular practice) their 20,000 Palestinian residents, and all others east of the fence, from the need for entry and exit permits, because they assumed that the High Court would not allow them to operate the “permits

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15 H CJ 639/04 Association for Civil Rights in Israel v. Commander of IDF Forces in Judea and Samaria et al.

regime”<sup>16</sup> in such a large area and for such a large population: “It should be emphasized and declared that the entry of any person to the Gush Etzion area will not be prevented (even people who have security restrictions), subject to a security check. This entry will not require an entry permit [...],” the state promised.

Less than four months later, the attorneys already wrote the opposite when instructing the IDF:

There is a rational and direct connection between closing the territory of the seam zone and establishing a permits regime, on the one hand, and the security need, on the other hand. Restricting entry only to those who have a real personal connection to this area and making this entry conditional on receiving a permit that requires an individual security check, very significantly limits the possibility of terrorists crossing the security fence and subsequently entering Israel to carry out attacks.

These attorneys added, in an unequivocal way:

There is no other alternative that can even come close to achieving the decisive goal achieved by closing the seam zone and establishing a permits regime. The alternative the petitioners propose – that is, conducting a body check only when entering the seam zone [just as the state had proposed in the first petition, A. S.] does not at all provide a suitable response to the security need. A security check on the body is not sufficient to prevent the entry of a terrorist into the seam zone and from there to continue into Israeli territory, while weaponry or bombs are transferred

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16 The permits regime required a Palestinian who wished to enter or stay in the seam zone (the area between the fence and the Green Line) to present a permit from the Civil Administration based on proof that he is a resident of the place or owns land or a business in the seam zone.

to him in the seam zone – for example, by tossing them over the fence or smuggling them in other ways.

In the first petition, the attorneys attacked the proposal by the Council for Peace and Security, which enjoyed “friend of the court” status and proposed an alternative fence route. The state’s representatives argued that “the Palestinians who cultivate the fields in these lands [the Council actually sought to leave the villages and most of their cultivated lands outside of the fence, A. S.] would be forced in practice to transition to a permits regime. It is clear that this entails a drastic change for the worse in the daily lives of these residents.”

In the second petition, on the other hand, the permits regime does not in fact cause a “drastic change for the worse”:

The great benefit in closing the territory, while establishing a permits regime in parallel [...] is proportional in regard to the difficulties that are caused to the local residents.

In the first petition, the defense establishment showed generosity and announced that “goods from the east and the south of the fence could move into the Gush Etzion area after being checked, but no ‘back-to-back’<sup>17</sup> procedure would be needed.” And in the second petition, it explained why this exact same thing, as requested by the petitioners, could not be implemented in the “seam zone”:

[...] the petitioners are asking that any merchant who happens to arrive at the place be given the possibility of access. The problem

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17 This refers to the unloading of all goods from one truck and transferring them to another truck on the other side of the fence after a security check.

is, it is impossible to respond to this demand due to clear security reasons [...] There is a real fear that such trucks would be used to smuggle terrorists, explosives and various weaponry into Israel. In this context, it should be noted that a check of every truck that happens to arrive, without information about its owner, is not effective or possible from a security perspective

### **‘Pulling the rug’ from under the High Court**

The Supreme Court, in an expanded panel of nine justices, ruled on September 15, 2005 on the legality of the “separation fence” in the Alfei Menashe area.<sup>18</sup> The Supreme Court unanimously ruled that it is permissible to build the fence beyond the Green Line in order to protect the security of the settlements located there. The ruling addressed the principle raised in the petition, which was based on an advisory opinion of the International Court of Justice in The Hague, issued in July 2004.<sup>19</sup>

In this case it was ruled, contrary to the opinion of the court in The Hague, that the IDF has the authority to build the security fence in the territory of the West Bank and not only on the sovereign territory of Israel. The ruling also determined that each section of the fence should be examined separately according to the principle of proportionality – that is, the balance between the security needs of Israel and the violation of the Palestinians’ human rights. On the level of principle, the ruling also examined the “impact of the advisory opinion of the international court at The Hague” on the Supreme Court’s subsequent approach to the question of the fence’s legality in accordance with international

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18 H CJ 7957 Zahran Younis Muhammad Mar’abeh et al. v. Government of Israel et al. Takdim Elyon 2005 (3) 3333.

19 Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, advisory opinion of July 9, 2004, **ICJ Reports**

law. The ruling stated, among other things, that the court in The Hague based its ruling on an evidentiary infrastructure regarding the violation of rights of the Palestinian residents, without requiring an evidentiary infrastructure regarding Israel's military-security need to build the fence. The Supreme Court's ruling states that due to the fact that the information presented to the court in The Hague included inaccuracies, full weight was accorded to the violation of the residents' rights without according full weight to the military-security needs of Israel, and the question of proportionality was not discussed in regard to balancing the rights of the Palestinian residents and the military-security consideration (Sfard 2008).

In the following cases, the IDF clearly misled the court in regard to the real considerations underlying the demarcation of the fence's route. That is, in this deception, the IDF largely denied the High Court and the State of Israel the central argument for rejecting the opinion of the International Court in The Hague, which was adopted by the UN General Assembly.

We will start with the fence route at Na'alim, near Hashmonaim. It was approved by the government in October 2003 and revised about a year and a half later, following the ruling in the Beit Surik case in June 2004. The new route corresponded to the proposal of the Council for Peace and Security, and was moved a further distance from the Palestinian homes. Later, it was decided to again change the route in this area after it was argued that the route was now too close to the homes of Hashmonaim. The Palestinian petitioners rejected this argument. They received reinforcement when the representatives of the contracting company, which owned the land that had been newly added to the seam zone, presented to the court as evidence a letter they

received from the Ministry of Defense, signed by Colonel Danny Tirza. In the letter, Tirza permits the company to plan the project – “provided that the future homes will be at a distance of 150 meters from the line of the future fence.”

In response, Tirza argued at the Supreme Court that the approval was “given only to plan, but not to build.” President Dorit Beinisch did not “buy” this argument for this new route, which was designed to expand the settlement and not necessarily to protect the settlers:

The questions concerning the change in the security view intensify in light of the fact that the military commander gave basic approval for planning a new neighborhood where the homes would be built at a distance of 150 meters from the security fence [...] It was not made clear to us how this is consistent with the security view pertaining to the need for a space for warning and pursuit of hundreds of meters from the homes of Israeli residents.<sup>20</sup>

The real reasons for relocating the fence eastward in almost every place where Israeli communities are located was clearly revealed to the court in the East Tzofin case. In this case, IDF representatives also concealed the central reason for demarcating the route from their colleagues in the State Prosecutor’s Office. The president of the Supreme Court, Aharon Barak, wrote in the ruling:

The fence route in this area was discussed before this court in two previous petitions. In the request to reject them, the respondents insisted that the fence route in the eastern section was determined solely according to operational-security considerations [...] Based on this stance of the respondents, the initial petitions

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20 H CJ 1361/08, the ruling was issued on August 10, 2008.

were rejected [...] Following the rejection of the petitions, the construction of the fence in the area was completed [...] the petition before us was submitted two years later [...]

The petitioners expressed two main arguments. First, that contrary to the respondents' statements in the first petitions, it became clear to the petitioners that the fence route in the eastern section was not determined according to security considerations, but was instead designed to include territory on the 'Israeli' side of the fence earmarked for the expansion of the Tzofin settlement [...] The stance of the respondents in this petition changed significantly from the date of the petition's submission to the summary discussion of it.

At the end of the ruling, the president of the Supreme Court writes words that are unprecedented in their severity:

In the petition before us, a grave phenomenon was revealed: The full picture was not presented before the Supreme Court in the first petition. The court rejected the first petition based on information that was substantiated only in part [...] The petition before us indicates an incident that is unacceptable: The information provided to the court did not reflect the full considerations that stood before the decision makers [...] We hope that this will not happen again.

And to conclude, we will return to the High Court ruling in the Bil'in case in order to identify the true reasons for the route there: In the matter before us, it is clear that the demarcation of the fence route was significantly affected by the plans to build new neighborhoods to the east of Modi'in Ilit [...] There is no place in the route planning for considerations related to construction plans that are not current or future plans that have yet to be

implemented and are not expected to be implemented soon.

The court clearly establishes that the fence planners sacrificed security on the altar of ambitions to expand the settlement: “This route can only be explained by the desire to include the eastern part of ‘Matityahu East’ to the west of the fence, since otherwise it is doubtful whether there is a military-security reasons for demarcating the fence route in the place it traverses now.”

### **To reject in order to adopt**

In the following cases, the IDF adopted routes that it had completely rejected earlier – in order to fulfill the political objective of the route.

The most blatant case is that of Ma’alei Adumim. The southern part of the fence route that was first published in February 2005 was supposed to include both the settlement of Kedar and the caravan site adjacent to it. During the High Court discussions in this case, the IDF representative presented ostensible “alternatives” for the fence route, while clearly aiming for acceptance of the route it preferred.

After a year and a half of delays in submitting a response, the IDF returned with a new proposal that completely matches one of the “alternatives” that it had “examined” and rejected in 2006. In the state’s written response in December 2006, backed by a security affidavit from the chief of staff of the Central Command at the time, the IDF’s representatives addressed the implications of this alternative, which essentially entails bisecting the Abu Hindi valley that separates Kedar and Ma’alei Adumim. This is how they described the implications of the alternative they strongly rejected, yet later adopted:

If this alternative were to be implemented, it would be necessary to traverse the deep and steep riverbed described above. This crossing would constitute a very problematic route from the operational, security and engineering perspective because it would create a particularly circuitous route with sharp side slopes and longitudinal slopes that are borderline in terms of the criteria for planning a patrol from the security perspective. Part of the route traverses hilly terrain that is also inferior from an operational perspective. Due to the side slopes, the exposed crossing and the bisection of the Abu Hindi valley, there would also be very severe harm to the landscape. In addition, the cost of executing this route would be particularly high ... In light of the above, it was found that from an engineering, security and operational perspective, this alternative cannot be accepted.

The temporary denouement of this case came in the form of an update the State Prosecutor's Office sent to the High Court prior to the hearing held in July 2009. This notification stated that "for now, due to budget constraints and other needs the defense establishment faces, the construction of the fence in this route is not a high priority for the respondents in regard to the completion of the security fence in Judea and Samaria."

Another example pertains to the fence route in the Tzofin-Falmiya area northeast of Qalqilya. In this section, the fence route was completed in 2003. A petition was subsequently submitted by residents of Palestinian villages, represented by the Association for Civil Rights in Israel. The same thing happened in this case. As an alternative to the existing route, the Council for Peace and Security proposed a security route that it viewed as more proportional. In the IDF's response to this proposal in 2006, two additional alternatives to the existing route were presented. One

of them was the proposal of the Council for Peace and Security and the second was a new alternative proposed by the IDF. Following a “meticulous examination,” the Council’s alternative was found to be the worst from a security perspective and even less proportional in terms of its detrimental impact on the Palestinian residents, while the IDF’s new alternative was given precedence. Again in this case, the court asked the respondents to reconsider their proposed route in light of various rulings in the Bil’in case that refer to the construction of the “security” and “temporary” fence around the neighborhoods that were yet to be built. After a complete year of delays and postponements, the State Prosecutor’s Office informed the court in July 2008 that the prime minister and defense minister had decided to change the proposed alternative and proposed to the court an alternative that was identical to that of the Council for Peace and Security – the same one they had rejected during two years of discussions. It should be noted in this case that the involvement of IDF Chief of Staff Ashkenazi was decisive, as reported by the journalist Amos Harel in *Haaretz*: “Lt. Gen. Ashkenazi: The IDF does not need to intervene in determining the fence route, and should leave the decision to the political echelon. The chief of staff asserted this after he discovered that the fence route in the area had not been determined according to security considerations, but rather in order to build a neighborhood in the Tzofin settlement” (Harel, 2008).

In the ruling, issued on September 9, 2009, Beinisch supported the change, but did not refrain from commenting: “This route is similar, in essence, to the alternative that was proposed from the outset by the Council for Peace and Security” and she ordered the respondents to pay expenses of 20,000 shekels to the petitioners.

Another petition pertaining to this region contested the fence route between the Sal'it settlement and Tulkarem. A similar process occurred here of “rejecting and adopting” the route proposed from the outset by the Council for Peace and Security. But this ended already in October 2006 and saved two unnecessary years of deliberations at the High Court.

Another extreme example is the matter of Road 55 in the Alfei Menashe case. During the hearings, the IDF submitted an affidavit that noted, as stated in the ruling:

In this matter (of Road 55), Mr. Tirza indicated to us that the location of Road 55 is problematic from a security perspective. Israelis have been injured on this road by gunfire from the direction of Qalqilya. From the material before us, we learned that according to the original plan the section of Road 55 connecting Alfei Menashe with Israel was supposed to be canceled. Instead, a new road was planned to connect Alfei Menashe with Israel southwest of the enclave, near Matan, a community within the Green Line ... Mr. Tirza indicated to us that the road connecting Alfei Menashe with Israel (Road 55) should be regarded as a temporary road.

Accordingly, in September 2005 the court ruled that “in this context, the alternative should be examined in which the enclave would only include Alfei Menashe and a connecting road to Israel, while relocating the existing road that connects Alfei Menashe and Israel to another location in the south of the enclave.”

But to the court's surprise, in a discussion conducted on the new route proposed by the IDF, it became apparent that Road 55 remained intact as the road connecting Alfei Menashe to Israel.

In the IDF's response to the Council for Peace and Security's proposal to pave the new road for the security reasons the IDF itself had presented in the original petition, we find the following attack against the road that they themselves had requested in the first petition: "Alternative B has disadvantages from a security perspective, because the access road in it would pass through territory controlled..."

## **Rearguard battle and delay vis-à-vis the Supreme Court**

The initial fence route in the southern Mount Hebron area, which was approved in October 2003, included territory to the north of Road 317, connecting the settlements of southern Mount Hebron with Kiryat Arba and Israel, extending to the Green Line. In the wake of the High Court ruling in the Beit Surik case, the government was compelled in February 2005 to change the route to conform to the Green Line. However, Sharon did not accept the High Court decision and sought to circumvent it. Thus, he approved the construction of a concrete barrier 82 centimeters high alongside the road.

In the petition submitted on this matter, the IDF's representatives did not succeed in finding a security justification for the barrier that is consistent with the IDF's fighting doctrine. Nonetheless, they insisted on calling it a "security barrier." In practice, the barrier created – over a stretch of 41 kilometers (!) and at a cost of tens of millions of shekels – protected firing positions for anyone seeking to attack Israelis on the road.

The barrier stood in complete contradiction to the army's fighting doctrine: It did not protect the cars because it is not difficult to

fire over it. Even worse, the barrier hides the shooter from those traveling on the road and makes it more difficult for the army to catch him in the event of an attack. What does the barrier stop? The movement of pedestrians, the infirm, women and children, and flocks of sheep. The concrete barrier was intended, therefore, for a single purpose: to prevent the Palestinians from reaching their lands, to establish a presence of Israelis only in the area, based mostly on unauthorized outposts – an enterprise designed to circumvent the political restrictions and constraints on the government of Israel and to reinforce the settlement enterprise in the West Bank (Sasson 2005).

On December 14, 2006 the High Court ruled on the matter of the concrete barrier:

The respondents must dismantle, within six months, the concrete barrier they built between Carmel and the Tene settlement, along Road 60, Road 317 and the road leading to the Tene settlement [...].

Though the clarity of the ruling was indisputable, the IDF continued to work against it. The directive of Justice Barak was ignored for six months. IDF representatives proposed “an alternative solution” that had already been presented to the court and could not be regarded as constituting a reasonable interpretation of the High Court ruling. Both the defense minister, Amir Peretz, and his deputy, Ephraim Sneh, who entered the decision-making process at a very late stage (only after the IDF had already responded in their names to the court), were forced to accept this interpretation, which was also supported by the deputy attorney general, Mike Blass. But Justice Beinisch stated firmly in regard to the proposed “solution” that “the state chose not to execute the court order.”

The ease with which the IDF, the Ministry of Defense and officials in the Ministry of Justice decided that “the state [...] despite the order issued by this court, intends to keep the existing barrier [...],” angered the president of the court. The hearing on contempt of court in July 2007 ended again with a ruling to dismantle the barrier – within 14 days. (The ruling was implemented within a week.) And, in an unusual step, the state was ordered to pay 30,000 shekels in expenses. During the course of the trial, Justice Procaccia severely criticized what had happened: “If this is the way the state acts in regard to court rulings, what can be asked of the regular citizen?”

The IDF’s dismissive attitude toward unequivocal High Court rulings was expressed again in the Bil’in case. Despite the fact that the court cited eight times in its ruling issued in September 2007 that “the new fence route must include the cultivated lands in Nahal Dolev and the lands earmarked for Stage B of the Matityahu East neighborhood to its east, the IDF published a new route ten months later that left these lands to the west of the fence. Supreme Court President Beinisch was compelled to convene an additional hearing in August 2008 in which she ruled: “In light of the things that became apparent today in the arguments of the sides before us, Respondents 1 and 2 will prepare an alternative fence route plan in a way that is consistent with the principles delineated in our ruling. The respondents will submit a response with their proposed route in accordance with the ruling within 45 days, including the days of recess.”

On September 16, the IDF submitted another proposal for the fence route in Bil’in. But the High Court again stated in a ruling issued on December 15 that “it was found that the alternative that was chosen does not fulfill the directives of the ruling. The

respondents are ordered, therefore, to uphold the directives of the ruling without further delay ...” And the court also, in an unusual step, ordered the respondents to pay expenses of 10,000 shekels.<sup>21</sup>

The journalist Dan Margalit, one of the staunch supporters of building the security fence, summarized as follows:

...in Bil'in – where the IDF was forced to contend with Palestinian demonstrators every Friday afternoon – the route was determined according to considerations that have nothing to do with the state's security. The justices ordered the narrowing of the route and the return of lands to their Palestinian owners, and the government is evading (Margalit 2009, 197).

The defense establishment is slowly carrying out the High Court rulings in regard to dismantling the existing fence and building a new one in its place. An extreme example of this is the High Court ruling issued on June 15, 2006 to dismantle a section of the fence to the east of the Tzofin settlement. The deputy state prosecutor, Avi Licht, explains the delay in his response to the petitioners' request for a contempt of court order:

“On June 15, 2006, the court ruled that the route of the separation fence built in the eastern section of the Tzofin settlement is invalid. On March 6, 2007, a new expropriation order was issued [eight months later! S. A.]. On March 18, 2007, the petitioners submitted an objection to the expropriation order [within less than two weeks, S. A.]. The objection was rejected on August 5, 2007. On August 5, 2007, the petitioners announced that they do not intend to petition against the new order ... In the wake of

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21 Decision in High Court case 8414/05. The hearing was held on August 3, 2008 and the ruling was issued on December 15, 2008.

the Second Lebanon War, the budgets allocated for constructing the security fence were cut. In addition, due to the need to carry out the ruling as quickly as possible, it was decided to budget the modification of the route for execution during 2008. In April 2008, [22 months after the ruling, S. A.], the IDF and the defense establishment instituted a new budget system. The process of planning the construction of the new route was delayed due to the difficulties in integrating the system. Immediately after integrating the new system in July 2008 [25 months! S.A.], work began on formulating a plan of action for paving the new route. The paving of the new route is expected to begin in December of this year [two and a half years, S. A.]. The work is expected to be completed in 2009.”<sup>22</sup>

That is, the defense establishment needs more than three years to carry out the High Court ruling on a section that is only 1,300 meters!

