Beyond Exacerbating Asymmetry and Sustaining Occupation: An Alternative Approach for United States Intervention in the Israeli-Palestinian Conflict

Walid Salem
The Center for Democracy and Community Development – East Jerusalem,
P.O. Box 20510 (Salah Eddin Street Post Office), East Jerusalem-Via Israel
walidsociety@gmail.com

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Abstract

Third party mediation is critical in pushing forward a new peace process that is based on Israeli and Palestinian compliance in fulfilling previous agreements, including an Israeli freeze on settlements. The freeze will be part of a transformative constructionist process that will allow both sides to negotiate from a more symmetrical position. It will also create more trust among the Palestinians by communicating that Israeli intentions are not about grabbing their land while discussing peace.

Keywords


* Walid Salem is a doctoral candidate in International Relations at Near East University and a lecturer on democracy, human rights and conflict resolution at Al Quds University. He is an author of more than thirty books and many articles on issues of democracy, citizenship, non-state actors and civil society, peacebuilding, narratives, conflict resolution, and Islamic movements. He is the Director of the Center of Democracy and Community Development in East Jerusalem.
This study suggests a new approach to American mediation in the Israeli-Palestinian conflict. It argues that this approach would bring about an end to the 1967 Israeli occupation of the West Bank, Gaza Strip, and East Jerusalem in order to create a viable, independent, contiguous, and democratic State of Palestine that lives in peace and security beside the State of Israel. It would serve as a point of departure for dealing with these territories as areas that are under dispute, recognizing that both sides have equal claims toward them as a whole or in part, as in the case of East Jerusalem and Area C. The article begins with a summary of the results of American mediation over the last 25 years, followed by a brief review of the path of Israeli-Palestinian negotiations, and the role of American mediation.

An alternative approach for American mediation is discussed, which I shall term the “constructionist approach” to transform the conflict toward a two-state solution. This approach is ethically based and includes a combination of peacemaking (i.e. for example, negotiation), peacekeeping (for example the allocation of international forces), and peacebuilding by creating Palestinian facts on the ground to reach a more symmetrical position with Israel when negotiating. Within the framework of this constructionist approach, the short and long-term actions for the political track are presented first, followed by the required actions needed for the economic and security tracks. When discussing these tracks, the roles of different local, regional and international actors will be included with an emphasis given to the role of the United States in generating the joint Israeli-Palestinian efforts.

This article is by no means an exhaustive overview of American policy toward the Israeli-Palestinian conflict – a vast body of literature presently exists addressing this topic (Gerges 2013; Aruri 2012; Chomsky 1999). Nor is it a review of the internal Israeli and Palestinian political structures, contradictions, rifts, and their influence on the American mediation process. The article also does not concern itself with the roles of Jewish and Arab lobbies in influencing US policy, relations between the White House and Congress, or US decision-making processes. The status of Israeli-American or Palestinian-American relations, their past and future developments and the efficacy of American mediation are not examined. In this study, it is argued that the United States can be more than a mediator in the conflict, and that it can play the role of arbitrator, doing more for peacebuilding by assisting to establish a State of Palestine beside the State of Israel. It is argued that this can only happen if the United States abandons the realm of realism that prioritizes Israeli interests over Palestinian interests, enhancing Israeli power in the conflict. Alternatively, if America were to assume an ethically grounded approach, based on inclusion of both parties, there would be a fair distribution of justice.
An Objective Outcome of American Mediation: Sustaining Occupation via Negotiations

Since the Madrid Peace Conference of October 1991, the last 24 years of the Palestinian-Israeli negotiations have, despite the good intentions of third party interveners, resulted in a deepening of the Israeli occupation. This has caused asymmetry of negotiating status, asymmetry of power (Heller & Nusseibeh 1991: 30), asymmetry of regional and international status, and asymmetry on the ground. Taken together, these effects have exacerbated the asymmetry of the conflict as a whole, rather than narrowing it toward a solution (Kahanoff, Salem, Nasrallah & Neumann 2007: 33, 109, 130, 143; Grinberg 2007: 571–572).

The approach to negotiations has been inadequate and process-driven, prioritizing, at each stage, the compromises required to bring the two sides to the negotiation table. This pattern was exemplified by George Mitchell in 2010 and again by John Kerry in 2013. In each instance, the intervener initiated a process that created different and contradictory expectations about results in the minds of the antagonist parties, rather than focusing on a peace process (Erekat 2010a; 2010b; 2010c; 2013).

Further, when the “end of conflict” deal was discussed in negotiations at Camp David in 2000, it centered on how to divide the 1967 occupied Palestinian territories between the two sides. This would lead to a greater Israel and a decreasing Palestine, rather than constructing a pathway toward a historical compromise between the two-states with an agreed solution to the Palestinian refugee problem (Chomsky 1999; Said 2001).

The compromise process since Madrid in 1991 was based on the concept of considering the Palestinian territories, occupied in 1967, as an area under dispute. The fate of the territories was to be decided within an open-ended process at a later date (Gazit, Shehadeh & Abdel Shafi 1994), and therefore subject to bargaining between the two sides. The result was that all territorial Palestinian rights based on the 1967 borders became disputable. The significance of the Oslo compromise, which was about Palestinian recognition of Israel in 78 percent of Palestine drawn from 1948 borders, is taken at the expense of the Palestinians who would only get the other 22 percent of land occupied in 1967. This 22 percent became the subject of competition in dividing the territory between the two sides. This process will lead to the establishment of a Palestinian Authority without authority and an occupation without cost. It keeps Gaza outside the Palestinian space, changes the situation on Al-Haram Al-Sharif, allows for continuation of the settlement projects, and creates an apartheid system with limited Palestinian sovereignty over Gaza (Erekat 2016).
The peace process has produced asymmetry between the two parties. On one hand, an asymmetry of status was created when the PLO traded recognition of Israeli territory in 78 percent of Palestine in exchange for Israeli recognition of the PLO, without defining the territory under PLO control. Israel also recognized “the political legitimate rights of the Palestinians,” as included in the preamble of the Oslo Declaration of Principles (DOP) in 1993, without recognizing the Palestinian people and their right to territory. The outcome was clear: Israel’s territorial boundaries were recognized, whereas the political rights of Palestinian citizens were accepted, but its territorial boundaries remained unresolved. As a result, Palestinians were disconnected from their land, leaving them without a territory, and making recognition only symbolic (Gazit, Shehadeh & Abdel Shafi 1994).

