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## 'Settlements now, settlement later' Land swaps, settler relocation, and the viability of the two-state solution in Israel-Palestine

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**‘Settlements now, settlement later’  
Land swaps, settler relocation, and the viability  
of the two-state solution in Israel-Palestine**

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## Introduction

To achieve territorial and demographic separation between a Palestinian state and Israel, a border must be drawn. Unless imposed unilaterally, that border must be subject to negotiations. This task is made more challenging by the increasingly mixed population of the West Bank. As of 2022, c. 685,600 Israelis live in the West Bank and East Jerusalem, alongside c. 3.2 million Palestinians. From mainstream perspectives on international law, and for the large majority of the ‘international community’ represented at the UN, these are considered ‘Occupied Palestinian Territories’ (OPT): under belligerent occupation by Israel since the Six-Day War of June 1967. Likewise, the construction by Israel of 131 ‘settlements’ in the OPT is considered illegal under international law. In the event of a two-state solution agreement, the presence of this large ‘settler’ population in the OPT leaves three options. Firstly, the Israelis can stay in place, but under Palestinian sovereignty. Secondly, they can be evacuated from the OPT into ‘Israel proper’. Thirdly, the Palestinian side may agree to Israeli annexations in part of the West Bank, such that all or most of the settler population stays in place under Israeli sovereignty.

Over the past two decades, the Israeli side, the Palestinian side, and most relevant third parties have accepted the third option - but with an addition. In compensation for Israeli annexations in the West Bank to accommodate the Israeli settler population, the Palestinian side would receive unpopulated pre-1967 Israeli lands elsewhere. This device, known as a ‘land swap’ has widespread support in the ‘international community’. At a speech to AIPAC in 2011, President Obama indicated land swaps to be the preference of the United States. Though maintaining the June 1967 lines are the relevant legal and political frontier, Obama did not expect Israel to fully withdraw to them. He expected Israeli annexations to be compensated with territories currently in pre-1967 Israel: ‘The borders of Israel and Palestine should be based on the 1967 lines with mutually agreed swaps’, ‘By definition, it means that the parties themselves -- Israelis and Palestinians -- will negotiate a border that is different than the one that existed on June 4, 1967’, (Obama, 2011).

This put US policy at odds with the original text of the Arab Peace Initiative (API), released March 2002 in Beirut. It called for a ‘Full Israeli withdrawal from all the territories occupied since 1967, including the Syrian Golan Heights to the lines of June 4, 1967’, and the ‘establishment of a Sovereign Independent Palestinian State on the Palestinian territories occupied since the 4<sup>th</sup> of June 1967 in the West Bank and Gaza strip, with East Jerusalem as its capital’, (API, 2002). In April 2013, however, the Qatari Prime Minister indicated a softened Arab League position. As announced by US Secretary of State John Kerry, ‘The Arab League delegation affirmed that agreement should be based on the two-state solution on the basis of the 4<sup>th</sup> of June 1967, with the

[possibility] of comparable and mutual agreed minor swap of the land’, (Al Jazeera, 2013). The next year, the Council of the European Union also indicated its preference. After its 3330<sup>th</sup> meeting on 22 July 2014, the Council called for ‘agreement on the borders of the two states, based on 4 June 1967 lines with equivalent land swaps as may be agreed between the parties’. This was with the provision that the EU ‘will recognize changes to the pre-1967 borders, including with regard to Jerusalem, only when agreed by the parties’, (CoEU, 2014, p.10). So by 2014, key actors in the international community had lined up behind the same device to achieve Israeli-Palestinian territorial divorce: land swaps.

Land swaps are also part of the Palestine Authority (PA)/State of Palestine (SoP) positions on borders, and previous Israeli government permanent status proposals. After the softening of the API position in 2013, chief PA negotiator Saeb Erekat stated: ‘This is not something new’, ‘The Arab delegation presented the official Palestinian position’. Following an Israeli acceptance of a ‘two-state solution on the 1967 borders, the State of Palestine as a sovereign country might consider minor agreed border modifications’, (Al Monitor, 2013). This was re-affirmed by President Mahmoud Abbas at a speech to the UN Security Council in February 2018. In ‘terms of reference for any upcoming negotiations’, Abbas included ‘Preservation of the principle of the two-States... on the basis of the 4 June 1967 borders’; qualified by ‘Acceptance of minimal land swaps’ with the agreement of both sides, (Abbas, 2018). For its part, the Israeli side has been careful not to publicly commit to the principle of ceding territory to a Palestinian state. Doing so might preclude a potential outcome of Israeli annexations, with no Palestinian compensation - which whilst unlikely at present, could be delivered by unknown future circumstances. Without public commitment to the principle of land swaps, Israel has nonetheless offered territory to the Palestinians during previous negotiations to encourage Palestinian acceptance of Israeli annexations in the West Bank. Neither party, not relevant observers of Israeli-Palestinian negotiations expect the borders of a two-state settlement to be identical to the June 1967 borders. From where do land swaps derive their compulsive force, and are they a realistic proposal today?