This conduct by the defense establishment did not go unnoticed by the Supreme Court justices. Thus, President Beinisch wrote in her decision:

In the case before us, the state did as it pleased and did not begin implementation of the ruling until a request for a contempt of court order was filed. In our ruling of June 15, 2006, it was determined that the fence route that is the subject of the petition is illegal – and accordingly, is invalid. And the state was severely criticized for presenting partial and unsubstantiated information before the court during the hearing of the petition. This sort of conduct is unacceptable. The rulings of this court are not merely

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<sup>22</sup> Response by Avi Licht, the senior deputy to the state prosecutor, to the request by the petitioners, October 28, 2008.

suggestions and the state must honor and implement them with the speed and efficiency required by the circumstances of the matter.”<sup>23</sup>

And in the final ruling on the matter of Bil’in, President Beinisch chose to add the following clarifications in regard to the relationship required between the judicial and executive branches:

It should be noted that in the ruling, we instructed the respondents to change the fence route after we found that the existing route does not meet the test of proportionality. However, for obvious reasons, we refrained from precisely stipulating the appropriate alternative, since this is not the way of the court ... The court does not instruct the military commander how to act, but instead conducts judicial review of his decisions and examines their legality in accordance with the criteria delineated in the ruling. Similarly, the court did not set a precise timetable for implementing the ruling, realizing that the change we ordered requires suitable preparation and time, and based on the assumption that the respondents would implement the ruling as quickly as possible, as required by the circumstances of the matter. And here, it turns out that the state required many long months to chart a new route. Moreover, the route that was ultimately chosen does not meet the criteria that were stipulated in the ruling.<sup>24</sup>

## **Conclusion**

We have seen that the IDF’s involvement in the matter of the separation fence brought no benefit to it, from various

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23 H CJ 2732/05, the decision was issued on October 5, 2009.

24 Decision in High Court case 8414/05.

perspectives. Prime Minister Sharon's decision to build the fence – due to a lack of another security response as a wave of terror swept over Israel – led the defense establishment to reluctantly deal with constructing the fence. The IDF later tried its best to avoid bearing security responsibility for the fence and preferred to have the Border Patrol do this. But after this argument was also decided by the government, the IDF did not conduct the required staff work, not even regarding the fence's security and budgetary ramifications.

The IDF “got burned” by the issue of determining the route. Sharon's policy, reinforced by the leaders of the Yesha Council of Settlements, was to push the fence eastward in order to include most of the Israeli settlements. This contradicted the IDF's view that the route should be closer to the Green Line. The IDF did not withstand, and some of its senior officers did not wish to withstand, the political pressure. And, in a substantial part of the route, the IDF was forced to sacrifice security on the altar of the settlements. The IDF failed in its professional commitments and in the integrity demanded of it. From the moment it stopped objecting to the political route, it began to “concoct” the security cover for it and got swept up in a web of egregious actions: concealing information from the State Prosecutor's Office and from the Supreme Court, choosing routes and gates that endanger the lives of the forces operating along them, a lack of professional consistency in the security positions presented to the court, presenting bogus alternatives, adopting alternatives that it had clearly rejected, and more.

We cannot state today that the IDF has learned the lessons and is trying to change its conduct on the fence issue. During the past months, we have seen that the IDF has yet to change its course –

for example, in the Ma'alei Adumim case and in the Bil'in case. The fence issue joins a long series of issues that suffer from the tension inherent in the military involvement in political aspects of Israeli control in the West Bank – unauthorized outposts, the traffic regime, Hebron, settlements, and more.

The IDF often fails by toppling the barrier it should place between itself and the political pressure exerted upon it to “whitewash” or give precedence to considerations that are unrelated to security.

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## **3 | Remember the separation fence?**

Nearly a decade after the outbreak of the second intifada, when Israel decided to build the separation fence, and just moments before the Olmert government steps down, just 60 percent of the 760 kilometers planned for the barrier has been built. Four huge gaps in the fence in addition to dozens of small ones, alongside passageways lacking security measures, will set the stage for an escalation in violence likely to occur because of the absence of a diplomatic process, the inciting of East Jerusalem by razing homes there, the accelerated expansion of settlements, and the unfinished negotiations on a cease-fire and the release of Gilad Shalit.

After the terrorist attack at the Tel Aviv Central Bus Station during Passover in 2006, Prime Minister Ehud Olmert ordered the defense establishment "to find a way to fill the gaps." This was an ineffectual directive. Almost three years have passed and the fence remains as exposed as it was, even though the deputy chief of the Jerusalem District Police noted that "due to the gaps there is an opening for thieves and, worst of all, terrorists, who can reach any point in the country." The state comptroller said that since November 2007, almost all work related to the fence has halted.

In addition to the fundamental error of drawing the fence route based on political and settlement considerations – arguments that did not convince even Israel's most avid supporters or the High

Court of Justice, despite its lenient, flexible rulings – one can point to three reasons for the continued negligence.

The first reason is the budget. By the end of 2007, following the Second Lebanon War and the Brodet Committee's report, the decision was made to transfer half a billion shekels from the fence budget to other areas in the defense budget. While this decision did halt an annexation plan that was put forth under the guise of security – as is the case in the Beit Aryeh-Ofarim area – the necessary decision was not made: to complete the fence along a route based on security considerations and which is far shorter and cheaper.

The second reason for freezing the fence's construction is that the gaps are in disputed areas in negotiations between the Israelis and Palestinians – Ariel, Kedumim, Ma'aleh Adumim, eastern Gush Etzion and the southern Judean Desert.

Olmert, Ehud Barak and Tzipi Livni have not continued construction for fear of the Palestinian response, and they do not want to harm Palestinian President Mahmoud Abbas' standing. They are also concerned about the American position, which rejects slicing up the West Bank into cantons. In addition, they are wary about the huge waste of money that would compound the already enormous amounts spent on the fence due to the greed for land and the "wasteful, flawed conduct and thought processes," as noted by the Brodet report.

Yet, the three leaders did not complete the fence over a different route because they still believed their own rhetoric, which attested to the route's political purpose. Take Livni, who said that "the High Court is sketching the state's borders through its

court rulings on the fence," and Ehud Barak, who made clear that "when we build a fence it is clear that there are areas beyond the fence, and that in any final-status agreement they will not be part of the State of Israel."

The third reason is the lack of public interest. With the waning of terrorist attacks and the sense that "the West Bank is under control," the public protest and media pressure that compelled Ariel Sharon to build the fence has disappeared.

Israel is soon liable to find itself in another wave of Palestinian terrorism and violence. As such, the public must demand that the new government complete the fence quickly and along a logical route. The police, Shin Bet security service and Israel Defense Forces must demand the necessary budgets and, more importantly, must adhere to their professional opinions regarding the fence's route.

## 4 | Bil'in, A Story for Us All

The story of the Palestinian village of Bil'in should wake us all up, including those who are not particularly concerned about Palestinian land. It is a story of damage to the rule of law and to proper administrative practice. It puts more "writing on the wall", warning that Israel is becoming a country of shady deals and tricksters.

The story of Bil'in, as it appears in the media and in public opinion, is narrowly focused on the struggle of the village's people, along with hundreds of sympathizers from Israel and all over, to keep their land beyond the security fence and out of the development plans of Modiin Elit, the largest ultra-orthodox city on the West Bank.

However, there are many aspects of the story of Bil'in that should have awoken the Israeli public earlier and in greater numbers to a struggle against what has become one of the extremes of evil bureaucracy.

The roots of the dispute are in the requisition of 780 dunams of Bil'in's land and the declaration that it is owned by the state. These acts were not carried out by normal procedures – which require evidence that the land is not tilled or is abandoned – but was initiated by a request of the Land Redemption Fund submitted to the then administrator of the Civil Department of the State Prosecutor, Ms. Plia Albeck, in 1991. The request was to declare the land as "state owned" but not to register the

ownership with the Land Registry. Ms. Albeck agreed not to reveal the acquisition and issued the "state-owned" declaration, without any investigation of the purchase, as required by law, and only subsequently to transfer the land to the fund. The Mattiyahu Mizrach suburb of Modiin Elit was built on this land.

The second part of the story was written in 2004. The community leaders of Modiin, together with the contracting firms Hefzibah and Green Park, decided that 1,500 apartments were not enough and wished to double the number to 3,000 units. The Supreme Planning Council of the Civil Administration rushed to approve the first phase of the new program, but in order to make it more difficult for the Bil'in villagers to protest in the usual way made its decision public as required by law by publishing it in newspapers of limited circulation – Hatzofeh and HaModia – almost exclusively read by the Orthodox. Even before the approval of the new plan, the Upper Modiin local planning commission rushed to issue illegal building permits to the contractors. Letters from the local council's internal auditor and its legal counsel, attempting to prevent these illegal actions, did not succeed in stopping the construction of 43 high rise buildings, in the wake of the illegal permits. An additional 21 buildings were built with no permits at all.

The Head of the Civil Administration's Supreme Planning Council wrote that "the reason for issuing the permits was to establish facts on the ground and to keep Hefzibah from abandoning the site".

In February 2007, the Council issued final approval for the illegal construction and made Mattiyahu Mizrach the largest settlement to have approval "after the event" in the entire history of illegal settlements.

The third part of this story deals with the path of the security fence. It begins with a letter sent by the Civil Administration's Legal Counsel that states "the path of the fence was determined by security and topographical considerations". In 2006, the Chief Justice of the Supreme Court handed down a decision that states: "The fence's path has no security advantage. It is routed through an area that actually endangers troops patrolling it. On the basis of the security concepts presented to the court, the route gives cause for considerable surprise.

"The Court clearly determined that the planners of the security fence sacrificed security on the altar of their desire to expand the settlement, and exploited the procedures under their authority for this purpose. The path is inexplicable, except for the desire to keep Mattiyahu Mizrach to the West of the fence. Otherwise, it is doubtful whether there is any justification for placing the fence's path where it is at present".

The final chapter started when the Ministry of Defence recently published the new path, which is supposed to replace the present path, in accordance with the clearly unambiguous decision of the Supreme Court. However, to the "surprise" of all concerned, the Ministry once again "takes a detour" around the Court's decision, an exercise that had failed in other cases and cost the taxpayer hundreds of millions.

Despite the Court's decision that "the farmland in Wadi Dolev and the areas set aside for Phase B of the Mattiyahu Mizrach development will remain to the East of the fence", the Ministry once again submitted a path leaving them both to the West. Without determined and prompt action by the Court, the new legal process may drag on until Phase B is completed

and a new chapter of the story will be written about legal and moral bankruptcy.

The story of Bil'in must not become "a short history of Zionism and the rule of law" of recent decades. The Israeli public comfortably views the weekly demonstrations near the village as the entire story of Bil'in. But even those who are unconcerned about Palestinian farmland and the villagers' ability to make a living from their land, must open their eyes and join the struggle against the constant dissolution of the rule of law and of proper legal and administrative procedures. Such damage is caused at times by our own institutions, using the excuse of bureaucratic procedures.

The story of Bil'in is another instance of "the writing on the wall", warning us of a Country of Shady Deals that has risen on the West Bank and its implications for the state of Israel.

## 5 | Dishonesty hurts us

### **Attempt to justify political route of fence based on ridiculous security grounds shameful**

In the latest ruling regarding the question of the cement barrier in south Mount Hebron, Chief Justice Dorit Beinisch noted that "the State chose not to comply with a court order..." and managed to arouse part of the Israeli public, which is so indifferent to the social, legal, and government implications entailed in the attempt to construct the West Bank security fence along political lines, while repeatedly and falsely presenting it as a route based only on security considerations.

The unbearable ease with which IDF, Defense Ministry, and Justice Ministry officials decided that "the State...despite the court order, intends to keep the existing barrier..." is not unusual. In the past two years it has increasingly become clear that the "nails" on the finger-like enclaves within the fence in Ariel, Kedumim, Beit Arie and Karnei Shomron are growing in the wrong direction and are wounding the flesh.

The High Court ruling this month showed how the change of major-generals at the IDF Central Command made way for changing a route that has been modified and already approved by the government, because of a desire to expand a settlement rather than to protect the settlers that reside there today.

"The amazement regarding the change in the security

considerations grows in light of the fact that the military commander approved in principle the planning of a new neighborhood in a manner that will see homes built 150 meters (roughly 500 feet) away from the security fence," Chief Justice Beinisch ruled. "It was not made clear to us how this conforms to the security doctrine that calls for a need for an advanced warning and pursuit buffer zone hundreds of meters away from the homes of Israeli citizens..."

Another dangerous phenomenon was revealed when the High Court ruled in September 2005 that the State must remove the five Palestinian villages confined within the Alfei Menashe enclave out of the fence.

The ongoing attempts to outsmart the High Court gave rise to "creative" proposals such as the one presented by the Judea and Samaria legal advisor in the form of "examining the possibility to propose to the Bedouin residents (in two of the villages) a living arrangement at a site outside the fence". That is, instead of modifying the fence route, we shall transfer the Palestinians.

## **Unreasonable interpretation**

One of the highlights of the maladies caused by the political route is the cement barrier affair that was back in the news recently.

It started with an Ariel Sharon attempt to circumvent a High Court ruling and the government's decision to move the fence route closer to the Green Line by building a cement barrier near the old route meant to disconnect south Mount Hebron from the Palestinian living space and boost the isolated settlements there. That way, the government could pride itself on following the High Court ruling while at the same time promoting its political caprices.

State representatives at court sessions did not shy away from presenting ridiculous "security" arguments that contradict the IDF's official combat doctrine. Chief Justice Barak's clear ruling to remove the barrier was not honored. State representatives proposed a solution that on the face of it was blatantly unable to constitute a reasonable interpretation of the court ruling.

Yet the defense minister and his deputy, who joined the decision-making process late, continued to accept this interpretation, which was sadly also backed by the deputy attorney general, Mike Blass. The court session ended in another ruling that called for the barrier's dismantlement within 14 days.

This series of events and others exposes an aspect that is even more painful to Israeli society than the argument over the fence's route. The attempt to paint the political route in a security veneer dragged some of the State's official representatives to places that will not be fondly remembered.

They forgot that the rule of law contributes to Israel's national strength much more than a few thousand dunams in the West Bank, which Israel's leaders are attempting to take away from the Palestinians. This is sometimes done through a route that in fact undermines security.

They also forget that the political leadership's control over the military is a critical condition for the utilization of power and violence by a democratic state, even if political leaders find it difficult to "look into security details" and "require some time to study the issue."

## 6 | Reworking the Route of the Barrier

In 2003, then Prime Minister Ariel Sharon, publicly reacting to a string of suicide bombings that had terrorized Israel, ordered construction of a long convoluted barricade that ensured incorporation of the 400,000 Israeli settlers residing behind the Green Line (including East Jerusalem) into Israel. This barricade is known today as the separation barrier or the security fence.

It is ironic that while unilateral disengagement was developed and implemented in 2005, partially in response to the political threat posed by the Geneva Initiative, today, the route of the barrier route is close to the territorial borders of the Geneva proposal. The initial separation barrier plan would have annexed 45% of the West Bank. Today's current trajectory for the fence would annex a smaller amount than that demanded by Israel in the last permanent status talks in Taba in 2001, closer to that agreed upon in the informal Geneva Accords. Israel negotiated this with itself, losing any advantages it might have gained locally or internationally through an agreement with the Palestinians.

The second Palestinian uprising, and a particularly brutal set of suicide bombings in 2002, led Prime Minister Ariel Sharon's government to launch the massive construction project that year. A separation barrier – recommended by a few in the security establishment – satisfied the public demand for a physical separation between the Palestinians and the Israelis in the interim

period until permanent status negotiations were to resumed. The proponents of such separation argued that a fence would provide Israel with the desired security, and save the Israeli economy, deteriorating due to the onslaught of terrorist attacks.

For Prime Minister Sharon, this approach had certain logic. It was then Agriculture Minister Ariel Sharon's settlement plan, at the end of the seventies, to build urban and industrial Israeli settlements on back of the mountains and on the western slopes of Samaria, to establish Israeli control over the territories overlooking the sea line, in addition to the Jordan Valley and Jerusalem. Thirty years later, the plan turned into reality with a barricade that would incorporate 400,000 Israeli settlers residing behind the Green Line (including East Jerusalem) to Israel.

Given the ongoing violent conflict with the Palestinians following the Camp David and Taba summits, and the lack of a credible political process, few believed the environment ripe for negotiations on permanent status agreement. So the Sharon government calculated that if permanent status negotiations were postponed, it would give up on Gush Katif and northern Samaria and ensure greater Jewish settlement in security zones in the West Bank.

The Road Map, a U.S.-led multiple stage plan to resolve the Israeli-Palestinian conflict with the objective of establishing two states for two peoples, intervened. Accepting the inevitable, particularly given the public outcry for greater security and separation, the Israeli government set about laying the lines of the fence in a manner that would ensure maximum Israelis on maximum territory with minimum Palestinians.

The construction of the fence was delegated to the Ministry of Defense. But the Office of the Prime Minister, subject to pressure from settlers, dictated the fence's route and instructed the MOD to defend it in the name of security. In reality, the demographic or political considerations presented for choosing one route over another were in fact contradictory to the security principles published by the Israeli security establishment itself.

The concept of the barrier to protect and separate populations was widely accepted among Israelis. Questions about its route, however, have been pressed repeatedly. The Supreme Court has found in certain cases, as it did recently, that security concerns are not sufficient to support the particular course of the barrier, and ordered it rerouted.

The Court's ruling should not surprise. The route of the fence was planned with demographic considerations at the forefront, followed only secondarily by security and political concerns. The Israeli government sought to annex the main Israeli settlement blocks in the West Bank, including those in the heart of Palestinian populated areas. The term "security" was abused to attempt to obtain the approval of the international community and the Israeli Supreme Court of Justice for a winding and twisted barrier that would maximize the annexation to Israeli proper of those portions of occupied territories with heavy Israeli settler population.

The plan to use the fence to immortalize Israel's control over the western and eastern security zones spreading over 45% of the West Bank failed. The international community, public movements in Israel, human rights organizations, Palestinian groups and the Israeli Supreme Court have reduced this "vision"

of annexed territory to less than 8 percent of the West Bank now. The international community feared the original route would jeopardize the prospect of a viable continuous Palestinian state. Israeli movements were concerned about losing the chance for reaching a permanent status agreement in the future, the consequences of which would lead to severe security deterioration. The Supreme Court approved the proposed route initially based on the Government's assertions about security concerns, but demanded that its harm to Palestinians be considered and minimized, laying the groundwork for subsequent decisions challenging specific sections of barrier construction.

When Kadima, led by Prime Minister Ehud Olmert, won the 2006 elections, "convergence" was the platform. Gaza disengagement, the Hamas-led Palestinian government, and a unilateral plan for further separation from the West Bank increased the need to discuss the trajectory of the border. These borders were to be the limits of the Jewish settlement in the West Bank in the short-term and the permanent border of the state of Israel in the long-term, as Foreign Minister Zippi Livni indicated on December 29, 2006.

So where to go from here? Israeli and Palestinian organizations need to continue to press before the courts and public fora to see that the route of the barrier is redirected to follow the Green Line as much as possible, most effectively addressing security concerns. If, as now seems likely, there may be some additional adjustment so that the route may in the end consume about 4 percent of the West Bank, these accommodations should be reached through discussions with Palestinians, which might also involve land swaps. Such discussions should occur under the auspices of a political process with permanent status objectives.

If this road for finalizing the route were taken, the international community may also be willing to help absorb some of the political and financial costs of constructing what would become the border, and dismantling settlements.

In this case, the path not taken is still available. We need to find our way back to it.