The second element of asymmetry stems from the first. After the 1967 occupied territories fell under dispute, the Israeli government used its powers to gradually reduce the Palestinian portion of the territory. By 2015, they de facto annexed two-thirds of Area C in the West Bank. In addition, the de jure annexation of East Jerusalem doubled twelve times since 1967 (Halabi 2001: 10). Beyond the annexation of land, Jewish settlers created communities in East Jerusalem and the West Bank which are now inhabited by more than 600,000 persons. 406,302 of these settlers are located in the West Bank and 200,000 in East Jerusalem, as of the end of 2014 (Middle East Monitor 2016).

The peace process after the 1991 Madrid Conference failed to address the issue of settlement expansion, thus creating two contradictory developments. The process focused on building trust and understanding between the negotiators on both sides with the hope that it would lead to an agreement, while settlements were simultaneously expanding. In light of tensions on the ground, and the several wars that followed this period, many speculated as to whether peace was an end goal of the process or simply a ruse. Beyond the good intentions of the international community, a negotiation process, which played out like a public relations campaign, offered Israel a needed ‘time out.’ During this period, the Israelis were able to create conditions in the West Bank and East Jerusalem that made a two-state solution seem like an impossibility.

The plight of the Palestinian-Israeli peace process continues to hinge on the dichotomy between credible negotiations and a parallel continuation and escalation of conflict via Israeli settlement expansion and other punitive measures conducted against Palestinians. These measures have included closures, checkpoints, detentions, and provocations at Al-Aqsa Mosque that have occurred concurrently with negotiations. Such activities have undermined the initial achievements of negotiations, but also created a situation in which negotiators were disconnected from the reality on the ground. Negotiators
and third parties assumed that, regardless of the odds, they would be capable of brokering a deal and that such a deal would impact the situation on the ground. The results of negotiations have proved otherwise. Given the asymmetric relationship, Israeli negotiators lacked a sense of urgency to change the occupation into a compromise effort with their Palestinian counterparts. Instead, Israeli government practices deepened the divide to the detriment of prospects for peaceful resolution through negotiations. The United States could inspire urgency in the Israeli camp by withholding support to Israel in UN agencies or threatening to stop the flow of aid. President George H. W. Bush and his Secretary of State, James Baker, did so in the early 1990s, which brought Yitzhak Shamir to the Madrid conference in 1991.

The current situation reflects the need for a third party that is capable of creating a compliance-based process in which both parties reach for or fulfill previous agreements. Israeli compliance would include, among other commitments, a settlement freeze and a natural progression toward the 2003 Road Map to Peace. With a freeze on settlement construction, both sides would be able to negotiate from a more symmetrical position. A freeze would create trust among the Palestinians and signal that Israel does not intend on using negotiations as a false pretext for annexation of Palestinian territory. Such a process will take place “only when Israeli officialdom will be prepared to refer to the State of Israel and the State of Palestine in equal terms” (Sheleff 2005: 28).

**Brief Review of the Israeli Palestinian Negotiations: The Role of the Third Party**

Throughout 25 years of negotiation, two moments stand out as milestones in the path towards a final permanent status agreement: the Taba and Stockholm negotiations in 2001 (Qurie’a 2006a; Qurie’a 2006b), and the Abu Mazen (Mahmoud Abbas) and Ehud Olmert negotiations in 2008, which led to a draft agreement in July 2008. Details of the 2008 agreement may be found in Erekat (2010a), who succeeded Qurie’a (also known as Abu Ala) as the Chief Palestinian Negotiator. The government of Ariel Sharon ended the 2001 talks in 2002, while the 2008 negotiations lapsed after Olmert’s decision to wage war against the Gaza Strip at the end of that year. The incursion into Gaza resulted in cancellation of the planned Israeli-Palestinian meeting with then President George W. Bush at the White House, which was scheduled for January 3, 2009 (Erekat 2010a: 6).

These two negotiations represented direct Israeli-Palestinian engagements in the absence of a third-party mediator. Interestingly, Washington-led
negotiations between the Palestinian and Israeli delegations in 1992–1993 failed, yet direct secret bilateral negotiations in Oslo succeeded, as evidenced by the signing of the DOP in 1995. Palestinian President Mahmoud Abbas led the Oslo negotiations for the Palestinians. He wrote:

The Israelis feared the Americans would kill this achievement [Oslo], as they killed the London agreement (King Hussein-Shimon Peres), due to internal American calculations, especially because the negotiations were taking place directly with the PLO.

ABBAS 1994: 245

The way that these negotiations concluded suggests that Israel was not in a position to reach a peace deal with the Palestinian people. As previously mentioned, the Sharon government ended the 2001 negotiations in Taba, preventing any breakthrough, while Olmert prevented movement towards resolution by storming Gaza in 2008. Similarly, Yitzhak Rabin failed to deliver on the promise of dismantling Jewish homes built in the heart of Hebron in February 1994. This failure occurred despite widespread public opinion in favor of Israel removing the settlements. Moreover, instead of withdrawing from the West Bank in 1996 – with the exception of military bases and settlement building areas – settlement expansion continued under the Netanyahu government in violation of the interim agreement of 1995 (Oslo II). Through the Wye River memorandum in 1998, Netanyahu made a new agreement with Yasser Arafat that decreased Israeli withdrawals compared to the levels promised under Oslo II. These withdrawals, however, were never implemented. Other examples of unimplemented interim agreements made by Israeli negotiators persist. Tragically, third party mediators have refrained from taking action against such violations, despite their role as guarantor.

This opens several paths of inquiry. Why would Israel move forward if the benefits of continued occupation were better than the benefits of bringing it to an end? Why would the government of Israel confront right-wing settlers over a freeze or the dismantling of settlements? Third parties avoided taking action against these violations. Therefore, what is the motivation to take any real steps toward peace in the absence of international pressure? Also, in the absence of any real pressure on Israel to implement its obligations according to previous agreements, how can any future agreements be reached?

These issues, in addition to the concept of building negotiations around the division of 1967 occupied territories, highlight the perceptions of the two negotiating parties and their reaction to the American role in negotiations. It
seems both sides mistrusted the American team each for their own reason. The Israeli team insisted on bilateral negotiations in the absence of third-party influence. This approach is based on the notion that bilateral negotiations are better for Israel in that they place more pressure on Palestinians. It is also based on the belief that developing personal relations with the Palestinian negotiators would achieve better deals for Israel. Creating trust and understanding with the Palestinian negotiators are tools that would facilitate the provisional agreements achieved between the two sides to date. In this regard, President Abbas was receptive to the trust-building approach and indicated a willingness toward “intimate relations between the negotiators of the two sides” (Abbas 1994: 15–16). Abu Ala confirmed this approach in his writings about his role as negotiator with the Palestinian delegation during the Palestinian-Israeli negotiations from Oslo 1993 to Annapolis 2007.

With regard to the Palestinian side, measures adopted up to the Camp David negotiations in 2000 sought a position that combined caution of the American position – predicated on a presumption of their bias toward Israel – and a desire to avoid American involvement. Abu Ala wrote:

What we can get from the Israelis on the table is bigger and more important than what we can get from the Americans who appeared to us as agents of their allies [the Israelis]. In conclusion, direct negotiations with the Israeli side is more useful and precious than any negotiations that take place under the supervision of a third party, including the United States itself.

Qurie’a 2006a: 8

The logic here is clear: if Americans are agents of the Israelis, then they lack the objectivity to mediate the conflict. Therefore, why are they included in talks? Instead, the belief was that negotiations should occur exclusively with the Israelis.

At a later stage, Palestinians became more amenable to American involvement in the negotiations, mainly after the Annapolis Conference. After 2007, the Palestinians began demanding American involvement, while at the same time seeking greater parity with the Israelis. In this regard, Abu Ala critiqued the stance of Secretary of State, Condoleezza Rice, who presented American proposals and then retracted them after hearing that Olmert did not support the immediate and parallel implementation of obligations by both sides, dictated by the first stage of the Roadmap for Peace (Abu Ala 2014: 51). Abu Ala also criticized the American administration for its
inability to fulfill a promise made at the Annapolis Conference to present a
document to the UN Security Council (UNSC) in an effort to reach a resolution
(Abu Ala 2014: 162).

Erekat wrote extensively about Israeli-Palestinian negotiations and the
rounds that took place during the two terms of President Barack Obama.
Similarly, much of his criticism was directed at American bias towards Israel.
He highlights the American practice of coordinating with Israel when drafting
positions that were subsequently communicated as uniquely American. He
also criticized the agreement between Senator Mitchell and Netanyahu to re-
sume negotiations from scratch instead of starting from the point that Olmert
and Abu Mazen had reached, while adding pressure on Palestine to refrain
from applying for UN membership. The protest that ensued from Palestine’s
2011 acceptance to join UNESCO resulted in the US cutting off aid to the UN
agency once Palestine had been accepted as a member.

Many non-Palestinians also voiced their assessment of US bias toward Israel,
including an account of the 2000 Camp David negotiations (Agha & Malley
2001). The authors recount the failure of President Clinton to hold Ehud Barak
to a previously agreed upon phased withdrawal by Israel in accordance with
prior agreements regarding settlement removal from Palestinian occupied ter-
ritory. During the conference, President Clinton coordinated first with Barak,
before presenting to Arafat, whom he promised not to blame for the failure to
reach peace. Clinton, however, did ultimately blame Arafat.

Haaretz journalist Barak Ravid also addressed concerns of bias in an in-
vestigation into the 2013–2014 Kerry Initiative. Ravid reviewed the Initiative,
showing that the position of Mahmoud Abbas was neglected. The American
team worked with the Israeli team to develop a framework agreement without
conferring with the Palestinians. The result was a 10-page document that ad-
dressed issues of permanent status. While copies of the initiative existed at the
State Department in Washington, DC, and a few other offices in Jerusalem, the
document was never presented to the Palestinians (Ravid 2014: 16). President
Abbas was shocked by the brazen nature of the document when it was pre-
sented to him verbally by Secretary Kerry in a February 2014 meeting in Paris
(Ravid 2014: 17).

Constructionist Approach to Transform the Conflict toward the
Two-State Solution

Lessons from the past can serve as a starting point for future American in-
tervention in the Israeli-Palestinian conflict. The main lesson learned is that
realism does not work and that a transformative constructionist approach is required. The realism approach has been used in the Palestinian-Israeli conflict for the last 25 years. The starting point for realism is power and interest. Israel, as a state, enjoys an upper hand over the stateless Palestinians. Of note is the fact that realism was not the approach of Track 2 Israeli-Palestinian engagements beginning in the 1960s (Kaufman, Walidet & Verhoeven 2006). But it has been the American approach to mediation since Madrid in 1991, giving Israeli demands more credibility. Israeli-created settlements in the West Bank have become bargaining chips. Discussions focus on which parts of the territory should be kept and which should be annexed by Israel, instead of focusing on providing settlers the option to stay in a Palestinian state as citizens of Palestine or to migrate back to Israel.

Realism also favors Israel at the expense of the Palestinians by designating Jerusalem as the capital of Israel, while granting Palestinians control over certain areas of the city, such as Al-Haram Al-Sharif. Another issue relates to territorial swaps. These have occurred as a result of the establishment of Israeli settlements and have been supported by what Israel deems its security needs. But such security concerns are reserved for only one party.

Palestinians have also been asked to be realistic about the right of return for refugees to Israel, and to accept that only a symbolic number of refugees may ever be given the right to go back to Israel. These rights, of course, will remain subject to Israeli approval and involve a complex formula consisting of eligibility, criteria and numbers. Palestinians were asked to recognize Israel as a Jewish State, which automatically eliminated the rights of Palestinian refugees and, at the same time, put at risks the rights of Palestinian citizens of Israel.