## 7 | Fences going every which Way

Shaul Arieli recalls the changes that have been made during the course of planning the Security Fence, and explains why there is no end in sight.

There has been far too little response by the Israeli public to the report by the Ministry of Defence stating that only one third of the Separation Fence has been completed to date. This is not what was promised by Prime Minister Sharon and Defence Minister Shaul Mofaz.

It is hard for the public to recall anew every day what is the "ideological" position of the Minister of Defence. It is hard to remember the history of the Fence that began as a "Separation Fence" gradually became known as a "Security Fence" and today is designated officially as a "Political Fence".

A brief review of the changes of direction of policy calls into question the absurd claim by the Ministry of Defence that "Palestinians are to blame for delays in building the Fence".

Sharon claimed in mid-2001: "Separation is not a practical possibility. I do not believe that we are here and they are there. To my mind such a possibility is non-existent." This declaration created difficulties for Sharon's government, making it indecisive about building the Fence both south and north of Jerusalem.

This hasty statement led to a whole series of small adjustments, costing millions, to the planned path. The most noted was made on the eve of the sitting of the International High court of Justice in the Hague, when Israel dissembled and then rebuilt the Fence in the neighbourhood of Baka-al-Garabyah.

A decision on the path of the Fence for the entire West Bank was taken only in October 2003, almost three years after Sharon and Mofaz had promised us "Peace and Security". Perhaps the delay was because Sharon really thought that "the Fence was neither a realistic nor an efficient solution".

In spite of the fact that at the time the Fence was given the name "Separation Fence" the government knowingly intended to cordon off in the territory between it and the Green Line a population of some 400,000 Palestinians, and this with the further intent of annexing in the future about 20% of the West Bank.

## **A Black Day for the State of Israel**

The day that the Israeli High Court ruled against the above mentioned path the Defence Establishment called it "a Black Day for the State of Israel" and "accused" the court of causing delays in building the Fence.

The Defence Establishment lost no time in planning a revised path that placed just 9% of the West Bank between it and the Green Line. It was an area populated by half the previous number of Palestinians. To everybody's "surprise" this new path left a negligible additional number of Israelis on its eastern side.

But eight full months passed after the High Court's ruling before Sharon brought the new path for approval by the government. The

Fence, which by then had its name changed to the "Security Fence", as government officials were careful to stress, was planned to be 759Km long. That is, twice the length of the Green Line. One third of this length was necessary to connect Ariel – 23Km from the Green Line – and the settlement of Alon – 15Km from the green Line – to Israel.

Any informed person, even if not a general like Sharon and Mofaz, can reckon how large a force would be needed to defend this winding path. A "security" path of this length would "justify" the building of 39 passages through it. These would pin down additional large contingents of troops.

### **And the Money?**

The Ministry of Defence has announced that the cost of the Fence will be about US\$1.6 billion, plus an additional US\$0.5 billion to ameliorate the living conditions of Palestinians who would suffer from the construction. Mofaz and his planners seem to have forgotten that originally the cost of the Fence was estimated at US\$1 million per kilometer. It has ballooned to twice that sum and it is still rising. To this must be added the annual operating cost, reaching hundreds of millions a year. And there are the costs of maintenance and modifications to the path of the Fence. All at the taxpayers expense.

At the stage when the state began to admit that the Fence had "political implications" the public was required to face reality and accept that it was necessary to forge a separation between Palestinians and Israelis. But this cannot be achieved by installing a meandering Fence.

The Fence should be built along a path that has been negotiated

and agreed upon. All the "shortcuts" that Sharon is trying for achieving a political border are costing unnecessary bloodshed. As an example of the negotiating process it may be noted that in the region of Israel's "narrow waist" the Geneva Agreement pushes the border further east than does the Fence. The first step in seeking an agreement with the Palestinians is to tell the truth to the Israeli public. [Haaretz | 13/03/2005]

## 8 | The Distance between the Fence and a Permanent Status Agreement

The approval by the Government of the new route for the separation barrier appears at first glance like a compensation to the settlers for the Government approving the disengagement plan. But a closer examination of the changes effected in the delineation of the barrier demonstrates on the contrary that Sharon is following in Ehud Barak's footsteps on Israeli demands for annexing lands in a PSA, in all but two respects. Firstly, Barak came to his senses during the negotiations and gained significant achievements as a result on various PS issues. Sharon, for his part, is also coming to his senses but is reluctant to forfeit the "no partner" conspiracy. Secondly, while Barak's current aim is to replace the Prime Minister, Sharon is bolstering his position with support from Labour and the Bush administration and can continue his journey – if he so chooses – towards a Permanent Status Agreement.

The route of the separation barrier, approved by the Government in July 2003, was intended to reduce the territorial argument with the Palestinians to 18% of the West Bank. In exchange, Israel announced its withdrawal from Gaza and the Northern West Bank. At the same time, Israel's avoidance of renewing realistic negotiations with the Palestinians would have ensured a continuation of the conflict, which according to Dov Weissglass would have realized Sharon's vision of "freezing" the political

process for a further 10-15 years. This would be the necessary timeframe to alter the demographic balance in the seam zone, thus justifying Israel's claim to annex it fully to Israel in a PSA.

This theory explains why Israel chose to approve the route of the eastern fence between the Gilboa area and Tayseer in the Jordan Valley on the basis that Jewish settlements there would be attacked as a reaction to a fence along the green line, and to justify an eastern security zone which remains on the list of vital interests passed by the Netanyahu Government.

Sharon's plan for the seam zone is very similar to the formal proposal made by Barak at Camp David. Both Prime Ministers sought – justifiably – to minimize the number of Israelis that would have to be evacuated under a PSA, and estimated the number of Israelis between the green line and the fence at approximately 350,000. But both also unjustifiably sought in parallel to annex hundred of square kilometers of Palestinian lands, without just recompense and contrary to Israel's commitment to base the PSA on Resolution 242 which is based on "land for peace".

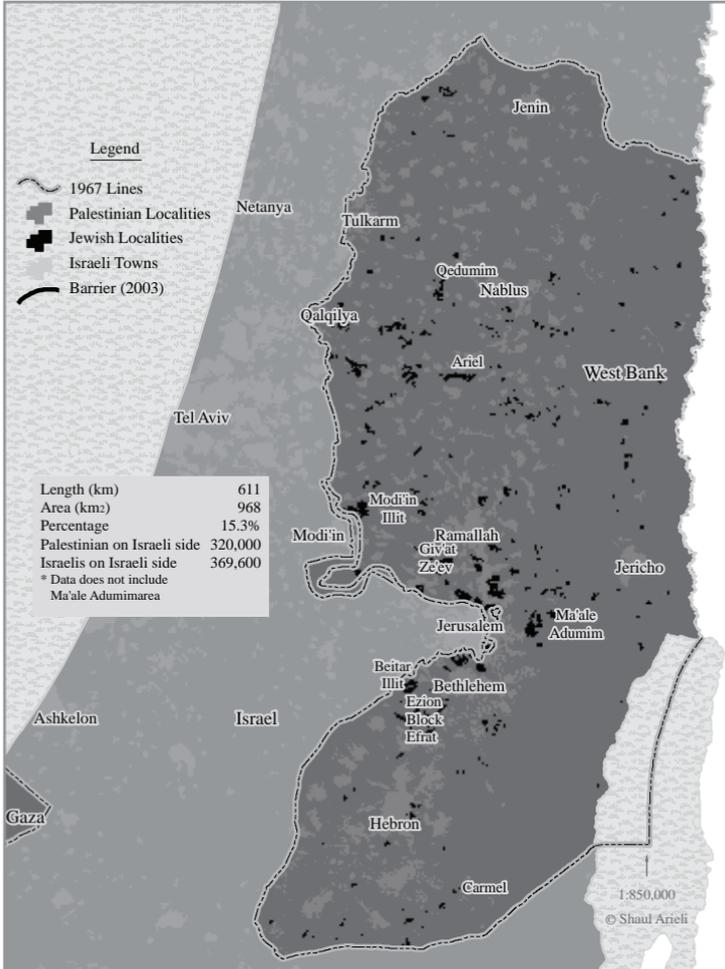
The route of the fence as approved by the Government is based primarily on the Supreme Court decision in June 2004, which ruled out the route of the fence west of Jerusalem on the argument that didn't satisfy the required balance between Israeli security needs and the daily needs of the Palestinian population. The new approved route reduces the number of Israelis within the fence, but also reduces annexed Palestinian land by more than 60%. Barak experienced a similar process following the failure of Camp David and the Clinton Proposal which followed it, and he reduced the Israeli demands set forth in Taba to 6-8% of the West Bank. Again, there are striking similarities between

the map presented by the Israelis at Taba and the new route of the fence, with the number of Israelis remaining under Israeli sovereignty a determining factor in both cases.

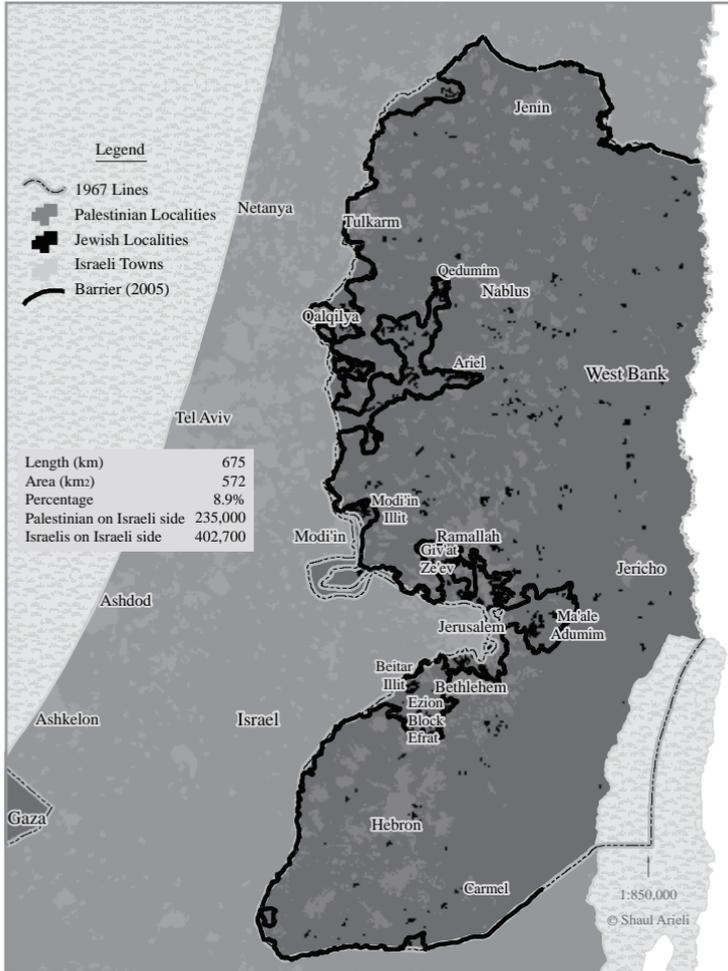
The similarities end here. Sharon is in a position to complete the process of a PSA together with his counterpart Abu Mazen. If he persists with wishing only to reduce the number of Israelis which are evacuated under a PSA, and recognizes the absence of a security interest in the Jordan Valley, then all that is required of him is to adopt the Geneva initiative. The Geneva Accords leave 300,000 Israelis under Israeli sovereignty, enables the Palestinian territorial contiguity required by President Bush, in a deal that has the backing of most of the Palestinian leadership including Abu MAzen. But unlike previous proposals, the Geneva initiative requires that Israel annex only 2.5% of the West Bank. Secondly, it enables the establishment of two capitals in Jerusalem, an issue which remains unsolved even with the new Government-approved route of the fence.

Those opposing territorial compromise in general and the disengagement plan in particular will have to confront these proposed solutions, as will the Prime Minister and his supporters who are wondering if evacuating 40,000 additional Israelis justifies ignoring Abu Mazen's demands for immediate talks on Permanent Status. Finally, the Israeli public will need to ask itself if 5% of the West Bank (and 1% of Israel) are a good enough reason to postpone the end of the conflict and ends of claims which both sides committed to in Camp David, Taba and Geneva.

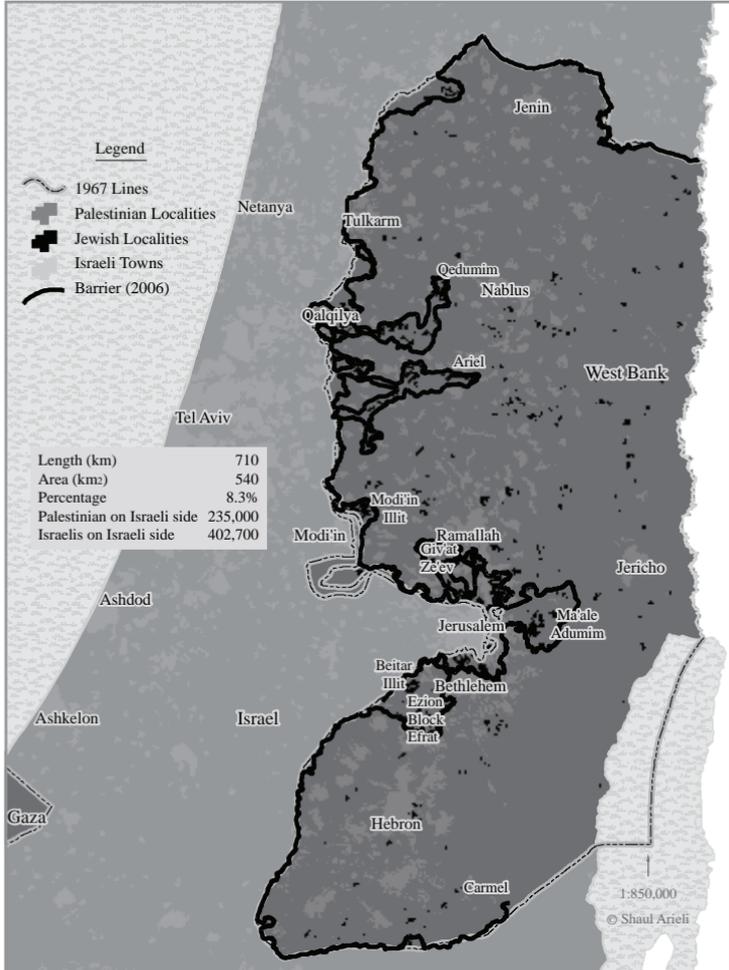
# 2003 | Barrier Route



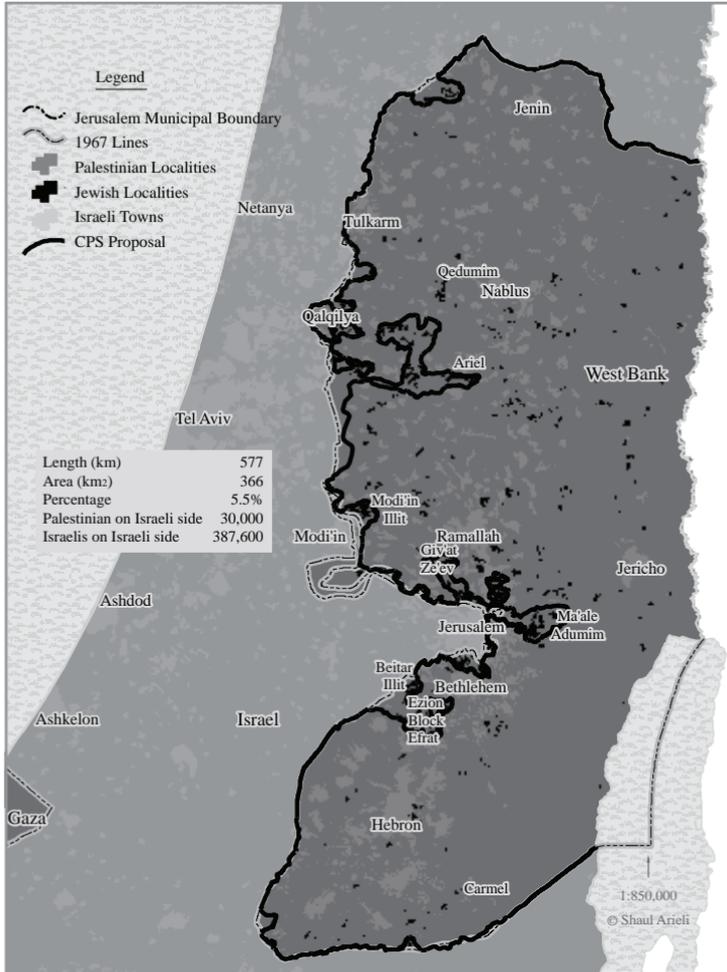
# 2005 | Barrier Route



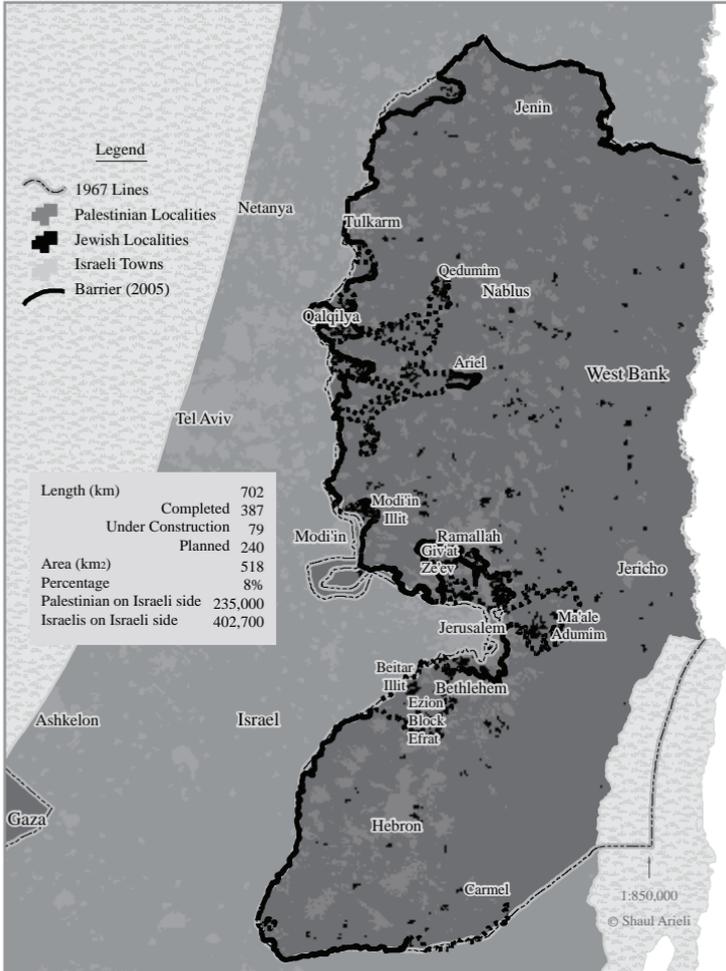
# 2006 | Barrier Route



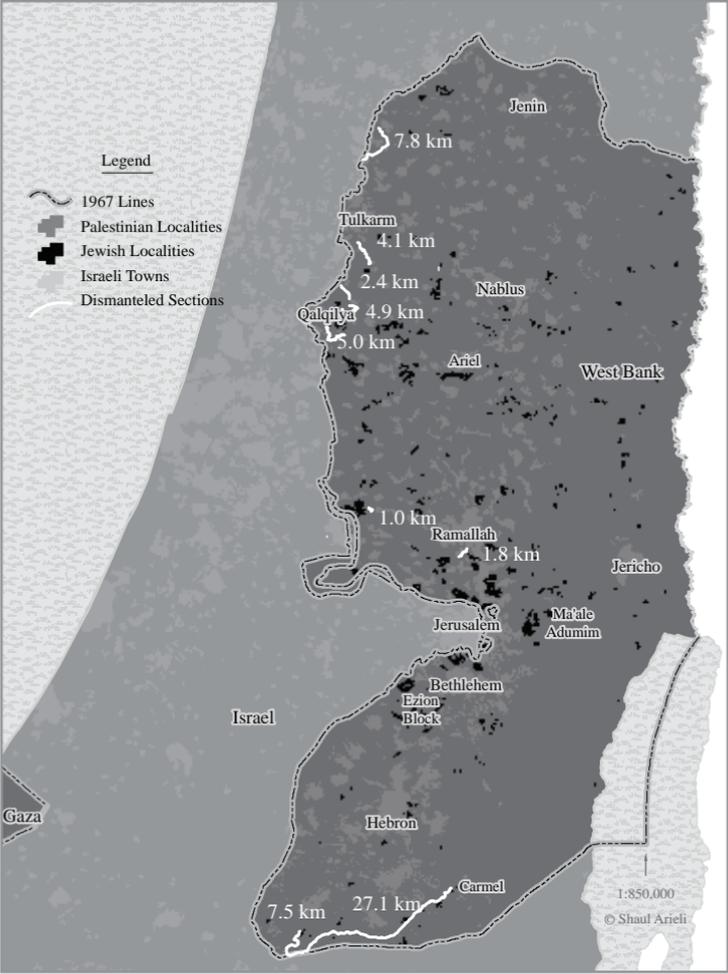
# 2003 | Council for Peace and Security: Barrier Route Proposal