This realism has had three main problems since the beginning of negotiations between the two sides. The first is that it dealt with the West Bank, East Jerusalem and Gaza Strip as areas under dispute, not areas where a Palestinian state could live in peace and security beside Israel. Second, it accepted the asymmetry in power relations between the two sides, recognizing Israeli facts created in East Jerusalem and the West Bank as irreversible, and therefore a bargaining chip between the two sides. Finally, the Palestinian state's size, territory, borders, date of establishment, and political, economic and security structures, are all topics subject to Israeli approval through specified negotiation parameters. This has given Israel veto power over the establishment of the Palestinian state based on 1967 borders over the last 24 years of negotiation. In this regard, Israel accepted the establishment of a Palestinian state, but not in accordance with 1967 borders, with East Jerusalem as its capital, or with sovereignty over borders. The annexation of large blocks of land for Israeli settlements continued, while a solution to the Palestinian refugee
problem is continually ignored. With these reservations, the Israeli proposal is less about creating a Palestinian state alongside Israel and more about creating a Palestinian state based on land leftover after Israeli annexation of East Jerusalem and the settlement blocks.

This realism is contradictory not only to the UN Charter and UN resolutions pertaining to the Palestinian-Israeli conflict, but also to the spirit of the Oslo agreement. As it stands (circa 2015), the establishment of a Palestinian state within this framework has led to the creation of a larger Israel or what Erekat (2015: 16) calls, “one state, two systems.” Israeli control spreads across most of historic Palestine, with two different systems in place: one for Israelis, including settlers living in on Palestinian territory, and another for Palestinians, who are discriminated against on their own lands. The outcome of this realism is a win-lose position that considers a two-state solution increasingly at risk as Israel expands into Palestinian territories. Are such facts reversible? Within the framework of realism, they lead to deepening divides and the growth of Israel at the expense of a collective transfer of Palestinians.

The solution proposed here is a constructionist transformative approach for American engagement to solve the Palestinian-Israeli conflict. This approach is constructionist because it aims at creating a historical process for the construction of the state of Palestine by the United States.1

As constructionism might fall into the trap of relativism, it is combined here with the transformative approach. This approach aims to bring about structural changes within institutions which would do away with violence and asymmetry. In this sense, the transformative approach is one that includes bottom-up processes that build the political, economic and social structures of the weaker side in the conflict. In addition, it also fosters rights-based relationships between the antagonist parties (Galtung 2014; Lederach 2003; Ramsbotham, Woodhouse & Miall 2008: 29).

Such a constructionist transformative approach differs from realism, which focuses on the use of power – mainly physical – to solve conflicts through top-down processes. A constructionist transformative approach would require the United States to use its power and leverage, but at the same time requires that it not limit its role to the use of that leverage.

In the Israeli-Palestinian conflict, such an approach would have several characteristics. The first is that it would transform the conflict from a protracted or intractable conflict (Ramsbotham, Woodhouse & Miall 2008: 43–47, 84–89)

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1 Constructionism is different from constructivism as a result of its focus on history and the role of social rather than individual actors (Delanty 2005: 140; Andrews 2012).
because it does not recognize the facts created on the ground as being irreversible. For example, such facts could include those that separated East and West Germany with the Berlin Wall or those that created the French settlement projects in Algeria, both of which were ultimately reversed. Israel also reversed the settlement project in Gaza with a decision by Prime Minister Sharon in 2005. The same is true of the Israeli separation barrier in the West Bank, which could be dismantled or rebuilt at 1967 borders, instead of inside the territory of the West Bank. Moreover, the Israeli settlement projects could also be brought to an end fully or partly if there is political will.

The second characteristic is that such an approach would allow the United States to create a multilevel system of top-down and bottom-up approaches (i.e., economic, political, security) working with international, regional and local actors through bilateral and trilateral levels of implementation. The multi-track approach (Diamond & McDonald 1996) would consist of different partnerships (for example, one for officials and parliamentarians, one composed of officials and civil society, one of former officials, one composed solely of civil society actors, and a final track composed of spoilers or rejectionists of the peace process). Lederach suggests these interventions need to be made by top leaders, intermediate leaders and grassroots leaders through a complex methodology involving dialogue, mediation, arbitration, coercion, pressure, and peacemaking and peacebuilding interventions (Ramsbotham, Woodhouse & Miall 2008: 24).

The leading assumption of the transformative constructionist approach is that positive peace (Galtung 2014: 52–63) is based on the creation of a structure of political, economic and cultural interactions between former antagonists, and a fair distribution of justice. This structure facilitates the transformation of the conflict. A second assumption is that through the creation of the appropriate construct for action (Habermas 1981), the accumulation of short-term, medium-term and long-term interventions will lead to the achievement of planned objectives. Therefore, this study argues that the ideal approach to solving the Israeli-Palestinian conflict is a shift away from the American realist approach to one based on mutual justice and fairness.

**US Construct of the State of Palestine**

The transformative constructionist approach must begin with a paradigm shift and change in methodology. The paradigm shift should be in two directions. The first consists of freeing the establishment of the State of Palestine from
Israeli will, internal calculations, competitions, and internal political bargaining. This feat could be accomplished by adopting an American plan for the creation of the Palestinian state. This plan could be based on Wilsonian principles and the American King Crane Committee established in 1919, which recommended maintaining Greater Syrian unity and ebbing the flow of Jewish immigration (Fawcett 2013). This plan can be adapted by the United States to fit current facts on the ground. At the same time, the plan can call for a settlement freeze in the occupied territories of 1967 centered on the notion of freedom.

The second paradigm shift, which is more important, would require a shift in US views of the conflict as a division of 1967 occupied territories between the two sides to an approach that considers the 1967 occupied territories to be Palestinian. Once recognized, the discourse can focus on finding equitable solutions to legitimate issues. These issues include an arrangement to allow Jews the freedom to worship at the Wailing Wall in Jerusalem, the return of the Jewish Quarter in the Old City of Jerusalem to its 1948 size of 5 donums (without the additional parts added after 1967), the unification of villages divided in 1948 between Israel and West Bank such as Barta’a close to Jenin city and Beit Safafa of Jerusalem, in addition to swapped areas for refugee return (Shaath 2006: 21), and the creation of a corridor allowing free movement for Palestinian people between West Bank and Gaza Strip through Israel. Land swaps for settlements created in the West Bank cannot be added to this list. These settlements are illegitimate according to international law, as is keeping Israeli forces in the Palestinian territory under the guise of security needs. This is a position that will not be accepted by Palestinian leadership, which alternatively accepted the deployment of international forces along the borders of Palestine with both Jordan and Israel.