# 2009 | Barrier Status



# Barrier-Dismantled Sections



# **Chapter 4**

# **Jerusalem**

# Contents

	page
<b>1.</b> Comment / Israel is to blame for Jerusalem's rising Arab population [Haaretz   14/04/2010]	393
<b>②.</b> Jerusalem – Between the Defensive Barrier and a Settlement or an "Historical Basin" and an "Outlying Neighbourhood" [Senat 329   November 2007]	396
<b>3.</b> Israel's Plan for Jerusalem is liable to lead to tragedy [The Daily Star   21/06/05]	403
<b>4.</b> An Israeli View [Bitterlemons   13/06/2005]	407
<b>⑤.</b> Toward a Final Settlement in Jerusalem: Redefinition rather than Partition [Strategic Assessment   June 2005]	410
<b>6.</b> Prison fence [Ynet   11/02/2005]	432

## **Senat 329 on Socio-Economic Issues:**

# **1 | Comment / Israel is to blame for Jerusalem's rising Arab population**

**The conduct of Netanyahu's cabinet marks a new peak in the government's march of stupidity on Jerusalem.**

The conduct of Prime Minister Benjamin Netanyahu's cabinet marks a new peak in the government's march of stupidity on Jerusalem. In the best case this march will put Israel in an inferior position when negotiations with the Palestinians are renewed. In the worst case it will advance the transformation of Jerusalem into a capital with an Arab majority of a single state between the Jordan River and the sea.

Cutting East Jerusalem off from the West Bank and expelling 60,000 Palestinians from its precincts by means of the separation fence were aimed at ensuring Israel's control of a "united Jerusalem" and establishing a solid Jewish majority in the city.

However, since the erection of the fence thousands of Palestinians have moved into the city, including its Western part.

This migration stems from the fears of Palestinians living outside of Jerusalem or outside the country that their Israeli residency will be taken away from them and thus they will be cut off from

East Jerusalem, which serves as the center of their lives.

It is also motivated by the security checks, which make their access to the city ever more difficult.

During this past year the implementation of these threats has increased migration, bringing the day closer when the share of the Palestinian population in the capital (which rose from 25 percent in 1967 to 36 percent in 2009) will cross the median line.

Jerusalem's former mayor, the late Teddy Kollek, held the "mosaic" view of the city, the main principle of which was the maintenance of the contiguous developed Jewish area. This has given way to a policy of "vertical envelopment" - the purchase of buildings and the construction of Jewish neighborhoods in the heart of Arab villages like Ma'aleh Zeitim in Ras al-Amud, Kidmat Zion in Abu Dis, Beit Yonatan and Beit Hadvash in Silwan and the attempt by Netanyahu and Jerusalem Mayor Nir Barkat to let Jews live in Sheikh Jarrah.

This presence will not be able to vanquish the Arab neighborhoods demographically. It will only exacerbate the daily friction and lead to the expenditure of about NIS 50 million from the public coffers for security. In the long term, these moves will sabotage the necessary condition for a permanent status agreement - a Palestinian capital in East Jerusalem.

During decades of neglect, the Arab neighborhoods have lacked in infrastructure, education and health; 36 percent of the city's inhabitants received only 7 percent of its budget.

Demolition orders have been issued for thousands of homes built

without permits in those neighborhoods, for which no master plan has been drawn up during the past 40 years.

None of this has motivated the Palestinian inhabitants of Jerusalem to move out of the capital. On the contrary. A survey conducted recently in the Jewish neighborhoods of the city found that during the past three years 1,361 apartments in those neighborhoods were sold to Arabs.

The shortage of 1,500 classrooms gives criminal gangs and terrorist groups a chance to reach kids who have nothing better to do than roam the streets.

It came as no surprise that in the 2006 elections Hamas won all the Jerusalem seats in the Palestinian parliament.

The statements by some members of the government and the Knesset concerning their willingness to relinquish the outlying Arab neighborhoods are contradicted by the municipality's actions. Thus recently a road was paved from Pisgat Ze'ev to the Begin freeway which crosses through Beit Hanina, and the route of the light rail line will pass through Shuafat.

The new buildings going up in Beit Hanina are being connected to the Jerusalem water grid, whereas their neighbors are connected to Ramallah.

These measures and trends will not benefit Israel during negotiations, or in their absence. The government of Israel must give up the dream of a united Jerusalem for all eternity in order to ensure that Hebrew Jerusalem, including its eastern neighborhoods, will remain the capital of the Jewish state for the next generation as well.

**Senat 329 on Socio-Economic Issues:**

## **2 | Jerusalem – Between the Defensive Barrier and a Settlement or an "Historical Basin" and an "Outlying Neighbourhood"**

**Main Conclusion:**

- After 40 years of so-called "(re)unification," Jerusalem still functions as two distinct capitals: one for Israel, the other for the Palestinians in the West Bank.
- Israel's government has been forced to erect a barrier wall in Jerusalem due to the heavy price paid by its residents during the terror attacks experienced in the city. However, it chose to situate the barrier along the municipal border despite the irrelevance of that demarcation to the causes of the wall's creation or the weighty, well-known Israeli interests to be served.
- The separation of 97% of East Jerusalem from the 180,000 Israelis and 250,000 Palestinians living in the city could have been implemented on a demographic basis. For the 3% that would remain in the "historic basin," special arrangements are to be made that would guarantee their freedom of observance and access to the holy places of the three religions.

The new borders of Jerusalem, established after the Six Day War, were meant to further the Israeli capital's political and defensive prospects given any settlement with Jordan more than to emphasize its new or historical municipal boundaries, established prior to the city's imposed division in 1948. Defensible territory, enhancement of Jewish demographic superiority by attaching open spaces for the construction of new Jewish neighbourhoods, a municipal airport, a Jewish cemetery, the economic isolation of Jerusalem from the West Bank and land ownership were the main considerations that motivated Israel's government to approve, only 17 days after the war, the proposal forwarded by the Special Commission to extend Jerusalem's jurisdiction by 70,000 dunams (1 dunam=1,000 sq.m.) in the direction of the West Bank. This was done despite the fact that East Jerusalem sat on 6,000 dunams and that the Old City was spread over only 1,000 dunams. The Palestinian villages that had for years occupied the agricultural expanse for East Jerusalem, Ramallah and Bethlehem became, overnight, the new neighbourhoods forming the extended perimeter of "Greater" Jerusalem, the capital of Israel.

After 40 years of such "(re)unification", the political, security, economic and demographic realities of Jerusalem indicate that this move represented a "grab as much as you can" approach. All the processes that might have transformed the capital into an economically thriving Jewish metropolis enjoying a solid Jewish majority lost their influence in the reality created under the pressure of other trends.

In 1988, Jordan relinquished rights to territory east of the Jordan River to the PLO given the latter's unwillingness to renounce East Jerusalem as the Palestinian capital. Jerusalem thus became

one of the core issues to be discussed within the framework of negotiations on a permanent status agreement. In response, the international community annually demanded that Israel retreat to the "green line" passing through East Jerusalem as well. As determined by interim agreements, we should recall, residents of the Palestinian portion of the city participate in elections the Palestinian Legislative Council as well as for the chairman of the Palestinian Authority.

Israel subsequently relocated 180,000 Israelis in the 10 new neighbourhoods it established on one-third of the land attached to East Jerusalem, which extended the city's perimeter westward to an area covering 126,400 dunams – 2.5 times the size of Tel Aviv. However, the 69,000 Palestinians concurrently added to the city's population, which represented 24% of the city's population in 1967, have since grown to 260,000 or more than one-third of Jerusalem's residents. This population, the majority of which is denied Israeli citizenship, maintains an autonomous lifestyle, quite independent from that of the Jews. Their health, educational, transport, occupational and leisure systems operate in total isolation from Jewish systems.

In addition, the Palestinians' permanent boycott of municipal elections simply highlights the contradictions characterizing the city's "(re)unification". A change in the boycott policy is likely to conclude in reallocation of the capital's centres of power. The Jewish quarters in East Jerusalem have expanded to form the external perimeter of the municipal boundary and are spread along all the surrounding southern and northern hills controlling entry into the city from the west. Israel's intention to expand its control over the land dominating the new quarters will require re-capture of the Beit Jala-Bethlehem Ridge to the south and the

Ramallah-Betuniya Ridge to the north, both of which are densely populated by hundreds of thousands of Palestinians.

Burial in the Mount of Olives Cemetery has almost entirely ceased and construction of Jerusalem's municipal airport has been delayed for economic reasons. Despite the original intent, in the absence of any physical obstruction along its borders, East Jerusalem has gradually become the economic, commercial and touristic centre for the one million Palestinian residents of the West Bank, similar to the functions fulfilled by West Jerusalem for the 100,000 Israelis living in the suburbs that sprouted around it – Maale Adumim, Givat Zeev, Beitar Ilit and Efrat, among others.

The wave of terror initiated in 2000 in response to the two parties' failure to arrive at a mutually agreed-upon division of the city within the framework of the Oslo peace process harmed Jerusalem and its residents more than any other city in Israel. The enormous political, economic and social difficulties raised by the determination of the eastern route of the barrier has forced the Israeli government to construct the barrier in three separate phases over five years, with no conclusion date in sight. Previous lessons have not been learned: Situating the barrier wall's route along and beyond the municipal perimeter for the purpose of imposing, by force, an irrelevant boundary and thus transforming the Palestinian fabric of daily life in a West Bank without East Jerusalem, has simply intensified the damage and threatened Israeli interests regarding the capital. Formal removal of the city's 60,000 Palestinian residents – in addition to a similar number of Palestinians entitled to an Israel identity number although residing in the West Bank – beyond the barrier, together with the fatal blow to their freedom of movement and contacts with

East Jerusalem, did not receive an appropriate government or municipal response. Construction of the Government Campus at the Kalandia crossing has not eliminated the "outsiders" need to enter the city in order to obtain an education, health services and employment. The small number of transit points constructed and their limited capacity to reasonably manage the more than 100,000 movements into and out of Jerusalem conducted by Palestinians carrying an Israeli identity card eventually transformed Jerusalem's demography.

Whether legally or illegally, tens of thousands of Palestinians have been thronging to the crowded Arab neighbourhoods, 50% of which have still not been fully connected to municipal water and electricity systems or other environmental services. Housing prices have skyrocketed and intensified internal migration toward the Jewish quarters at the city's edge, proximate to the barrier wall. As a result of security and social tensions between the populations, out-migration of the Jewish population from Jerusalem to other cities has accelerated. Current forecasts predict that in the 2020, the ratio of the Jewish to the Arab population in the city will decline to 40:60.

The sweeping prohibition against the entry of Palestinians into Israel has been extended to East Jerusalem as well, an action exacerbating still further the rise in prices and the cost of living in East Jerusalem at a time when suppliers of food and other staples who lack an Israeli identity card are being kept outside its gates. The declining presence in East Jerusalem of individuals wanting to pray, conduct business and study, among other things, has brought with it a decline in municipal tax collection and fees paid by its residents, a trend aggravating the economic deterioration in the area but also in the city as a whole.

This portrait of the current reality is reinforcing the voices calling for a halt to these trends by redefinition of the city's boundaries. Three main routes among the various suggested can be identified:

The first would remove the designation of "peripheral neighbourhoods" from those neighbourhoods, with their 100,000 residents, lying north of Beit Hanina as well as those south and east of the Armon HaNatziv ridge.

The second would retain only the 6,000 dunams of East Jerusalem along the Shuafat– a-Tur–Mount of Olives–Abu Tur perimeter within municipal boundaries, a step that would official reposition more than 150,000 Palestinian residents outside the city limits.

The third and final proposal would apply the criterion set by President Clinton in December 2000 to all the city's eastern quarters: Arab neighbourhoods would be shifted to Palestinian sovereignty and Jewish neighbourhoods to Israeli sovereignty. This would conclude in the transfer of Jerusalem's 250,000 Palestinians to Palestinian sovereignty. Several attitudes have been expressed regarding this option as well as the associated control over "the historic basin" it embodies, an area spread over 2200 dunams and including the sites central to the three major religions: the Old City, the City of David, the Mount Zion, the Mount of Olives and the Kidron Stream. Some have demanded that Israeli sovereignty be extended over the entire area while others have demanded the division of sovereignty together with the introduction of a shared administration based on various municipal models. Still others argue that only an international agency can ensure the freedom of religion and ritual to observers of the three religions.

Many Israeli and Jerusalem leaders have enacted a policy of gobbling up land over the long years while excluding the Arab population. In recent years, the latter has finally comprehended what half of the Jewish population responding to recent surveys has long understood: The attempt to preserve a "(re)united" city by force will only undermine the interests of the State and its capital in the medium and long run. The future of Jerusalem is tightly linked to the character of the Israeli-Palestinian conflict. Yet, the territorial, security and economic arrangements to be applied to Jerusalem will nevertheless rest on those same principles that will dictate a comprehensive settlement – return to the 1967 borders, territorial exchanges, dispersion and so forth – in addition to special arrangements attuned to the city's religious, historical and international uniqueness.

## **3 | Israel's Plan for Jerusalem is liable to lead to tragedy**

The route of the barrier being completed around Jerusalem reflects primarily the policy of Israeli Prime Minister Ariel Sharon. The essence of this policy is an attempt to determine the final borders of the state of Israel by means of an act of settlement disguised as a security move, and based on the argument that there is no Palestinian "partner" for a substantial political peace process.

The outcome of this policy is liable to be tragic: without the capacity to ensure the establishment of a Palestinian capital in East Jerusalem – a sine qua non for ending the conflict and resolving all claims – Sharon's policy prevents any possibility of reaching a solution and perpetuates both confrontation and violence.

The "seam" area approved by the government on October 1, 2003, in effect delineated the borders of the Jerusalem "corridor" that the government sought out. To the north the government wished to include the future route of road 45, which is supposed to link the center of Israel to northern Jerusalem. To this end it was proposed that a "deep" or secondary fence be constructed some 3-4 kilometers north of road 443 (when asked about the purpose of the fence, the government replied that it was intended to defend road 443 from light-arms fire).

The government assessed that some of the 90,000 Palestinians entrapped with their 14 villages between the central barrier and the deep fence, and separated from many of their lands, would seek their fortunes elsewhere – much in the same way chosen by thousands of residents of imprisoned Qalqilya; the remaining Palestinians, meanwhile, would be annexed to Israel. To the south of Jerusalem the path of the barrier was planned south of the Etzion Bloc and east of road 60 and Efrata – condemning 17,000 Palestinians in five imprisoned villages to a similar fate.

An Israel High Court ruling in June 2004, together with international involvement, forced alterations to this plan. But in changing the plan in February 2005, the government also approved a new route that embraces 67 square kilometers between Jerusalem and the large settlement of Maaleh Adumim and an area east of it. This expanse (which is 10 times the size of the populated part of Maaleh Adumim) completes what is termed the "Jerusalem envelope," and is intended to ensure that Jerusalem does not remain a border town.

This plan, co-sponsored by the Jerusalem municipality, seeks to justify an Israeli demand to annex the area under any final status arrangement. It would be realized in two ways: geographically, by establishing an obstacle that severs Palestinian East Jerusalem from the West Bank, of which it is the unofficial capital; and demographically, by constructing a "Jewish urban belt" around Palestinian East Jerusalem – building 1,200 housing units in Geva Binyamin to the north, 3,500 in E-1 in the center, 200 in Kidmat Zion at Abu Dis, 350 at Nof Zion on Jebel Muqaber, and 13,600 at Nof Yael near Walajeh. The transportation solutions proposed by Israel – Route 80, the "eastern ring" or a tunnel – could indeed ensure within a decade the passage of Palestinian

traffic between Bethlehem and Ramallah, but would not preserve East Jerusalem as a political, economic, social and religious center for West Bank Palestinians.

This policy is currently generating an outcome completely contrary to that expected: thousands of Palestinians from the neighborhoods left outside the wall, who hold Israeli identification cards, are making their way back into the city and crowding together with the 200,000 Palestinians already there. This phenomenon has reinforced the relative demographic increase of the Palestinian population of Jerusalem from 22 percent in 1967 to more than 33 percent today. The trend hampers the city's capacity to function, insofar as the Palestinian residents boycott municipal elections and maintain almost entirely separate education, health, transportation, commercial and cultural networks from those of the Jewish population.

In contrast to the government's plan, the Council for Peace and Security, on whose executive committee I serve, has proposed a security solution based on a demographic separation barrier (between Jewish and Palestinian neighborhoods), without attaching additional territories from the West Bank. The alternative plan reinforces demographic separation as a means of maintaining the security of Israelis in their neighborhoods in both West and East Jerusalem. In this way the plan maintains the option for both sides to return to the negotiating table and realize a solution based on the Clinton Plan of December 2000.

Following the initiative of U.S. President George W. Bush and his administration to oppose the establishment of an eastern barrier and the expansion of Jewish construction in the eastern city, the ministers of the government of Israel should also accept

the redefinition of the borders of Jewish Jerusalem. The attempt to include the Palestinian part of the city within these borders not only imprisons a quarter of a million Palestinians who live there, but, primarily, precludes any chance of reaching a permanent solution and regional stabilization.

## 4 | An Israeli View

### A city imprisoned together

The route of the barrier being completed around Jerusalem reflects primarily the policy of Prime Minister Ariel Sharon. The essence of this policy is the attempt to determine the final borders of the state of Israel by means of an act of settlement disguised as a security move and based on the argument that there is no Palestinian "partner" for a substantial political peace process. The outcome of this policy is liable to be tragic: absent the capacity to ensure the establishment of a Palestinian capital in East Jerusalem--a sine qua non for ending the conflict and resolving all claims--Sharon's policy prevents any possibility of reaching a solution and perpetuates the confrontation and the violence.

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neighborhoods left outside the wall, who hold Israeli IDs, are making their way back inside the city and crowding together with the 200,000 Palestinians already there. This phenomenon reinforces the demographic trend of relative increase of the Palestinian population of Jerusalem, from 22 percent in 1967 to more than one-third today. The trend hampers the city's capacity to function, insofar as the Palestinian residents boycott municipal elections and maintain almost entirely separate education, health, transportation, commercial and cultural networks from those of the Jewish population.

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Following the initiative of US President George W. Bush and his administration to oppose the establishment of an eastern barrier and the expansion of Jewish construction in the eastern city, the ministers of the government of Israel should also accept the redefinition of the borders of Jewish Jerusalem. The attempt to include Palestinian al-Quds within these borders not only imprisons a quarter of a million Palestinians who live there, but, primarily, precludes any chance of reaching a permanent solution and regional stabilization.

## **5 | Toward a Final Settlement in Jerusalem: Redefinition rather than Partition**

The ninety-nine papers and proposals formulated during the twentieth century regarding the future of Jerusalem<sup>1</sup> testify to the importance of the city for Judaism, Christianity, and Islam – and to the ongoing battle of interests being waged between the diplomatic and political representatives of these three religions. Each of the proposals considers the local and global balance of power in the boundaries of the city and attempts to ensure freedom of worship and internal management of the holy places.

The major issue of contention regarding political control of Jerusalem was and is the Temple Mount. It seems that for the extremists of all three religions any arrangement is regarded as a temporary one, until the conditions ripen for a realization of the spiritual ideal. Over the last decades the religious tensions already evident in the city were intensified by the nationalist tensions of the Israeli-Palestinian conflict, which were aggravated by the sides themselves and even by additional groups in the Muslim and Christian world.<sup>2</sup>

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1 As listed by Ruth Lapidot, Moshe Hirsch, and Devorah Hausen in their book *Jerusalem – Where To?* (Jerusalem Institute for Israel Studies, 1999).

2 See *A Review of Positions in Peace Settlements for Jerusalem* (Teddy Kollek Center for Jerusalem Research, Jerusalem Institute for Israel Studies, 2000).

In addition to claims to the holy sites, a large part of the Israeli public regards a unified Jerusalem in its present borders as a single entity and opposes its partition.<sup>3</sup> This position was formalized in the mythical status awarded to these boundaries as a result of the legislation, "Jerusalem: The Capital of Israel, 1980." Against this Israeli attachment to the idea of a unified Jerusalem lie Palestinian religious and nationalist claims to the city. Are the State of Israel and the Jewish nation thus inevitably called on to partition Jerusalem and yield its holy places in order to overcome one of the substantive obstacles to an end to the conflict with the Palestinians, or might perhaps a solution to the question of Jerusalem's boundaries lie in their redefinition.

Indeed, the regional conditions created as a result of the diplomatic process between Israel and the Arab world may permit the establishment of a diplomatic solution in Jerusalem between the Palestinians and the State of Israel, based on the status quo in the holy places. In envisioning a practical solution for both sides, this essay will define the boundaries of Jerusalem through two stages. The first stage offers a model for temporary management of a unified Jerusalem, which considers Israel's security needs, the fabric of Palestinian life in East Jerusalem and the West Bank, and the need for the sides to resume negotiations. This represents an interim solution until a permanent agreement on Jerusalem is achieved. In a final settlement, because of the overlap between the religious significance and the administrative control in most of the sites, a territorial solution must be based as

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3 Although since May 2000 more Israelis have agreed to partition, and the dispute is about the extent of the division.

far as possible on adapting the diplomatic status to the religious status of the holy places. To this end, the essay proposes a different kind of organization of the sites. Finally, the remaining area of the city should be defined in accordance with the criteria formulated during previous negotiations and summarized in the Clinton proposal of December 2000.

## **A Unified City?**

Jerusalem, crowned the capital of the kingdom of Israel after its conquest by King David circa 1000 BCE, remained under Jewish political sovereignty for nearly 500 years and religious control for slightly more than 1000 years. Its initial area was approximately eight and a half to ten acres. By the end of the Second Temple period, in the year 70 CE, Jerusalem reached new heights in development, expanding to about 550 acres; municipal boundaries of this magnitude resumed only in the mid-nineteenth century.

Since the era of King David and throughout the millennia, Jerusalem has served as a symbol of Jewish identity and Jewish heritage. Once Christianity was declared the official religion of the Roman empire, the city as a whole and specific churches in particular acquired religious significance for the Christians. The Muslims sanctified Jerusalem shortly after their conquest of the city in the seventh century. Although they never declared it a capital city of any kind, they enjoyed religious and political control over it for almost 1400 years. The areas of religious and historical significance for Judaism, Christianity, and Islam are spread out over less than 500 acres, and comprise only 1.5 percent of unified Jerusalem's 32,000 acres.

The 1948 War of Independence left Jerusalem's Old City without

Jewish residents and under Jordanian rule for nineteen years,<sup>4</sup> until Israel conquered East Jerusalem and the entire West Bank and redrew the boundaries of the city. Regarding the holy sites in Jerusalem, the Israeli military government decided to maintain the status quo.<sup>5</sup> The Christians were given de facto sovereignty over the Church of the Holy Sepulchre and parts of the Christian Quarter of the Old City. Most of the Temple Mount was left in Muslim hands, and Jews were granted free access to the Western Wall and to the walls of the Temple Mount. Jews were permitted to visit the Temple Mount but not to pray there. In addition, no flags bearing symbols of sovereignty were raised in the precincts of the Temple Mount. As to the legal status of united Jerusalem,<sup>6</sup> the majority of the international community has accepted Israeli control of the western part of the city but not the eastern part.<sup>7</sup> Although Israeli authorities regard the eastern portion of Jerusalem as part of the State of Israel,<sup>8</sup> the international community has rejected this approach.<sup>9</sup>

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4 The Jordanians violated their commitment regarding freedom of access to the holy sites and desecrated the Jewish cemetery on the Mount of Olives.

5 The founders of political Zionism were aware of the sensitivity of the holy places in Jerusalem. Herzl supported internationalization of the holy places, and Weizmann opposed including the Old City of Jerusalem in the Jewish state.

6 *Jerusalem: Legal Aspects*, (Jerusalem Institute for Israel Studies, 1999).

7 UN Security Council Resolution 242, November 1967, demands Israeli withdrawal to the 1967 borders, which include the western part of the city only.

8 According to the law "Jerusalem, the Capital of Israel, 1980," which repeated the law for amendment of the order for arrangements of rule and law (No. 11), 5727-1967.

9 Just as it did not recognize the Jordanian annexation in 1950.

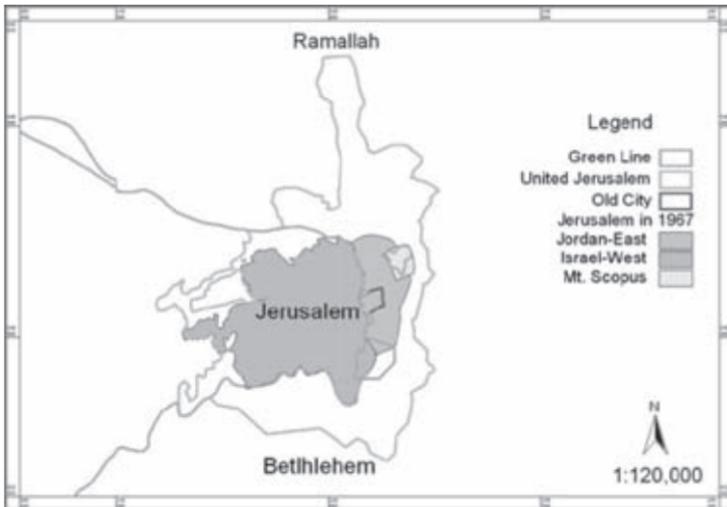
The extension of Jerusalem's jurisdiction in 1967 was not undertaken according to protocol, with the minister of the interior setting up a commission of inquiry and holding an ordered discussion on the matter, but by an amendment to the "order for arrangements of rule and law" of September 1948, whose wording (clause 11b), permitted completion of the "unification" seventeen days after the end of the war. The order, published the following day by the government secretariat, specified a municipal line that did not appear on a map but referred to imaginary lines between points of reference. In no place in the judicial proceedings does the name of Jerusalem appear, and the government's desire to hide and blur the annexation, out of fear of a grave international response, is evident.

In essence, there were five major principles that determined the new boundaries of the city.<sup>10</sup> The first and most important principle was demographic-territorial: annexing extensive areas to Jerusalem in order to ensure its expansion and development, while avoiding inclusion of densely populated refugee camps and Arab villages within the precincts of the city. In practice, the total area annexed to Jerusalem came to 17,500 acres, of which only about 1500 acres were Jordanian Jerusalem. The rest of the area belonged to twenty-eight villages, a small number of which were annexed in full and the rest in part (map 1). The number of Palestinians who overnight became residents of Jerusalem and the holders of Israeli identity cards was 69,000, representing 23 percent of the population of the unified city. The annexation, intended to allow for the construction

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10 Anna Hazzan, *The Boundaries of Jurisdiction of Jerusalem 1948-1993* (Jerusalem Institute for Israel Studies, 1995).

of Jewish neighborhoods that would thwart any attempt to repartition the city,<sup>11</sup> resulted in the expropriation of 5,250 acres of the area annexed, but the remaining area was rapidly filled with a Palestinian population. The number of Palestinian residents is currently 231,000, representing 33 percent of the unified city population. The number of Jews living in the ten Jewish neighborhoods of the post-1967 addition is 179,000, representing 40 percent of the Jewish population in the entire city.



**Map 1 | Jerusalem's Borders after 1967**

The second principle was to separate Jerusalem economically from its West Bank environs. In practice, however, East Jerusalem has remained the urban and economic heart of the West Bank. The largest population in the West Bank, about 800,000 Palestinians,

<sup>11</sup> Ibid.

is concentrated in East Jerusalem and its suburbs, and significant economic activity is also present in the area.

The third principle was strategic/security oriented. Since those dealing with the subject were convinced that the boundaries they drew would be the borders of the state in the near future, they included a significant portion of the hilltops surrounding Jerusalem. In practice, over the years Israel built new neighborhoods on these hilltops – Ramot Alon and Ramat Shlomo in the north and Gilo in the south – so that today Mount Gilo in the south, Nebi Samuel in the north, and the outer heights of Ma'ale Adumim in the east, outside the boundaries of the annexation, are those commanding the city that has expanded.<sup>12</sup> In the Camp David negotiations, the Palestinians accepted the demilitarization of their future state and its independence of a foreign army and heavy weaponry. As such, Israel's security needs are reduced to defense against terrorism, which does not obligate the annexation of the Palestinian areas to the city, and certainly not the areas outside the city protected by the security barrier. In fact, the very removal of densely populated Palestinian regions from the boundaries of the city will only alleviate the security solution required for daily life in Jerusalem.

The fourth principle was to include within the city boundaries important facilities such as the Atarot airport, the slaughterhouse in Shuafat, and the cemetery in the Mount of Olives. In practice, the airport is currently not being used nor is it needed, the slaughterhouse has ceased operation, and few burials take place

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12 They are all currently included or planned within the region of the security fence.

on the Mount of Olives, although the site retains religious and historical significance.

The fifth principle was to consider ownership of land and previous land arrangements. In practice, areas that lay within the boundaries of the municipalities of Bethlehem, Beit Jalah, and El Bireh were annexed as part of the 5,250 acres of Palestinian land and expropriated for the construction of Jewish neighborhoods. Although according to the 1950 Israeli law on abandoned assets the government could have expropriated the land and private property of the Palestinians, it avoided this measure. However, to advance construction of the separation fence, on April 8, 2004, the Israeli government authorized the expropriation from their legal owners of private property valued at millions of dollars, without right of appeal.<sup>13</sup> In negotiations between Israel and the Palestinians in the Taba talks of January 2001, which were based on the Clinton proposal of December 2000, understandings were reached that the Jewish neighborhoods would remain under Israeli sovereignty in a final settlement.

Herein lay the five principles that governed the idea of the expansion of the city. Despite thirty-eight years of "unification," however, Arab East Jerusalem is de facto separate from the western part of the city and from the Jewish neighborhoods in the east.<sup>14</sup> Infrastructure standards are entirely different: 50 percent of East Jerusalem is without water mains and drainage

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13 Meron Rappoport, Ha'aretz, January 22, 2005. Execution of this decision has been suspended by the attorney-general.

14 As described by a study group on Jerusalem, Peace Settlements for Jerusalem (Teddy Kollek Center for Jerusalem Research, Jerusalem Institute for Israel Studies, 2000).

systems, and 50 percent of East Jerusalem lands have no detailed and approved zoning plans, which makes the planning of roads and infrastructures and the provision of construction permits in accordance with zoning plans difficult at best. Despite the virtually unrestricted access by Arab labor to the Jewish employment market in Jerusalem, the reality is two sectoral employment markets in the two parts of the city.<sup>15</sup> The same applies to the transportation and education systems.

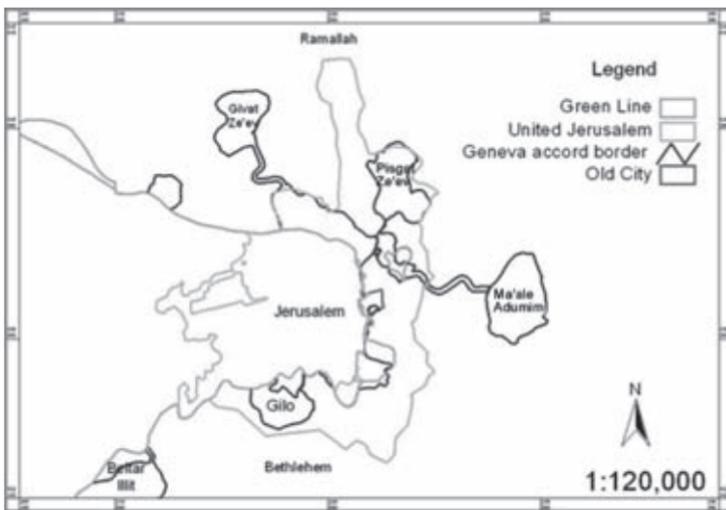
Only 6,000 people, a small percentage of Jerusalem's Arab population, exercised the option of acquiring Israeli citizenship in addition to their status as Israeli residents. The Palestinians pay taxes and enjoy the services and benefits given to all Israeli residents, but in actuality they only apply to the state authorities when they have no alternative. They boycott the municipal elections, and those who have another address outside Jerusalem voted in the elections for the chairman of the Palestinian Authority and the Palestinian Legislative Council held in January 1996, and in the elections for the chairman in January 2005.

This reality and the progress in the negotiations at the Camp David summit in July 2000 dictated Clinton's proposal for a final settlement. Clinton's approach departed from the traditional American position that regarded new municipal administrations and new Jewish Jerusalem neighborhoods as temporary measures that would not affect the current or future status of the city in

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15 Virtually no Arabs from East Jerusalem are accepted for work in hi-tech, and employment is limited primarily to textile, metal, footwear, and stone industries.

negotiations for a permanent settlement.<sup>16</sup> Clinton proposed partitioning the city according to the principle that Arab areas are Palestinian and the Jewish ones are Israeli. This principle would similarly apply to the Old City. The Israeli and Palestinian delegations accepted this proposal and advanced towards a solution in the Taba talks,<sup>17</sup> and the unofficial Geneva accord, concluded in October 2003, draws a border that incorporates the specific proposal of the president (map 2).<sup>18</sup>



**Map 2 | Two Capital Cities of Jerusalem (Geneva Accord)**

16 As voiced, for example, in speeches by Ambassador Arthur Goldberg at the UN General Assembly (1967), and by Ambassador Charles Yost at the Security Council (1969).

17 See Gilad Sher, *Just Beyond Reach: The Israeli-Palestinian Peace Negotiations 1999-2002*, ed. Rami Tal (Tel Aviv: Yediot Ahronot, 2001), and Shlomo Ben Ami, *A Front without a Rearguard: A Voyage to the Boundaries of the Peace Process*, ed. Rami Tal (Tel Aviv: Yediot Ahronot, 2004).

18 As Clinton acknowledged in December 2003 in a meeting with those who initiated the Geneva understandings.

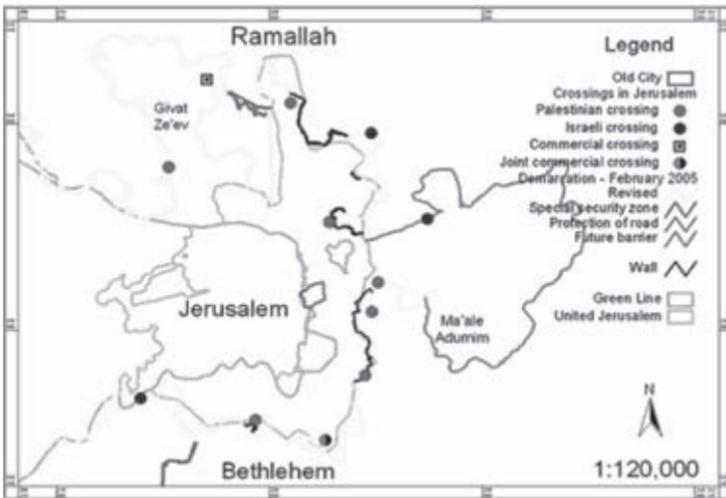
The collapse of the political process following the Camp David summit led to a norm of violence in which both sides felt betrayed and without a "partner" for negotiating an acceptable solution. Moreover, public pressure reacting to the violence and terrorism of the intifada propelled the Israeli government to set up a "seam" zone and security fence, including around Jerusalem. The route approved by the government in June 2002 and in October 2003 intended to expand Jerusalem's boundaries with an additional security region. All the hilltops commanding Jerusalem and located outside its boundaries have been included in the seam region: Mount Gilo in the south, which also overlooks Bethlehem and Beit Jalah, and Nebi Samuel and the Sheikh Zeitun range in the north, which also dominate Betunia and Ramallah.

The Israeli government decided to include the geographical area annexed in 1967 and additional territories in the seam zone, but did not fully integrate the populated areas or provide infrastructures and services comparable to Israeli areas.<sup>19</sup> The fence under construction effects a substantive change in the ways of life of the Palestinian population in the eastern part of the city and the Jerusalem metropolitan area. The 200,000 Palestinians who will live between the fence and the Green Line will be obliged to develop new routines, as will those who will live on the eastern side of the fence, but this will not obviate the Palestinian demand that East Jerusalem be the capital of the future state. The ruling of

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19 Ya'akov Garv, *The Separation Fence and the Jewish Neighborhoods in Jerusalem* (Florsheimer Institute for Policy Research, November 2004).

the Supreme Court in June 2004 in the petition submitted by residents of the Palestinian village of Beit Surich, joined by residents of Mevasseret Zion and the Council for Peace and Security, forced the Israeli government in February 2005 to approve an alternative route for the fence that balances Israeli security with Palestinian lifestyle needs. This new route will reduce slightly the amount of Palestinian land separated from its owners and the number of Palestinians on the western side of the fence, but it does not substantively mitigate the separation of East Jerusalem from the Palestinian population of the West Bank (map 3).