These paradigm shifts require American-Palestinian engagement to clarify uncertain terms and implement common understanding. This may be achievable by creating a sustainable American-Palestinian strategic dialogue, similar to the decades-long Israeli-American relationship. This dialogue must replace the US dictating to Palestinians what is best for them to solve permanent status issues with Israel. These issues include suggestions of dividing the 1967 occupied territories between the two sides, as occurred at Camp David in 2000 and through the Kerry initiative. The US could take a new approach, considering the 1967 borders to be the basis for any negotiations. In addition, they could work towards a solution to the Palestinian refugee problem. Opening avenues for strategic dialogue with Palestinian leaders would allow for an articulation of requests for future parameters – rather than relying on previously suggested American parameters that were closer to Israeli positions.
Time is quickly disappearing for any real approach that would change the events on the ground between Palestinians and Israelis. The two-state solution is on the edge of being lost to realism through Israeli settlement expansion and the annexation policy. It has been 100 years since Britain’s Balfour Declaration in 1917 and the Sykes Picot agreement that split the territory in 1916. In addition to a shift in approach, a new methodology is required. US adoption of the establishment of a Palestinian state on 1967 borders, with border modifications to be made only for legitimate humanitarian reasons, needs to be combined with a methodology of continuing engagement with the Palestinians, the Israelis, the Arabs, and the international community. This engagement could include a combined political, economic and security track. The following is a brief description of how each of these tracks can work, followed by a description of how they can work together.

The Political Process Reconstructed

The history of both the conflict and previous agreements teaches us that any political process leading to the creation of the State of Palestine has to include three components. The first of these are two short-term components that both encourage the implementation of previous agreements and the rebuilding of Gaza Strip infrastructure following the three devastating wars of 2008, 2011 and 2014. The longer-term component has to do with the political process to put the State of Palestine on the world map beside Israel.

The fulfillment of these obligations from previous agreements is not something that needs to wait until both sides reach a final status agreement, as has been advised by the Israeli government. Instead, it is up to the US to create a mechanism for encouraging both sides to fulfill their obligations, which are not limited to stopping violence and building state institutions on the Palestinian side. On the Israeli side, freezing settlement expansion, dismantling settlement outposts, withdrawing from all of the West Bank (excluding military camps), creating free passage between the West Bank and Gaza, and reopening Palestinian institutions in East Jerusalem closed by Israel are important steps to be achieved. As a guarantor to previous agreements, the US is in a position to ensure these obligations are implemented without further delay.

With regard to rebuilding Gaza, the US might sponsor indirect negotiations working toward uniting a Palestinian delegation that consists of all the Palestinian factions, including Hamas. With Israel, this united delegation could discuss all Gaza issues, within a certain timeframe, to reach an agreement. Indirect negotiations between a united Palestinian delegation and Israel
already took place in Cairo in 2014, but ended due to problematic relations between Egypt and Hamas. The US could decide to use this opportunity of having a united Palestinian delegation to negotiate with Israel about Gazan issues, sponsoring negotiations or engaging Egypt to spur the resumption of talks. The US could either chair these negotiations or encourage Egypt to get involved, but it is crucial that an unbiased third-party intervener recognize Hamas, and acknowledge that it is part of the social fabric of Palestinian society and not merely a terrorist organization (Roy 2011).

In 1994, Hamas accepted the establishment of a Palestinian state on 1967 borders (Al-Shaer 1999). Despite the fact that Hamas is not ready to recognize Israel, it is ready to agree to a long-term hudna (Der Spiegel 2006), defined in Islam as an agreed-upon cessation of hostilities for a set period of time. Hamas leaders have already expressed readiness to stick to nonviolence as a method of protesting the end of occupation (Solomon 2009). The concept of hudna includes a readiness to sit at a negotiation table to discuss terms where Israel is free to present a plan for a peaceful resolution. Hamas has engaged in official indirect negotiations with Israel since 2008. In Gaza, Hamas has proven its ability to bring factions into compliance, with a ceasefire occurring with Israel under a prior hudna agreement. Hamas has also been fighting terrorist groups such as ISIL in the Yarmouk refugee camp in Syria and Salafi Jihadi groups in Gaza. These efforts included an attack on a mosque in Rafah in 2009 led by Abdul al-Latif Mousa after he declared an Islamic emirate. For these reasons, engagement with Hamas over Gaza is necessary to clamp down on Salafi Jihadi groups waging violent extremist attacks in the area, and open relations regionally to groups such as the Muslim Brotherhood in Syria and Yemen.

The US should engage Hamas, in particular, on issues related to the Gaza Strip, but also in unifying the Palestinian delegation. Permanent status issues with Israel have fallen solely on PLO leadership, which Hamas has accepted in the past through various statements, suggesting they are not interested in negotiating an end to conflict with Israel. The 2006 Mecca Agreement with Fatah and Hamas left permanent status negotiations to the PLO and outlined a plan to hold a referendum on any final agreement with Israel (Abu-Khalaf et al. 2009). Ultimately, Hamas and Fatah agreed to abide by the results of the referendum, even if these results contradicted their political positions. In this regard, it is a double standard for Americans to accept Israeli rightwing extremist groups such as Habayit Hayehudi, led by Naftali Bennett on the one hand, and on the other to refuse to recognize prior agreements and governing committees such as the PLO, and rebuff Hamas due to its failure to recognize the State of Israel. A nonpartisan American approach might call for both Hamas and
Habayit Hayehudi to commit to nonviolence while both remain free to continue their ideological positions of non-recognition of the other side until a permanent status agreement may be achieved. This will require an easing of the Middle East Quartet for Peace’s (including the United Nations, the United States, the European Union and Russia) three conditions on Hamas\(^2\) and non-use of the US veto against Palestinian unity.