**Map 3 | The "Seam" Zone of the Jerusalem Region**

Despite its ostensible unification, therefore, the city functions essentially as two separate capitals, of Israel and of the

Palestinians in the West Bank.<sup>20</sup> All five principles that led to delineating the boundaries of the city in 1967 are no longer relevant, either because of the failure of their aims, such as the detachment of East Jerusalem from the West Bank, or because of the political developments that obviate the need for defense against a regular army.<sup>21</sup> Even with any changes to the demarcation of the security fence, the fabric of life of the Palestinian residents of East Jerusalem and the West Bank will be seriously harmed after the completion of the fence. Additional measures by the Jerusalem municipality, such as the intention to construct Jewish neighborhoods in the heart of the Palestinian population, are liable to complicate the feasibility of separation on a demographic basis that currently still exists in Jerusalem.<sup>22</sup>

If so, and on the understanding that the annexation and the construction of the new Jewish neighborhoods did not succeed in dissuading the Palestinians from striving to establish their capital in the eastern part of the city, there must be a different approach to the challenge of Jerusalem. First, an interim period is necessary to effect the transition from a "unified" city into the two capitals of two states. In the second stage, the holy sites must be organized anew in order to fuse the religious and political

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20 A noteworthy statistic, published by the Jerusalem Institute, in *Alternatives for the Route of the Security Fence in Jerusalem*, December 2004, indicates that the number of daily crossings of the municipal boundary was thirteen times as great as the number of crossings of the demographic boundary.

21 For an additional analysis see Moshe Amirav, "If we don't partition Jerusalem, we shall lose it," *Ofakim Hadashim* no. 17 (January 2005).

22 The Kidmat Zion neighborhood in Abu Dis, the Nof Zion neighborhood in Jabel Mukabar, the neighborhood in Wadi Joz, and others.

interests in a permanent solution for Jerusalem. The validity of the solution in the second stage will rest on its acceptance by both sides as part of a permanent settlement, and it will be realized only as part a comprehensive permanent solution, in order to prevent the stronger side from imposing any dominance it enjoyed in the interim agreement.

## **The Period of Transition**

At the core of interim period proposal is a narrower seam zone. Map 4 and table 1 depict this proposal, which ensures the security needs of the Jewish neighborhoods in the eastern and western parts of the city and preserves the fabric of life of the Palestinian population in Jerusalem and the greater metropolitan area. Significantly, the proposal does not call for changing the legal status of the city and its residents and does not affect the social services they are entitled to. The following principles underlie the proposal for a more limited seam zone:

- Ongoing IDF, General Security Services (GSS), and Israeli police operations on both sides of the security barrier, until an agreement is reached between the sides.
- Security of the Israeli neighborhoods in Jerusalem in a protected region separate from the Palestinian neighborhoods.<sup>23</sup> The form of separation will be based on a different profile than the existing one. It will be possible to incorporate a decorative electronic fence or maintain a separation based on the existing topographical route.

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23 Based on the proposal of the Council for Peace and Security.

- Contiguity between Jerusalem and the large Israeli residential areas in the metropolitan area (Ma'ale Adumim and Givat Ze'ev) and their inclusion in the protected region.
- Creation of a system of crossings that will permit entrance by Israeli residents – Israelis and Palestinians – into the Israeli protected region (exit from it will not be controlled).
- Retention of most of the existing barrier with seven crossings that will be "routinely open" for Palestinian needs and Israeli traffic bypassing Jerusalem, while maintaining security through random checks or absolute control, subject to the current security assessment. This barrier will create a region for preliminary monitoring of terrorist activities before they reach the protected region.
- Maintaining access by both populations to the sites holy to the three religions.

**Table 1 | Jerusalem during the Transition Period\***

	East Jerusalem	Approved Jerusalem region**	Proposed Jerusalem region***	Monitoring region	Protected region
<b>Area (acres)</b>	17,500	41,340	31,344	7,508	23,834
<b>Palestinians</b>	231,000	199,485	158,161	132,906	25,255
<b>Israelis</b>	179,000	215,458	212,362	3,174	209,188

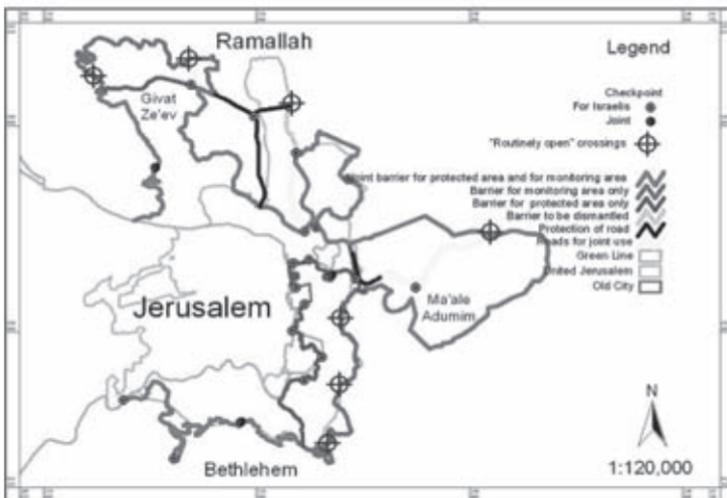
\* All data refers to the area and the population outside the 1967 borders.

\*\* The proposed region is a combination of the monitoring region and the protected region.

\*\*\* The proposed area combines the monitoring and protected areas.

For example, a Palestinian bearing a Palestinian Authority identity card may leave the bloc of villages to the south of

Highway 443 (on the Modi'in – Givat Ze'ev road), drive on the road, enter the monitoring region near Beit Horon at a point that is "routinely open," cross, and leave for Betunia in the region of the Ofer refugee camp at a similar point. Alternatively, he may reach the Palestinian neighborhoods in northern Jerusalem, Shuafat and Beit Hanina, and cross to the east and the south under a bridge in the region of the Shuafat refugee camp without being delayed. The entry to the monitoring region will be controlled and modified by Israeli security forces based on security evaluations. If he is also authorized to enter Jerusalem he may use one of the three following crossings: Bidu in the north, "Checkpoint 300" near Rachel's Tomb in Bethlehem in the south, and Mount Scopus in the east. An Israeli who does not wish to enter Jerusalem may use the same route and continue to the Jordan Valley or the Dead Sea without delay. Entry to the city itself will be through the checkpoints for Israelis (map 4).



**Map 4 | The Jerusalem "Seam" Zone during the Transition Period**

On the assumption that the Israeli government and the PLO can end the conflict only through resuming negotiations on a permanent settlement, this proposal enjoys the following advantages:

- The security for Jerusalem's Jewish neighborhoods is improved, because they are included in a protected region without a Palestinian population that participates in the Palestinian struggle.
- The legal status of the city and of its residents is not harmed and the Palestinian residents will continue to enjoy municipal services, social security payments, and other institutional services. However, if the Israeli government coordinates with the Palestinian Authority, it will be possible to transfer the neighborhoods in whole or part to Palestinian responsibility with the status of Area B.
- The Israeli and Palestinian routines in the Jerusalem region and in the city itself will be preserved in their present alignment – the western part of the city and the Jewish neighborhoods with the State of Israel, and the Palestinian neighborhoods with the West Bank. This will halt the increasing tendency of the emigration of Palestinian holders of Israeli identity cards into Israel,<sup>24</sup> as well as the decrease in the standard of living in East Jerusalem, an economic reality that provides fertile ground for terrorist organizations to recruit new operatives.
- In physical terms, the proposal can be feasibly implemented

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24 For example, from A-Ram only, which has a population of 63,000, 5,000 have already moved to Israel in the last two years.

and does not delay the completion of the fence approved by the government.

- The proposal permits postponing the specific political argument regarding the boundaries of Jerusalem because it preserves the municipal status quo, although some people will claim the exact opposite, since the boundaries of the protected region are determined on a demographic basis.
- The proposal provides a political channel for the solution of the conflict without obstructing implementation of an agreement based on the Clinton proposal.
- The proposal includes a saving of hundreds of millions of shekels in the construction of crossings in the security fence required for preserving the Palestinian fabric of life.

There are those who oppose the very foundation on which this proposal is based—partition of Jerusalem in accordance with Clinton's proposal. In addition, the proposal includes certain shortcomings:

- Opposition from the Israeli Right for the demarcation of a political route based on a demographic line that excludes the City of David and the Mount of Olives from the Israeli area.
- Opposition from the Palestinian residents of the city for the control of their passage between the eastern and western parts of the city.<sup>25</sup>

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25 Although in practice, partial control is already taking place today by means of portable roadblocks set up by the police and the IDF.

- Palestinian criticism on Israel's capacity to close the monitoring region to the Palestinian population in Judea and Samaria.
- Increase in construction and operating costs of the barrier, which will essentially depend on two systems (notwithstanding the savings specified above).
- Reduction of the time and space for terrorist penetration from Judea and Samaria into the western part of the city, because of the "routinely open" concept of the entrances to the monitoring region partially bordering on the protected region.

Overall, however, it appears that this proposal is not only viable, but will lay the groundwork on both sides in terms of routine and public opinion for a redefinition of "unified" Jerusalem as two capitals for two independent states.

## **The Permanent Solution: Proposal for the Historical Area**

A permanent solution on Jerusalem will necessarily include a settlement for the area of historical significance, which includes and extends beyond the Old City boundaries. Map 5 depicts the region containing the holy sites, consisting primarily of religious institutions and cemeteries. Some of this region is physically bounded by the Ottoman walls built at the beginning of the sixteenth century, which in themselves do not have any kind of sanctity that requires factoring them in as an exclusive criterion.

Construction of new walls around the designated region, without

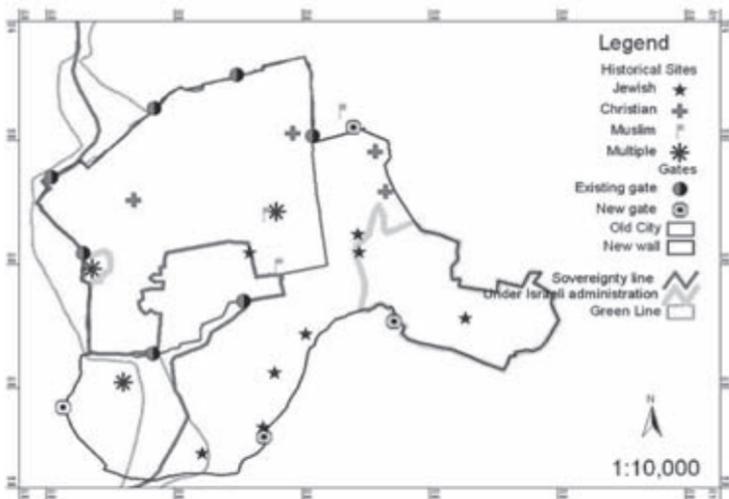
harming the existing walls,<sup>26</sup> will lead to a physical distinction between the holy places and the rest of the city (map 5 and table 2). The walls will be constructed as a joint project among Israelis and Palestinians. Their underlying concept will be to designate a region for joint use rather than announcing a divisive boundary, although with a capacity for separation from the greater urban area based on existing architectural solutions.<sup>27</sup> It is possible that within the walls will be included sites for transportation, culture, commerce, entertainment, museums, exhibits, and so on, important for members of the three religions living in the city. This physical separation will permit implementation of the model of an "open city," proposed in the Geneva accord for the Old City only, for the entire region. Although sovereignty over the region will be formally divided between the parties in accordance with the Clinton proposal, there will be no physical obstacles, and in practice the status quo will be preserved in all sites sacred to the three religions.

Application of the model of the open city to the proposed area in addition to the Old City is fair to both sides. Israel will implement the special regime on Mount Zion and the Palestinians on the City of David and the sites in the Kidron Valley. No change will occur to the special status of the Jewish cemetery on the Mount of Olives and David's Citadel, which will remain under Israeli administration. All the special arrangements required in order to ensure freedom of religious worship in sites outside the Ottoman walls will be preserved.

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26 These belong, as part of the Old City, to the list of the world cultural assets compiled by UNESCO.

27 Yehuda Greenfeld, Keren Li-Bracha, Aya Shapira, *Terminal on Border*, Final project in the faculty for architecture and town planning, Technion, Haifa, 2004.



**Map 5 | The Historical Region of Jerusalem**

A Jewish Israeli wishing to visit an area under Palestinian sovereignty will enter through one of the four gates under Israeli sovereignty, and can visit the City of David, for example, without a passport or any organized ferrying shuttle, and will return in the same way. The same applies to a Palestinian Christian who wishes to visit a church on Mount Zion or a Muslim Palestinian wishing to visit a Muslim cemetery there. A resident of Silwan in the City of David will not be required to go around the Old City in order to enter the market in the Muslim Quarter via the Lion's Gate, but may do so easily via the new southern gate leading to the Dung Gate. All the details related to traffic, residency, municipal services, and security will be a function of joint jurisdiction.<sup>28</sup> The private purchasing procedures will be identical in the matter for the entire territory of the Palestinian state and the State of

<sup>28</sup> As outlined in article 6 of the Geneva accord.

Israel. It is possible, subject to the agreement of both sides, that the coordination between the two municipalities regarding joint management of the region will include the option of the continuation of residence by Jews in areas under Palestinian sovereignty, such as the City of David, or the opposite (map 5). The remaining municipal area of unified Jerusalem will be divided on the basis of the Clinton proposal, while establishing the border arrangements at the crossings to be constructed, based on the existing and planned system of roads.

**Table 2 | The Historical Region**

<b>Perimeter (meters)</b>	6700
<b>Area (acres; 1 acre = 4046.85 square meters)</b>	448
<b>Construction of a new wall (meters)</b>	4600
<b>Existing : new gates</b>	4:5
<b>Palestinians</b>	36,400
<b>Israelis</b>	3000

## **Conclusion**

The proposal provides practical and fair resolutions to the religious and nationalist tensions between Israel and the Palestinians that harbor particular intensity regarding Jerusalem. The details of the proposal are based on a win-win concept and not on a zero sum game. The solution does not blur the division of sovereignty and thus prevents incentives for violation of the agreement by attempts to impose any *fait accompli*.

Adoption of this proposal will permit overcoming one of the major obstacles to a permanent settlement between the sides. Once peace will be reached between the sides, it will be possible to extend the model to additional areas in Jerusalem or to other places, without constructing a physical barrier.

## 6 | Prison fence

### **Jerusalem-area fence will imprison Palestinians, block peace**

More than anything, the obstacle course currently being built around Jerusalem expresses Prime Minister Sharon's policy: It is an attempt to establish permanent borders for the State of Israel by pushing settlement activity under the guise of security, using the pretext that there is no Palestinian partner to conduct a meaningful political dialogue with.

The result of this policy could be tragic: Without a Palestinian capital in eastern Jerusalem – an absolute requirement to bring the conflict to an end and resolve all outstanding claims – there will be no possibility of reaching an agreement in future. As such, this policy will ensure ongoing violence and conflict.

The "Seam" line, approved by the government on October 1, 2003, sketched out in practice the borders of the Jerusalem corridor the government hoped to establish.

In the north, the government asked to include the future route of Route 45, slated to run from north Jerusalem to the center of the country, inside the fence. In order to accomplish this, it suggested building a "deep" fence, some three-to-four kilometers (1.8 – 2.4 miles) north of Route 443 (when asked what purpose the fence would serve, the government said it was intended to protect the road from light-weapons fire).

According to government estimates, some of the 90,000 Palestinians, who remain jailed in 14 villages between the main fence and the deep fence and have been separated from most of their lands, will ask their future in another way, in a way similar to that taken by jailed residents of Qalqilya – and the Palestinians left over will be annexed to Israel.

In the south, the fence will pass south of Gush Etzion and east of Route 60, the main road leading to the area, and south of the settlement of Efrat, proposing a similar prison experience for 17,000 Palestinians in five villages in the near future.

### **Changes, but no change**

In June, 2004, the Supreme Court, accepting international involvement, ruled the government had to change the route significantly from its original plan, but the changes ratified by the government in February, 2005 include 67 square kilometers (about 26 sq. miles) between Jerusalem and Ma'aleh Adumim and east of Ma'aleh Adumim to complete what it calls "metropolitan Jerusalem" and is intended to prevent Jerusalem from becoming a "border town."

This plan, prepared with in coordination with the Jerusalem municipality, aims to justify Israel's claim of annexation in a permanent-status agreement. This will be realized in two ways:

1. Geographically – by cutting off Palestinian East Jerusalem from the West Bank, it cannot serve as an unofficial capital.
2. Demographically – by building a "Jewish urban belt" around the Palestinian East Jerusalem – by means of 1,200 housing units in Geva Binyamin in the north, 3,500 planned units

in the E-1 corridor in the center, 200 in the "Kedmat Zion" neighborhood of Abu Dis, 350 in the "Nof Zion" section of Jabal Muchaber, Har Homa and 13,600 in "Nof Yael", near the village of Wallaje.

## **Ring road, tunnel, to link Arab cities**

The transport solutions offered by Israel – Route 80, an "eastern ring road" and a tunnel – could ensure, within a decade, Palestinian travel between Bethlehem and Ramallah, but won't maintain East Jerusalem's place as a political, economic, social or religious Palestinian center in the West Bank.

This policy will bring about the opposite results of those intended, because thousands of Palestinians, from villages outside the fence, hold Israeli ID cards, will make their way back to the city and join the 200,000 Palestinian residents left there.

This phenomenon will strengthen the trend by which Palestinians have significantly raised their demographic representation in Jerusalem, from 22 percent in 1967 to more than a third today.

This tendency also threatens Jerusalem's ability to function, because Palestinian residents boycott local elections and run their own education, health, transport, business and cultural systems, almost completely separately from the city's Jewish population.

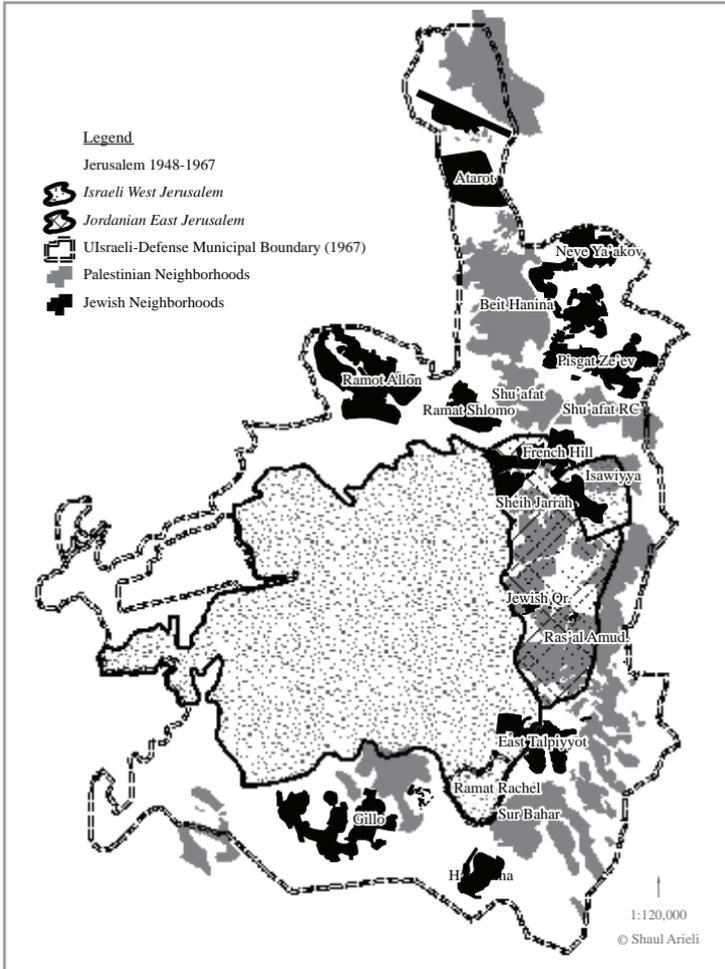
## **Other options**

Against the government's plan, the "Council for Security and Freedom" presents another option to security problems: We should route the fence to separate populations (between Jewish and Palestinian neighborhoods) without adding additional areas from the West Bank.

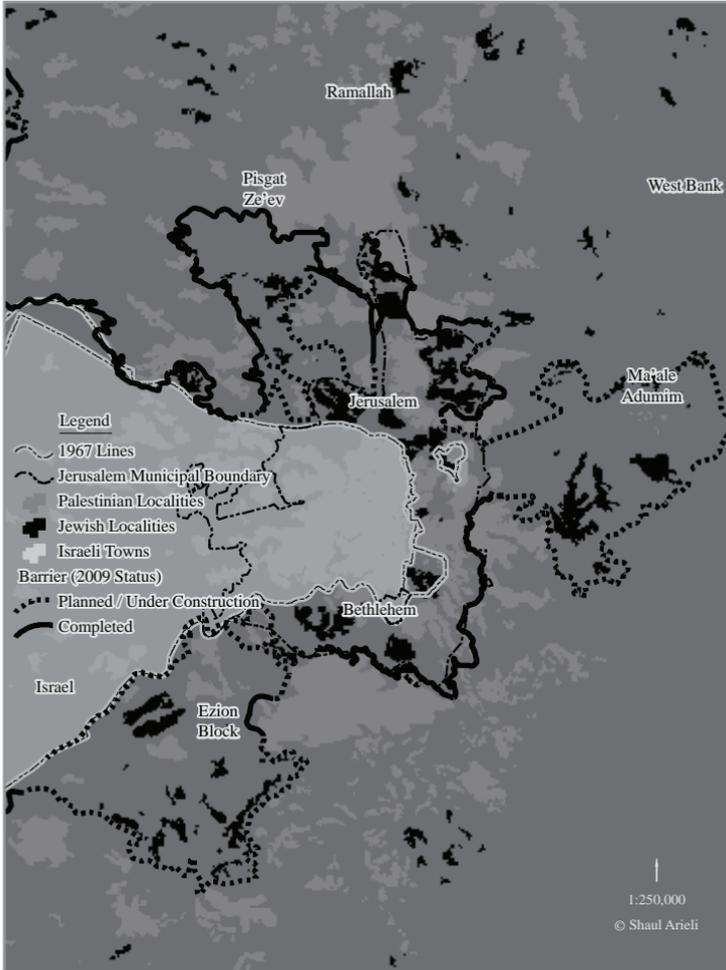
This alternate plan stresses demographic separation and will ensure the security of Israelis in both eastern and western halves of the city. In doing so, this plan will preserve the possibility to return to negotiations on the basis of President Clinton's proposals in December, 2000.

In keeping with President Bush and the American government's objection to the eastern fence in Jerusalem and expanded Jewish building in the eastern part of the city, Israeli government ministers would be wise to accept a new definition of the borders of Israeli Jerusalem, for indeed the attempt to include Palestinian al-Quds will imprison not just a quarter-million Palestinian residents, but mainly it will thwart all chance to reach a permanent-status agreement and regional stability.

# Jerusalem: East, West Unified



# 2009 | Greater Jerusalem Barrier Status



# **Chapter 5**

## **Syria & Lebanon**

# Contents

page

- ①. Say 'Yes' to Damascus, Ramallah [Ynet | 09/06/2007] 443
- ②. Threatening Syria comes with price [Ynet | 06/09/2006] 447
- ③. Mideast future at stake in north [Ynet | 17/07/2006] 450

# **I | Say 'Yes' to Damascus, Ramallah**

## **Israel should engage in negotiations with both Syria and Palestinians**

The prime minister's somewhat forced willingness to embark on negotiations with Syria is commensurate with an estimate recently being presented by moderate, Fatah-supporting Palestinian intellectuals. They believe, surprisingly so and in contradiction to the common Palestinian position, that today, in the absence of solid Israeli leadership and genuine ability by Fatah to take the reins legitimately from Hamas, the conflict between the sides may continue and even escalate, so this period should be utilized in order to engage in Israeli-Syrian talks.

Such talks, according to this estimate, would contain positive stimulators that would serve to renew future talks between Israel and the Palestinians.

This position is premised on, among other things, the enduring estimation that no government in Israel is able to drum up public support for concessions and evacuations in two parallel tracks, and therefore, for the sake of regional stability and final-status agreements, it is better to invest efforts in the track that has the best chances to succeed at any given time.

According to this perception, the Syrian channel may enable

the United States to stabilize the situation in Iraq and boost its chances to pull out soon. It can also serve to strengthen the group of moderate Arab countries, which are threatened by Iran's growing rise, while reducing the threat faced by Israel.

An Israeli-Syrian agreement would very soon after lead to a deal with Lebanon, while significantly weakening Hizbullah's capabilities to threaten Israel's northern border and support Hamas.

The weakening of radical Islamic forces would force Hamas to soften its positions, embark on the path of negotiations, and recognize Israel, or alternately, Fatah would be able to replace Hamas should the former find the strength required for rehabilitation.

However, choosing the Syrian channel ignores the threats inherent in the absence of a meaningful diplomatic process on the Palestinian track. Under current circumstances, Hamas enjoys a constant boost in its strength vis-à-vis Fatah and in terms of control over the Gaza Strip.

In the absence of a diplomatic change, Israel's chances of finding Palestinians leaders willing to sign a final-status agreement will increasingly fade over time. Maintaining a policy that rejects a Hamas-led Palestinian government or one that includes Hamas could quickly bring about the Palestinian Authority's collapse and dismantlement.

Such development would again find Israel responsible for the Palestinian fate, which it has already been able to shake off in the framework of the Oslo agreements. Such move would also eliminate any possible "return address" that would be able to manage the daily relationship with Israel "and even

more so, one that would be able to handle negotiations and the implementation of an agreement.

## **Major international contribution needed**

Such chaos may bring about, in a best-case scenario, intensive and effective international intervention, yet it would more likely enable any radical organization, such as al-Qaeda, to get a foothold on the ground and threaten Israel.

Finally, such bloody conflict would serve Iran as a platform for its threats on Israel and for the Iranian strengthening process.

This cautious estimate may lead us to the conclusion that the current and particularly future government of Israel must actually proceed on both tracks and even add the Lebanese channel, which does not require any significant concessions.

There is strong Arab involvement and attachment to the problem of Palestinian refugees. Lebanon would not rush to sign a final-status deal before the future of Palestinian refugees in its territory is determined.

The Arab and Muslim world, which are concerned about the fate of Temple Mount (al-Haram al-Sharif, as they call it) would not be quick to allow the Palestinians to sign agreements that are not coordinated with Arab countries.

The question of boundaries and the 1967 borders are relevant for these three partners, which are limited and threatened by the prospect of creating a precedent different than the agreement with Egypt, and the principle of border adjustments based on the Jordanian model may serve as a common denominator.

The process of normalization also refer to regional aspects of transportation, tourism, ecology, water, and more, and therefore require cooperation in order to formulate a coordinated regional plan for Israel's various borders.

All agreements require deep and resource-rich international involvement for the sake of absorbing refugees and settlers, IDF redeployment, the establishment of two capitals in Jerusalem, and advancing the Palestinian and Syrian economy, among other things.

The ability to enlist support and organize this in a gradual manner within an international community fed up with failure is more difficult than focusing an effort to advance a comprehensive regional solution.

Israel has already been presented with the platform of an "umbrella" for such move — both in the form of the Arab League Initiative and the international conference that would accompany the second phase of the Road Map plan.

The abovementioned are not free of difficulties or risks, yet on the other hand, changing the thinking pattern regarding one-track negotiations (which are also not quite seriously adopted in Jerusalem at this time) could bring about a significant change in Israel's chances to enjoy stability, security, and integration into the region.

## 2 | Threatening Syria comes with price

### **Military threats come at expense of socioeconomic pledges**

By declaring that in a war against Syria "we'll lift the constraints we placed on ourselves," Prime Minister Olmert shows that even after the war he finds it difficult to recognize the effects of his diplomatic policy on socioeconomic issues.

Any commission of inquiry will make it clear to the PM that such threats, made without offering a "carrot" in the form of a diplomatic alternative, and particularly when made by someone who decided to go to war in a matter of hours, will necessarily lead Damascus to boost its military power, tighten ties with Iran, and rehabilitate Hizbullah as a defensive force against an Israeli move through Lebanon.

All of the above will require the IDF to initiate its own plan to boost its strength, more training sessions, and more high alerts. This will cost many billions of dollars, which will lead to the crumbling of Olmert's pledges to minimize social gaps and fight economic distress.

Had Olmert been more attentive to public opinion, he would probably realize the significance of the Dahaf survey from the end of the war. The poll showed that 86-88 percent of the public

believes that the notion of cutting welfare budgets is unjustified and the government has no reason to add funds to the defense budget at the expense of welfare.

To this we can add that many discussions and the replacement of some Knesset Finance Committee members was required in order to approve the cuts to all government ministries, made in a bid to finance the war and rehabilitation.

Olmert is wrong to think that he will be able to fund both his unilateral diplomatic doctrine, which lacks the desire to seek peace, and also minimize social gaps.

The evacuation of Gaza, which cost about NIS 10 billion (roughly USD 2.2 billion,) the separation fence that cost a similar sum, and the growing cost of the conflict in the Strip, all come out of the State budget and without any foreign aid, which would have been provided to some extent had the withdrawal been carried out in the framework of an agreement.

This is certainly not the way to reduce the number of poor Israelis, which by the end of 2006 is expected to climb above 2.2 million, or to add the 6,000 classrooms needed in Israeli schools.

## **Israel ignores Assad's peace remarks**

Former Prime Minister Ehud Barak failed in his attempt to remove Syria from the cycle of conflict through a deal and withdrew from southern Lebanon. Sharon, in turn, chose to ignore Syria because it is "too weak" to sign an agreement. Now, Olmert is seeking to threaten Assad, who openly talks about returning the Golan to Syrian hands through violence.

Just like his two predecessors, Olmert is not wise enough to aim for completing the circle of peace around Israel when there's still a window of opportunity, on the eve of Iran's acquisition of nuclear arms and a radical movement taking over one of the states bordering Israel.

Had the PM and his predecessors acted differently, it would have indeed been possible to change the allocation of social resources in relation to defense expenses and deliver on social pledges.

In his famous speech, the Syrian president chose to open with "the strategic choice of peace". For various reasons, officials in Israel chose to ignore this part of his address. By doing so, Olmert is failing to fulfill the duty of any prime minister, to push back as much as is possible the time where he needs to order the IDF to act with full force.

The resources saved until that time must be earmarked for boosting the strength and welfare of the whole of Israeli society, which may be forced to contend with another war.

The short budgetary blanket will not grow larger through needless threats, but may become bigger through renewal of negotiations with Syria and the Palestinians.

## **3 | Mideast future at stake in north**

### **Israeli weakness will threaten regional stability and scuttle chances of peace with moderate Arabs**

Even though the fighting has only raged five days in the north, we can tell both sides in which direction they must move in order to put out the fires.

The fighting in Lebanon gives the international community a chance to differentiate between the Israel's fight with Lebanon and that with the Palestinians. For Israel, it opens up the possibility that we can accomplish our goals in Gaza quickly and bring the fighting there to a quick finish. And it gives the Lebanese the opportunity to exert their sovereignty over the south of their country and to free themselves from the clutches of Iran and Syria.

The Palestinians, too, must now decide in whose hands they wish to leave the key to their future.

### **Int'l community must back Israel**

Even if France and Russia condemned Israel for its disproportional response, the Europeans and the United Nations – more than the United States – must continue to grant legitimacy to Israel, and support the use of the IDF in self-defense.

International hesitation or reluctance to do this will amount to withdrawing its recognition that Israel had complied with Security Council Resolution 425 by pulling our troops out of Lebanon.

Furthermore, it would grant recognition to the fact that Lebanon has failed to exert its sovereignty in the south of the country, and grant a stamp of approval to the fact that Lebanon has failed to comply with Security Council Resolution 1559, as well as legitimacy to organizations such as Hizbullah and Hamas to continue their fight from that area.

More than that, the international assurances offered to Israel during every negotiation session with Syria or the Palestinians would lose their meaning and weight with regard to the risks Israel will be willing to take upon itself in future.

Releasing Syria from any responsibility for a process that has Syrian fingerprints all over it (same thing for Iran) could force Israel to try to exact a higher price from Syria than a harmless IDF flyover of Bashar al-Assad's palace in Damascus, in a way that could broaden the conflict into a regional one.

### **Iran, Syria run the show**

The orders coming from Damascus make a joke out of Lebanese aspirations, with UN backing, to take control for their future, even if Assad's army has physically left the country.

And even more serious: Through Hizbullah, Iran and Syria have successfully set the regional agenda and prevented processes that could bring an end to the Israeli-Palestinian conflict.

## **Chance for change**

Israel must make the northern front its main focus, because at the moment it is only there that there is a real chance for long-term change.

Israel must seize the opportunity and weaken the connection between Hamas and Hizbullah, using mediation to bring about calm in Gaza, in the form of a package deal to include the release of Gilad Shalit, a future release of Palestinian prisoners (as agreed by Prime Minister Olmert and Mahmoud Abbas before the current crisis), a total cessation of Qassam rocket fire, and a halt to targeted assassinations of all Palestinians abiding by the cease-fire.

Focusing on the northern front will allow Israel to avoid failing on a front that Israel cannot complete with its hands in its pockets. The result of that would be a strong tremor throughout the Arab world with regard to future relations with Israel.

## **Supporting Arab moderates**

Destroying Hizbuallah's military presence along the international border will push Nasrallah's finger off the trigger of the gun he keeps pointed at Israel and at Lebanon, but even more important – it will prevent those Arabs in favor of compromise with Israel – namely Egypt and Jordan – from apologizing for their peace treaties.

The violent lesson Nasrallah forced on a Lebanese government that wants to rebuild the country must teach that Lebanon cannot demand Israel respect the sovereignty of a region that Lebanon itself has refused to assume sovereignty over, either militarily or civilly.

Stronger international support for the Lebanese government could push it to deploy forces to the south, in order to remove the need for Israel to return.

## **Palestinian lessons**

The Palestinians should also learn this lesson, both with regard to their own desire for sovereignty – which Damascus has taken out of the hands of Gaza and Ramallah – and with regard to staging anti-Israel operations from territories transferred to their control.

The strategic importance of Operation Just Reward is far greater than previous operations such as the 1996 Grapes of Wrath. It is even greater than Operation Summer Rains down in Gaza.

This is a fight for the future of the peace and compromise process between Israel and moderate elements in the Arab world. The success of Nasrallah and Ahmadinejad, who call for Israel's destruction at any price, will call into question the region's stability. That stability rests on Israel's military superiority and Arab peace agreements with Israel.

It will bring about a return to the type of violence we used to have. The international community and Israel must choose actions that will prevent this before this operation becomes a full-fledged war. Even if the moderates win such a war, it will take years to repair all the damage.

# **Chapter 6**

# **Arab Citizens**

# **of Israel**

# 1 | An Option that does not really exist

In the wake of reports of new negotiations on a permanent status agreement between Israel and the Palestinians, Prof. Gideon Biger is once again suggesting the transfer of areas populated today by Israeli Arabs to the projected Palestinian state. This in exchange for according Israeli sovereignty over some of the Jewish settlements in the West Bank. This would ensure a Jewish majority in the State of Israel and increase the area of Jewish settlement in the Land of Israel. However, when we examine the details of this proposal from a practical point of view and from the perspective of both international and Israeli law, it is seen to be an impractical and in fact risky idea.

Biger claims that the idea of exchanges of territory was brought up in the past in order to deal with "assymetry", as he sees it, where there would be an Arab minority in Israel but no Jewish minority in the future Palestine. But the truth is that when the proposal for exchanges of territories came up in the past – at Camp David, Taba and Geneva, and with presidents Bill Clinton and George W. Bush – it was with the purpose of satisfying Israeli interests and to overcome the difficulty inherent in the evacuation of hundreds of thousands of Israelis from the territories, in spite of the fact that their settlements are illegal in international law.

Proponents of the idea want to bring about, in Biger's words, the adjustment of the armistice lines "to the demographic reality that

has developed in the Land of Israel." A quick glance at the maps published by Prof. Arnon Sofer suffices to show the danger of such an approach. It would be easier to join up the Arab Galilee to Jenin and the Negev Bedouin to Hebron than to forge a corridor 21Km long to join Ariel to Israel. Who can guarantee that if Israel signifies agreement to modify the 1967 borders – within which she enjoys 78% of the area between the Jordan River and the Mediterranean Sea – that the process would not lead to a reopening of the 1948 arguments: partition boundaries; internationalization of Jerusalem; destruction of Arab villages; refugees from Israeli territory; requisitioned land and property, and more.

Biger cites examples of population between Greece and Turkey and between India and Pakistan. However, international law today explicitly prohibits any transfer of population because of the great importance that is attributed to place of residence and its significance with regard to human rights.

The possibility of a transfer of sovereignty depends – inter alia – on Palestinian agreement – a necessary condition to which Biger does not relate at all. And the Palestine Liberation Organization can not be expected to be interested in acquiring territories that are densely populated. The PLO would be interested in empty areas in which they could settle refugees.

Even if the PLO were to change its position, the sides – in accordance with what has become accepted and obligatory in international law today – would have to grant all of the inhabitants of the areas in question two options for maintaining their Israeli citizenship.

This, too, is a necessary condition that is absent from Biger's

presentation of the issue: Those Israeli Arab citizens living in towns proposed for transfer to Palestine would be able either to move to a new place of residence within Israel, or to maintain their Israeli citizenship while continuing to reside in the transferred territory. This latter possibility would then obligate Israel to undertake complex arrangements for transit and employment of them in Israel, while denying them the right to vote in elections for the Knesset and also deny citizenship to their children who are born in Palestine.

Biger claims that the measure would reduce Israel's Arab minority to 14% of the population (from today's 21%), and that 200,000 Arabs would move into the future Palestine. Practically, however, this is not possible. This would necessitate the transfer of Arab locales that are to the west of the Trans-Israel Highway (Road 6) – Kalansua, Tira and Jaljulya; the relinquishing of the Shaked bloc of settlements, so as to allow for the transfer of the Wadi Ara towns to their west to Palestinian sovereignty, as well as the evacuation of the western Samaria bloc of settlements (Elkanah, Oranit, Sha'arei Tikva, Etz Efraim and others), if it is decided to transfer Kafr Qassem and its environs.

If these locales, which are impossible to transfer, because all are to the west of areas that Israel is demanding remain within its sovereignty, are subtracted from the equation, the result would be that only 12% of Israel's Arab minority – 2.3% of the population of the country – would be transferred. Moreover: The living area of this small population spreads over a bit more than 120 square kilometers, much less than what Israel is asking to annex in the framework of the Jewish settlement blocs in the West Bank.

The right way to reduce the Arab minority that is living in Israel

is a permanent-status agreement in whose context 250,000 East Jerusalem Arabs will come under Palestinian sovereignty and will lose their Israeli residency. In this way, the ratio between Jews and Arabs will return to what it was on the eve of the Six-Day War. The Israeli answer to the separatist Arab currents that deny the Jewish character of the State of Israel lies in the equalization of the rights and obligations of the Arabs in the State of Israel and in the establishment of an independent Palestinian state in the West Bank and the Gaza Strip.

The Palestinian state will realize the Palestinian people's demand for and right to self-definition outside the borders of the State of Israel. By virtue of its existence, it will enable all of the Arab citizens of Israel to define their identity and their affiliation to the State of Israel and to choose, from an equal national position, the state with which they identify and where they wish to live and to realize their citizenship.