### Putting Palestine on the Map

Another political component puts Palestine on the map as an internationally recognized entity with clear border demarcations that adhere to the 1967 borders. This move is not at odds with the resumption of negotiations with Israel, as it aims to create the symmetry required for successful negotiations. With regard to international recognition, it has been proposed that the US will conclude, after years of negotiations, that granting Palestine full UN membership is a necessary means to push the Israeli government beyond the current status quo. This change will foster fruitful and productive negotiations that take into consideration the needs and interests of both sides. The US could propose a UNSC resolution that includes elevating Palestine to UN membership. Also, the US could support a UN General Assembly initiative to establish a second special UN Commission for Palestine (UNSCOP-2). This commission would be similar to UNSCOP of 1947 (Segal 2012), but would not deal with the fate of historical Palestine. Instead, it would investigate the reasons behind the delay of achieving the Palestinian people’s right of self-determination, the right of return for Palestinian refugees, and bring forward proposals that address facts on the ground in Palestine.

Additionally, the US could support Palestinian membership in UN organizations, and allow Palestinians to bring legal suits to the International Criminal Court related to Israeli settlement expansion in the Palestinian occupied territories of West Bank and East Jerusalem. These measures would help keep the two-state solution alive. Other components of a US draft resolution to the UNSC could also include a call for a trilateral process that ensures inclusive fulfillment of obligations according to previous agreements within a specified

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\(^2\) The three conditions outlined by the Quartet are as follows: A Palestinian state must recognize the state of Israel without prejudging what various grievances or claims are appropriate, abide by previous diplomatic agreements, and renounce violence as a means of achieving goals.
timeframe, – in addition to the reconstruction of Gaza, the resumption of negotiations over the two-state solution, and a solution to the refugee problem. The non-fulfillment of Israeli peace agreement obligations contributes to the exacerbation of the asymmetry between the two sides. This would not be a renegotiation. Earlier resolutions from negotiations would be on the table that illustrate border advancements and ways of developing modalities for implementing the previously agreed upon understandings, such as the contentious issue of Palestinian refugees.

A UNSC resolution would also lead to comprehensive peace in the Middle East based on the Arab Peace Initiative (API), combined with the creation of a Middle East free from weapons of mass destruction. The League of Arab States would ideally create the basis for the API. It could foster support for the Israeli-Palestinian negotiations that includes the concerned Arab countries of Egypt, Jordan, Saudi Arabia, and Morocco by creating a support committee modeled on the Middle East Quartet. This Arab committee would have a monitoring role in the negotiations and would intervene in cooperation with the Middle East Quartet, when necessary.

A Security Council resolution would create a new climate by promoting a paradigm shift toward a new type of negotiation aimed at discussing the implementation of previously agreed upon solutions rather than renegotiating. Once the resolution is adopted, attention can center on an international conference to launch the peace process through the formation of a follow up committee working in tandem with the Quartet as an auxiliary component managing negotiations. Along with the previously mentioned Arab countries, the BRICS and Japanese could ensure international responsibility towards the peace process through a cooperative process that moves beyond the US taking on the primary responsibility for enforcement and implementation. Ideally, a process of collective facilitation would maintain shared responsibility.

During the allotted time frame of negotiations, parties would work on fulfilling their obligations from previous agreements. The Quartet would support a working group through which both sides identify their obligations, create a timeframe, and work toward full implementation. The international community could make use of financial incentives (grants or loans) in the form of carrots or sticks (sanctions) to encourage parties to move toward full implementation of a peacebuilding plan.

Once negotiations are finalized and an agreement is reached, withdrawal of Israeli occupying forces would need to take place within three years. International peacekeeping and peacebuilding forces will deploy in the areas where Israel withdraws for an interim period to help preserve security (that is, peacekeeping), and build stable institutions to ensure a prosperous Palestinian
independence (that is, peacebuilding), in a way similar to the case in East Timor. If the Israeli government fails to move forward on any of these political tracks, then the US should use tools to pressure Israel, such as abstaining from using their veto during Security Council resolutions that condemn Israel’s actions in occupied Palestinian territories, freezing financial support, or halting military and security cooperation. Moreover, civil society can be engaged in a participatory peacemaking and peacebuilding process through Track 1.5, Track 2, and Track 3 efforts.

The Economic Track for Constructing the Palestinian State

This track is about creating Palestinian facts on the ground and is currently hindered by a lack of full control over territory and self-determination. Prior experience suggests that economic prosperity in the State of Palestine is impossible in the face of restrictions imposed on development by Israel within Area C (currently consisting of two thirds of the West Bank) and East Jerusalem. Furthermore, free passage between the West Bank and Gaza Strip, along with free trade between Palestine and the Arab and Islamic world via Egypt and Jordan, are necessary for long-term economic growth in Palestine.

The continuation of harsh Israeli restrictions places any attempt to build a prosperous State of Palestine with a viable economy in jeopardy. In the West Bank and East Jerusalem, ongoing contradictory processes adopted post-1967 prioritize the economic development of the Jewish sector to the detriment of the Palestinian territories. These territories have been subjected to ethnic cleansing and the expropriation of space, territory and landscape. Evacuation of the Palestinian Bedouins from Area C (BIMKOM 2009), and the confiscation of identity cards from East Jerusalem Palestinians are two examples of the ethnic cleansing policies Israel has employed. Palestinians have been made impotent through limits on economic development, and fallen prey to a process of systematic destruction by an opposing power. This process has led to the de-development of a local indigenous economy through the combination of forced acts of transfer and ethnic cleansing.

Previous economic practices of the international community focused on building the State of Palestine from the bottom up through focused efforts on strengthening the capacities of the Palestinian Authority (PA) to ensure continuation of PA employee salaries, supporting the Palestinian security sector, and supporting Palestinian development projects in Area C (subject to Israeli permit approval) and East Jerusalem. The Gaza Strip was left without a real development strategy due to fears that development funds might support Hamas.
The US$5.7 billion in aid allocated for Gaza reconstruction at the Sharm el-Sheikh conference in March 2009 was put on hold for that reason, and the same was true for aid pledged to the rebuilding of Gaza after the 2014 war with Israel.

At the Annapolis conference of 2007, US President George W. Bush promised the creation of a Palestinian State by 2009. Dr. Salam Fayyad (2009), former Prime Minister of Palestine, implemented a policy of development of the Palestinian state and its institutions through a bottom-up process that ignores Israeli restrictions imposed on the Palestinian territories in Area C and East Jerusalem. During the seven-year period of Fayyad government rule, emphasis was placed on projects in those areas. Furthermore, the government released quarterly reports about the number of projects implemented. By 2011, the World Bank presented a report on Fayyad’s achievements, and concluded that these efforts were a clear sign that Palestinians were ready for statehood.