## Land of Israel, population (May 2009)

Area	Jews <sup>1</sup>	Palestinians <sup>2</sup>
Within 1967 borders	5,104,000	1,228,000
East Jerusalem <sup>3</sup>	194,000 (41.8%)	270,000 (58.2%)
Total (territory under Israeli law)	5,298,000	1,498,000 <sup>4</sup>
West Bank	295,000 (11.7%)	2,231,000 (88.3%)
Gaza	0	1,460,000 (100%)
Total	5,593,000 <sup>5</sup>	5,189,000
Immigrants not registered as Jews (others) <sup>6</sup>	320,000	0
Total in western Land of Israel	5,913,000 (53.3%)	5,189,000 (46.7%)
Residents of Israel <sup>7</sup> (67'+Jerusalem+Jews in West Bank)	7,411,000 Jews and others – 79.8% (75.5+4.3) Arabs – 20.2%	
Residents of West Bank and Gaza <sup>8</sup>	3,691,000	
Total number of residents in western Land of Israel	11,102,000 Jews and others – 53.3% Arabs – 46.7%	

- 1 The data about Arabs in the State of Israel is taken from Israeli **Central Bureau of Statistics publications** (May 2009).
- 2 The data about Arabs in the West Bank and in Gaza is taken from Palestinian **Central Bureau of Statistics publications** (May 2009).
- 3 70,500 dunam territory that is under **Israeli law**, jurisdiction, and administration since June 1967, after the Six Day War. Its Jewish residents are Israeli citizens, while the vast majority of its Arab residents aren't Israeli citizens, but Israeli residents (Israeli ID), by virtue of the fact that annexed East Jerusalem is under Israeli law, and not because they applied for residence. The international community doesn't recognize the Israeli annexation and considers the Jewish neighborhoods in that area to be illegal settlements as they consider settlements in West Bank. 300,000 more Jews live in western Jerusalem.

- 4 This number includes the Arab Christians, the Druze and the Bedouins that are Israeli citizens.
- 5 Considered as the formal number of Jews in Israel including those living beyond the green line, according to Central Bureau of Statistics publications.
- 6 Immigrants from the Soviet Union and their descendants that aren't registered as Jews.
- 7 Considered as the formal number of Israeli residents including Jews living beyond the green line, according to Central Bureau of Statistics.
- 8 The Palestinian residents of the West Bank and Gaza are under the responsibility of the PA. This number doesn't include the Palestinians in East Jerusalem. However, these have the right to participate in the PA parliamentary and presidential elections since 1996 in accordance with the interim agreement (Oslo).

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9 In the summer of 2005, 21 settlements were evacuated from the Gaza Strip and the northern West Bank.

## Natural growth or growth by immigration?!

Government	Years	Settlements in the West Bank and Gaza	Israelis in the West Bank and Gaza	Neighborhoods in east Jerusalem	Israelis in east Jerusalem	Total	Cumulative total
Labor	67-77	32	6,000	11	32,000	38,000	38,000
Likud	77-81	47	11,000		26,000	37,000	75,000
Likud	81-84	37	29,000		20,000	49,000	124,000
Unity	84-90	26	46,000	1	32,000	78,000	202,000
Likud	90-92	2	15,000		5,000	20,000	222,000
Labor Likud	92-2001	4	93,000	2	52,000	145,000	367,000
Likud Kadima	2001-2009	100 Outposts	95,000		27,000	122,000	489,000
<b>Total</b>		<b>127<sup>1</sup></b>	<b>295,000</b>	<b>14</b>	<b>194,000</b>	<b>489,000</b>	

## Main findings

1. All Israeli governments established settlements in West Bank areas.
2. During the first 15 years, the Israeli government prioritized populating east Jerusalem with Jews.
3. Since 2001, unauthorized outposts have replaced the establishment of new settlements.
4. **A third of the Israelis living in the West Bank and Gaza Strip moved there prior to signing the Oslo Accords (25 years), another third during the Oslo Accords period (8 years), and another third after it was frozen (8 years)!!!**
5. **55% of the Israelis living in east Jerusalem moved there before signing the Oslo Accords and the rest during the**

**Oslo Accords period or after it was frozen!!!**

6. Natural growth for Jewish population is 1.6%.
7. The size of an average family in Israel is 3.1 persons.

# **Milestones**

**1917, November 2** | The Balfour Declaration

**1919** | The peace conference convenes in Versailles, and the League of Nations is established.

**1919** | The Zionist Histadrut submits the territorial memo to the Versailles peace conference.

**1922** | The League of Nations approves the British Mandate.

**1937** | Submission of the report by the Royal British Commission headed by Lord Peel.

**1938** | The management of the Jewish Agency submits a proposal of a partition plan to the British Partition Commission headed by Sir Woodhead.

**1946** | Independence is granted to Trans-Jordan and Syria.

**1947, November 29** | The partition Plan is approved by the United Nations (General Assembly Resolution 181).

**1947, November 30** | Beginning of the War of Independence.

**1948, May 14** | Declaration of Independence of the State of Israel.

**1948, May 15** | The Arab countries invade the Land of Israel.

**August 1** | The Government of Israel declares Jerusalem an occupied territory and appoints a military governor for it.

**September 26** | Legislation of Jurisdiction and Authorities Order-1948

**December 11** | Establishment of a Conciliation Commission – resolution 194 of the UN General Assembly.

**1949, February-July** | Ceasefire Agreements between Israel and Egypt, Jordan, Lebanon and Syria are signed in Rhodes.

**1949, April-August** | The UN Conciliation Commission for the Palestine convenes in Lausanne, Switzerland.

**1949, February** | Jerusalem is declared a part of the State of Israel.

**1949, December 5** | the Government of Israel declares Jerusalem as the capital of the state of Israel.

**1949, December 13** | The Knesset decides on moving its seat to Jerusalem.

**1964** | The establishment of the PLO (Palestine Liberation Organization) headed by Ahmad Shukri is approved by the Arab League

– **The Palestinian Covenant is approved.**

**1966** | The military government in Israeli rural areas is cancelled.

**1967, June 6** | The Six Days War. At its conclusion, Israel holds the territories of the West Bank, the Gaza Strip and east Jerusalem.

**1967, June 28** | The government institutes the Order on Regime and Judiciary Procedures (no. 1) 1967, which determines the boundary of Jerusalem.

**1967, July** | Deputy Prime Minister Yigal Alon presents his plan to the government headed by Eshkol. The government does not put it to a vote.

**1967, September 1** | The Arab League convenes in Khartoum.

**1967, September 27** | Kfar Etzion is established.

**1967, October 30** | Deputy Prime Minister Yigal Alon instructs the heads of the survey division to erase the "Green Line" from the maps.

**1967, November** | The Security Council decides in resolution 242 on the end of the Six Days War.

**1968, August** | Yasser Arafat is elected as chair of the PLO.

**1973, October** | The Security Council decides in resolution 338 on the end of the Yom Kippur War.

**1974, January-February** | Establishment of the Gush Emunim movement.

**1977, March** | The Rabin government approves the establishment of Ariel.

**April 17** | The Rabin government decides to establish the settlement Kedumim.

**May 17** | The Likud, headed by Begin, wins the election and establishes a government.

**June** | Sharon is appointed Minister of Agriculture and chair of the Ministerial Committee on Settlement Affairs.

**September 29** | Ariel Sharon, chair of the Ministerial Committee on Settlement Affairs, presents his settlement plan.

**October 2** | The government approves the "Sharon Plan", which is presented to the Knesset on November 9.

**1978, December 28** | Prime Minister Menachem Begin presents the Autonomy Plan for Palestinians.

**1979, March 26** | Signing of a peace agreement between Israel and Egypt.

**1979, October 22** | The Supreme Court determines that the occupation of private lands is only permissible for "military needs". It rejects the confiscation of the private land for the establishment of the settlement Alon Moreh.

**1980** | Legislation of Basic Law "Jerusalem: Capital of Israel, 1980".

**1980, June** | The European Community announces the "Venice Declaration" which rejects any annexation of territories to Israel.

**1981, January** | Gathering of the elected council of Yesha settlements for a founding conference at Kibbutz Rosh Zurim.

**1982, June 6** | The Lebanon War ("Peace of the Galilee" operation).

**1987, April 11** | The "London Agreement". A secret document agreed upon by King Hussein and Israeli Foreign Minister Shimon Peres, who engaged at preparing a peace conference under UN patronage. The agreement was brought to a vote by the National Unity Government in May, but was not approved.

**1987, December 7** | First Intifada in the territories.

**1988, Hamas rises as an opposition to the PLO. It adds to the religious Muslim agenda a religious national provision:**

## **liberation of Palestine.**

**1988, November** | The Palestinian National Council convenes in Algeria in the framework of declaring the Palestinian independence. It decides not to recognize UN resolutions 181, 242 and 338, which were rejected at the time by the Palestinian Covenant, thereby rejecting in effect recognition of Israel.

**1991. October 30** | The Madrid conference convenes under the patronage of the US and the USSR, with the participation of Israeli Prime Minister Yitzhak Shamir and a Palestinian-Jordanian representation from the territories.

**1992, June** | Yitzhak Rabin is elected as Israel's Prime Minister in a general election.

**1993, September 13** | Yitzhak Rabin and PLO chair Yasser Arafat sign the "Declaration of Principles" (the Oslo Accord) in Washington, D.C., US. It was ratified at the Knesset on September 29 with a majority of 61 to 50.

**1994, May 4** | The Gaza and Jericho Agreement signed in Cairo. It signifies the beginning of the interim period for the implementation of the "Oslo Accord".

**1994, July** | PLO chair, Yasser Arafat, and the leadership in exile return to the areas of the West Bank and Gaza Strip and establish the Palestinian Authority.

**1994** | Establishment of a fence on the Green Line surrounding the Gaza Strip.

**1994, October 26** | A peace agreement is signed between Israel and Jordan.

**1995, September 28** | An interim Agreement (Oslo 2) between Israel and the PLO about Gaza and the West Bank is signed in Washington, D.C.

**1995, November 4** | Prime Minister Yitzhak Rabin is assassinated in Tel Aviv.

**1996, January 20** | Yasser Arafat is elected by a large margin as Chair of the Palestinian Authority. In elections for the Palestinian Legislative Council, conducted under international supervision, the Fatah gained a clear majority.

**1996, May 20** | Benjamin Netanyahu elected in personal elections as Prime Minister, and establishes a Likud-right government.

**1997, January 17** | Signing of a protocol for redeployment in Hebron, an accompanying agreement to the Taba Agreement on the redeployment of IDF in Hebron. The protocol was signed by the Netanyahu government.

**1998, October 23** | Signing of the Wye River memorandum in Maryland, US, by the government of Benjamin Netanyahu, which determines additional IDF redeployment from areas of the West Bank.

**1999, May 4** | End of the interim period according to the Oslo Accord.

**1999, May 17** | Ehud Barak is elected as Prime Minister in personal elections.

**1999, December** | Peace talks are renewed between Israel and Syria.

**2000, May 24** | Israel withdraws unilaterally from south Lebanon.

**2000, July 12-25** | Convening of the Camp David Summit with the participation of an Israeli delegation headed by Prime Minister Barak and a Palestinian delegation headed by PLO Chair Yasser Arafat.

**2000, September 28** | Opposition leader Ariel Sharon visits the Temple Mount accompanied by a large number of police, and the beginning of the "Second Intifada".

**2000, December 23** | Publication of the 'Clinton Parameters' for a permanent status Israeli-Palestinian arrangement.

**2001, January** | Taba talks between Israel and the Palestinians on the basis of the "Clinton Parameters".

**2001, February 6** | Ariel Sharon is elected as Prime Minister.

**2001, June** | The government instructs the National Security Council, the IDF and the Israeli police to develop a plan to block the seam line against infiltration of terrorists and illegal residents.

**2002, March 28** | The Arab League accepts a peace plan on the basis of the Saudi initiative, according to which the Arab states declare their readiness to recognize Israel and have peaceful relations with it should it withdraw to the 1967 lines and an agreed solution be found for the refugee problem.

**2002, March 27** | A terrorist attack at the Park Hotel kills 29 and wounds 140 during the Passover Seder.

**Beginning of "Operation Defensive Shield" on March 29.**

**2002, April 30** | The Quartet (US, Russia, UN and the European Union) submits the "Road Map" for a permanent status agreement in the form of two states.

**2002, June 23** | Following two preliminary discussions in March and April 2002, the government decides to approve the Defense Ministry's plan to establish a 110 Km long separation barrier at the seam line.

**2002, November 2** | The national Unity government headed by Sharon dissolves.

**2002, December** | The government approves the plan's phase B and directs to establish a barrier from Salam to Tirat Tzvi in the Jordan Valley, adding 70 Km to the barrier's length.

**2003, January 28** | Sharon wins over Mitzna, Chair of the Labor Party, in early elections and establishes a right wing government.

**2003, August 20** | Another discussion of the Ministerial Committee on National Security. The government approves again the barrier's route in the "Jerusalem surrounding" area as presented by the Defense Ministry, and instructs the Defense

Ministry to carry out the work as fast as possible.

**2003, October 1** | The government assembly approves the route of the "security fence" in the framework of the "seam area" plan, and approves the continued establishment of the barrier to prevent terrorist attacks according to the phases and the route presented by the Defense establishment.

**2003, October** | Publication of the Geneva Initiative.

**2003, October 22** | With a majority of 144 to 4 countries, the UN General Assembly approves the European resolution determining that the establishment of the fence is against international law and demanding that Israel halt construction of the barrier and remove what has already been built.

**2003, December 18** | Sharon announces at the Hertzliya Conference the plan of disengagement from the Gaza Strip and northern West Bank.

**2003, January 29** | Ariel Sharon, leading the Likud, wins the elections to the Knesset again and establishes a government under his leadership.

**2003, June 4** | The government of Israel approves the "Road Map".

**2003, October 1** | The government approves the route of the separation fence in the West Bank.

**2003, October** | Submission of a first petition in principle to the High Court of Justice appealing against the government decision to establish the entire separation fence, by the Israeli Human Rights organization "the Center for the Defense of the Individual".

**2004, April** | Exchange of correspondence and documents between the office of the Israeli Prime Minister and the US, peaking with the presentation of Israel's unilateral "Disengagement Plan" from the Gaza Strip and northern Samaria.

**2004, June 6** | The Israeli government approves the corrected

"disengagement" plan.

**2004, June 30** | In a petition submitted by residents of Beit Surikh village and of Mevasseret Zion, north-west of Jerusalem, the High Court of Justice rules that building the fence is legal in principle, but it rejects a part of the fence for the first time explaining that its harm of Palestinian rights is disproportional to the security benefit. The Council for Peace and Security joins the petition for the first time.

**2004, July 7** | Publication of the advisory opinion of the International Court of Justice, which determines that following examination of the entire material and claims the court had reached the conclusion that building the fence in the route presented to it, with the accompanying regime, is contradictory to international law.

**2004, July 21** | The UN General Assembly resolves, with a majority of 150 states in favor against six against, that Israel should dismantle the barrier.

**2004, October 26** | The Knesset determines with a majority of 67 supporters in favor of the "disengagement" plan.

**2004, December 24** | The government of Israel approves the law implementing the "disengagement" plan.

**2005, January** | A new coalition government is established in Israel, the Labor Party joins the Likud.

– **Mahmud Abbas (Abu Mazen) is elected as Chair of the Palestinian Authority.**

**2005, February 20** | The government approves the evacuation of settlements in the Gaza Strip and northern Samaria and the new route of the separation fence in the West Bank.

**2005, August-September** | Israel evacuates all settlements in Gush Katif and four of the northern Samaria settlements, and the IDF redeploys outside the Gaza Strip.

**2005, February 20** | The government approves a new route for

the fence following the Supreme Court ruling on Beit Surikh.

**2005, September 15** | the High Court of Justice, sitting with an enlarged composition of 9 judges, rules on a petition that deals with the legality of the "separation fence" in the area of Alfei Menashe. It rules that the fence is legal despite the ruling of the International Court of Justice, and that defense of settlements does constitute a legal reason for building it. At the same time, the section of the fence that left five Palestinian villages bound between the fence and the Green Line has been rejected.

**2005, August** | Disengagement from Gaza and the northern Samaria.

**2005, November** | Sharon withdraws from the Likud and establishes the Kadima Party.

**2006, January** | Ehud Olmert replaces Sharon, who collapsed and was hospitalized, as acting Prime Minister. He launches the idea of "realignment".

**2006, January** | Hamas wins a majority in the elections for the Palestinian Legislative Council.

**2006, March-April** | Ehud Olmert, heading "Kadima", wins the elections for the Knesset and together with the Labor Party establishes a government under his leadership.

– **Ismail Haniyeh establishes a Hamas government.**

**2006, April 30** | Acting Prime Minister Ehud Olmert approves, with the support of four ministers in the transition government, the new route for the "seam" area.

**2006, May 28** | The High Court of Justice accepts the petition against the route of the fence east of Zofin, and rules that in a previous petition, state representatives withheld from the judges information that the route was determined according to settlements' enlargement considerations rather than security ones.

**2006, June-November** | Operation "Summer Rains".

**2006, July-August** | The second Lebanon War.

**2006, November 29** | The UN General Assembly approves six resolutions calling for the withdrawal of Israel from occupied territories. The first resolution, approved by a majority of 157 out of the 192 UN Member States, recognizes the right of the Palestinian people to self determination and to the establishment of an independent state. On the issue of Jerusalem, the resolution that does not recognize Israeli jurisdiction in the Old City and which calls on Israel to cease building settlements around east Jerusalem was renewed.

**2006, December** | The High Court of Justice rejects the petitions against the route of the fence in Bir Naballah and A-Ram.

**2006, December 14** | The High Court of Justice rules on dismantling of the concrete barrier along road 317 and road 60.

**2007, May** | Publication of the recommendations made by the Committee on Examination of the Defense Budget (the Brodet Report).

**2007, June 18** | Ehud Barak replaces Amir Peretz and is sworn in as Defense Minister.

**2007, July** | Hamas takes military control over the Gaza Strip. Abu Mazen establishes a government headed by Salam Fiad, which is recognized by Israel and the international community.

**2007, July 20** – **The High Court of Justice accepts the petition of residents of Na'alim, and rules on accepting the route proposed by the Council for Peace and Security near Hashmonaim.**

**2007, July 25** | The High Court of Justice, headed by Beinisch, rules on the immediate dismantling, within 14 days, of the concrete barrier along roads 317 and 60, and in a rare move rules that the state shall pay NIS 30,000 expenses. The ruling is carried out.

**2007, September 4** – **The High Court of Justice rules that the route of the separation fence near Bil'in must be changed so**

**that an alternative route be examined, which should leave cultivated lands in the area of Dolev Stream, as well as phase B of Matityahu east plan, out of the fence area.**

**2007, November** | Halting of the work in the Seam area.

**2008, November 4** | Barack Obama wins the US presidential elections.

**2009, September 21** | Prime Minister Olmert submits his resignation to President Shimon Peres.

**2009, February 10** | Elections for the 18th Knesset.

**2009, March 31** | Swearing in of the second Netanyahu government.

**2009, June 4** | US President Barack Obama makes the "Cairo speech", in which he spells out his beliefs and intentions about the future relations between his country and the Muslim world.

**2009, June 14** | Prime Minister Benjamin Netanyahu makes the "Bar Ilan speech", in which he outlines his political vision and expresses for the first time in principle acceptance of the establishment of a demilitarized Palestinian state.

**2010, May 31** | 9 Marmara passengers killed and Israeli navy soldiers were injured during the stopping of the Gaza flotilla

**2010, June 15** | Judge Maza delivers the report of the committee of inquiry of the disengagement – "the country failed in the handling of the disengagement's evacuees".

**2010, September 26** | The ten month construction "freeze" in the West Bank comes to an end.

**2011, February 11** | President Mubarek resigns due to the protests against his regime.