Potential reasons for the lack of progress toward statehood include the fact that the Fayyad Government was unable to facilitate any major development in Gaza due to the unwillingness of the international community to offer aid to Hamas. Secondly, Fayyad’s attempts at creating sovereign projects in Area C, such as an airport in the Jordan Valley, were never realized because Israel stood in the way of Palestinian development. When Fayyad built without Israeli approval, Israel would demolish it. This in part explains why he was unable to put in place significant projects in East Jerusalem. The international community failed to either provide appropriate support to Fayyad or apply the pressure needed on Israel to clear the way for Palestinian development projects in Area C and East Jerusalem. Ultimately, Fayyad’s attempts on the ground were overshadowed by a lack of political success in reaching an agreement that supported commonality between Israeli and Palestinian interests.

The root causes for such failure are again related to that which has stalled all previous attempts at the peace process: occupation of the Palestinian territories after 1967. Asymmetry between Israelis and Palestinians limits growth. As Israeli expansion into Palestinian territories continues, Palestinian building development is limited through the use of a strict permit system reserved solely for Palestinians. The practice of demolishing Palestinian infrastructure built without a permit is at the heart of this inequality. For many, it is reasonable to assume that Israelis and Palestinians living side-by-side both share the right to build on their own land. Unfortunately, this is not the case. The international community, along with the Office of the Quartet in Jerusalem, have adapted to and worked within Israeli restrictions in an effort to support Palestinian development. Sadly, development in Gaza has ground to a halt due to Israel’s unwillingness to work with Hamas. Beyond these failures, the Kerry Initiative of 2014...
Beyond Exacerbating Asymmetry and Sustaining Occupation

included US$4 billion in developmental aid for Palestine through public and private sector cooperation. The plan focused on several promising projects in Area C, such as developing a potassium company at the Dead Sea and further developing tourism projects. The plan failed due to a breakdown in negotiations, which sent a message of political uncertainty to the private sector, and a corresponding reluctance of businesses to develop in a time of turmoil.

Based on these experiences, a new approach for economic development in Palestine can be promoted by US as a mediator to move beyond Israeli restrictions imposed in Area C and East Jerusalem. This approach can include macro-economic development projects included in the Kerry Initiative, but also micro projects focused on participatory community development, an approach that is central to Palestinian tradition. These projects have the benefit of being sustainable and self-reliant. It has been suggested that the US can take charge of these community initiatives by coordinating with NGOs and humanitarian aid agencies working on the ground, in addition to following up with the Israeli government in an effort to prevent inappropriate limits.

The Security Track for Constructing the State of Palestine

The security track is another field that requires a shift in approach and perspective. During the period of the peace process, the security of the State of Palestine was a non-issue. The central concern has been the security of Israel. Within that frame work, the independent security of Palestine is considered only to the extent to which it relates to Israeli interests. Therefore, a tradeoff occurs between the independence of Palestine and the security of Israel. Along these lines, the State of Palestine is not allowed to create an army, but instead a lightly armed security force, with Israel maintaining control over state and eastern borders. Additionally, Israel controls all advanced emergency and security warning stations, adopts the right to enter Palestinian territory at will, and controls the air and naval space in and around Palestinian territory. This grants Israel the freedom to fly through Palestinian skies whenever it chooses.

Limiting security concerns to the preferences of Israelis along with tethering the independence of Palestine to the fulfillment of Israeli security preferences does not signal openness to a permanent status agreement. In this regard, Palestinians have displayed a high level of flexibility by accepting the deployment of international forces on the borders of the State of Palestine. Of course, the issue of Palestinian sovereignty over its security affairs pervades discourse on the conflict. One state should not exclude the rights of another
based on their own security concerns, especially since Palestine faces similar security threats from terrorist groups. Palestine lacks the wherewithal to confront this terrorism, as it has no army, proper training or equipment for its security forces. It must rely on cooperation from international forces deployed in Palestine to confront sanctioned acts of terror. The idea of Palestine depending on Israel for its security concerns is not well received on the Palestinian side because it further entrenches Israeli occupation.

Therefore, there are loud calls for the US to help develop a new approach to security in Palestine and Israel based on the principle that security is important and that no party should be excluded from planning and development protocols. This approach requires that Israeli security concerns should not hamper, freeze or supersede Palestine’s right to ensure its own security and prosperity. Consequently, both sides should engage in a process to find equitable solutions for their respective security concerns. Security vulnerabilities need not be limited to security of the state, land, sea and borders, but should also include human security. Addressing collective security of Palestinian and Israeli women and children against fear, killing, disposition, transfer and injury is no less important than the protection of borders and good governance. Furthermore, security requires professional training. The idea that Israeli security forces are the only forces competent enough to undertake security protocols is myopic. Additionally, refusing to work with Palestinian partners on coordinated efforts limits avenues of cooperation between the two peoples and, more broadly, with members of the international community. In this regard, the PA has a well-established track record of capably protecting Israel from attacks since 2007. In recent years, Hamas has also joined in preventing attacks against Israel from Gaza. Why then does Israel not respect the capabilities of Palestinians to act accordingly in their own security interests?

The issue that continues to surface in response to this question relates to the possibility of regional attacks that require Israel to maintain strict eastern borders control. Shaul Arieli, a security expert, responded to this idea, saying that Israel can develop an anti-missile defense system without keeping the Jordan Valley under its control. Moreover, Israel can establish effective security cooperation with Palestinian security and international forces, which will strengthen Israel’s ability to face security threats without employing an occupying force in the Jordan Valley. The United States could support discussions along these lines, shifting to an approach to security that transcends Israeli-Palestinian divides to include the issue of Palestinian security. A US plan could, first, present Palestinian security, as Sayigh (1995) suggests, as a matrix that promotes security by developing Palestinian well-being through development

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3 See online at www.shaularieli.com.
projects, democracy and human rights promotion, and an effective security force that meets the needs of Palestinian security concerns. Creating a US-led peacekeeping/peacebuilding force can help Palestine preserve security and build supportive democratic institutions (Salem 2007: 180). This force could also be comprised of experts in development from Arab countries.

Finally, one cannot leave the security track without viewing the regional security component. Regional threats have led Israel to accept the deployment of massive Egyptian security forces in the Sinai to confront terrorist groups operating in the area. This example might offer the basis for Palestine to argue that protecting its needs requires similar actions. On the other hand, considerable animus has surfaced in the Middle East surrounding the P5+1 agreement with Iran. Iran raises the issue of instability in the region, particularly regarding the notion of promoting a Middle East region that is free from weapons of mass destruction. Egypt continues to highlight this issue with the aim of diffusing the threat of Israeli nuclear weapons. Greater symmetry in the region might push Israel toward considering the beneficial prospects of a sustainable peace agreement with the Palestinian people and other countries in the region.

Conclusion: Three Tracks Together

Arouri has claimed that “the role of the sole peacemaker has started to reach its end” (2012, p. 124), but it has not. This article has focused on a potential future where the US assumes a “going for broke” stance on the Israeli-Palestinian conflict by accepting the creation of a Palestinian state and a new third-party approach to get there. Camp David in 2000, the Olmert-Abu Mazen negotiations, and the Annapolis Conference of 2007 were all unsuccessful due to failures to conceive of a Palestinian state with sovereignty over East Jerusalem, an absence of an agreed solution to the Palestinian refugee problem, Israeli control of eastern borders, the continuation of settlement building and Israeli annexations. Offering these approaches once again will not help since many past issues remain unresolved. One might argue that Israel was established without final boarders and that Palestine might follow the same path. Such an argument contradicts the fact that what is needed in the framework of a permanent status agreement is demarcation of a final and agreed upon border between the two-states of Palestine and Israel.

Construction of dual transformative processes that facilitate top-down and bottom-up change in an effort to create the State of Palestine is required. Pressures concentrated from below will support Palestinian development in all occupied territories of 1967 without excluding Areas A and B of the West Bank. Additionally, supporting nonviolent Palestinian resistance to occupation,
rebuilt the Gaza Strip, and requiring Israel to fulfill its obligations from previous negotiations will facilitate Palestinian development in the areas Israel currently occupies. It will also open up resources from Arab countries as well as international funding to further the development process.

The main issues in the Israeli-Palestinian conflict are territorial, not simply trust or mistrust between parties. In the case of Palestinian and Israeli negotiators, trust was present between the negotiators. The problem was a win-lose scenario on the ground, caused by rapid settlement expansion and land grabs that Palestinians could not overcome – in part, a problem between occupier and occupied. Golan (2007: 142) has suggested that “a case can nonetheless be made for the possibility that the two sides will opt for realism – leaving the issue of trust to a later stage – and adopt something quite close to the peace plans that have emerged.”

The means for reaching a peace agreement should not be focused around negotiations and bringing the parties back to the table with preconditions, as called for in Quartet statements. The solution lies in moving beyond asymmetry by recognizing Palestine in the UN and creating political, economic and security tracks to build Palestinian infrastructure through multilateral processes. By generating symmetry, the status of Palestine will emerge, allowing its leaders to negotiate borders and refugee issues with Israel on the basis of relative parity.

These three tracks need to be reinforced together. For the economic track to succeed, Israel will need to fulfill its obligations from previous agreements. This includes a phased withdrawal from 1967 occupied territories in the West Bank (except military camps and settlements), a commitment Israel made in the 1995 interim agreement that was supposed to be completed within 18 months. Furthermore, the establishment of the State of Palestine should not be held hostage to Israeli security paranoia. Galtung (2015: 80) illustrates that “The dominant paradigm in inter-nation, inter-state affairs is still ‘security studies,’ academically institutionalized paranoia,” which aligns with the current Israeli approach to security and the practice of limiting security cooperation with Palestinian counterparts and international actors. In seeking to resolve the ongoing Israeli-Palestinian conflict, a US approach to security is needed both in concept and in practice, as limited time remains to rescue the two-state solution.

Diamond and McDonald (1996) developed the multi-track method, which the new US model could evoke, seeking to be inclusive of the economic, security and political tracks. Such inclusion would complicate the task ahead for the United States. But without the economic and security tracks that aim to
create symmetry between the sides, the political process is likely to fail. The new US approach needs to be participatory and include global blocks, Middle Eastern countries, and civil society actors.

Epilogue

US President Donald Trump took office after the preparation of this article. Many journalistic and policy-based articles have been written speculating on what he might do regarding Middle East peace or offering advice to lobby the president and his team. We hope that the new president views this article as advocating for a new approach for American third-party intervention in the Israeli-Palestinian conflict, rather than an analysis of past policy. Importantly, the new administration might consider two essential elements in formulating this new mediation approach for the US. First, Trump’s “art of the deal” (1987) focuses on economic deal making, not political deal making. When trying to broker a political deal, there are often many non-economic issues that must be taken into consideration. This is certainly true in the case of the Israeli-Palestinian conflict, as we have discussed in this article.

Second, the alternatives to the two-state solution are all problematic. Transforming the West Bank from its current situation of de facto annexation to become a de jure annexation to Israel will leave the Palestinian right to self-determination unsolved, and trigger a continuation of the conflict. Moreover, Jordan will not accept annexation of parts of the West Bank to Jordan, and Egypt seeks safe and secure borders with Gaza, not annexation of its territory. Alternatives of “one country, two-states” (Kelman & Segal 2014) are all versions of the two-state solution with open borders and freedom of movement. To them, the country is perceived as a place where two peoples have attachments to the whole. Disregarding the details of these proposals, it seems possible to implement them only after crafting a territorial deal and after sustained peace and security between the two-states resulting from territorial compromise (Spears 2014).

Federal or confederal solutions in all forms, including the bi-national state formula and the one state solution, are problematic due to their recognition of existing facts on the grounds that have resulted through land grabs and settlement expansion at the expense of the Palestinians.

As a result, the two-state solution should be a priority for any future US mediation attempt. The proposed approach should combine promotion of a principles-based political process and leveraging of US influence to achieve it
Hopefully, this process will alleviate asymmetry between the parties and create better conditions for a fair solution that is based on parity.

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