## Literature Review

These questions relate to the Israeli-Palestinian ‘peace process’, and the ‘two-state solution’. High-level negotiations aimed at such a solution, and resolving all outstanding issues between the parties were last attempted under the tutelage of Secretary John Kerry in 2013-14. Since then, the ‘process’ has been largely dormant. That term - ‘dormant’ - is not reflective of an increasingly consolidated mood in scholarly literature regarding the alleged ‘peace process’. The preferred term is ‘dead’. Typically of this perspective, Ilan Pappé has claimed: ‘The two-states solution is like a corpse taken out in the morgue every now and then, dressed up nicely, and presented as a living thing’, ‘When it has been proven once more that there is no life left in it, it is returned to the morgue’, (Pappé, 2017, p.142). As early as 2005, Ghazi-Walid Falah concluded Israeli policies of ‘unilateral separation and strangulation’, and the settlement project in the West Bank had ‘shattered the spatial basis of a two-state solution’, (Falah, 2005, p.1366).

In 2011, Leila Farsakh dated the expiration of a plausible opportunity for two-states to the outbreak of the Second Intifada in September, 2000. Since then, prospects ‘have grown increasingly bleak’. She cites the doubling of the settler population in the OPT between 1993 and 2009; the construction by Israel of a ‘separation wall’ in the West Bank; the ‘institutionalization’ of a network of Israeli checkpoints, which have ‘killed the prospects for any viable sovereign Palestinian state’; the Israel-Gaza War of 2009; the Hamas-Fatah split of 2006-2007, and entrenchment of Palestinian disunity; and the ‘failure of the international community’ to push forward the 2003 ‘Road Map’ to peace, (Farsakh, 2011, p.55). Since 2011, there has been no improvement in any of the factors she mentioned; seemingly only further entrenchment of the occupation and settlement project. The ‘death’ of the two-state solution has become such a recurrent theme in scholarship, validated by the repeated failures of high-level negotiations, that the burden of proof has shifted onto those who still consider it a possible outcome. In 2017, Pdraig O’Malley claimed the ‘two-state solution is ‘no longer either a viable outcome or one that can be implemented’. This is due to worsened and entrenched ‘facts on the ground’ - namely, the Israeli settlement project, and also ‘facts in the mind’ - too little trust, and too much hatred, (O’Malley, 2017, p.1-8). For more recent examples, cf. Boehm, 2021; Rabie, 2021; Nimni, 2020.

With such widespread pessimism about the peace-process and two-state solution, many scholars have shifted towards analysis of the ‘one-state reality’. Rather than ‘democracy plus occupation’, many scholars now consider the space between the Jordan River and Mediterranean as subject to a single and discriminatory Israeli rule. On 12 January 2021, Israeli human rights organisation B’tselem concluded: ‘A regime that uses laws, practices and organized violence to cement the

supremacy of one group over another is an apartheid regime’, and ‘the bar for labelling the Israeli regime as apartheid has been met’, (B’tselem, 2021, p.7). The ‘apartheid’ paradigm was first prominently introduced in English-language literature by Uri Davis, cf. *Israel, an Apartheid State*, (Davis, 1987). On 27 April of that year, B’tselem were met in their judgment by Human Rights Watch; and on 1 February 2022 by Amnesty International, (Human Rights Watch, 2021); (Amnesty International, 2022). For more recent examples, see Tareq Baconi, *Gaza and the One-State Reality*: ‘the prospective annexation per the Trump plan does not signal a break with the (illusory) two-state solution but the continuation of the undeniable entrenchment of the one-state reality’, (Baconi, 2021, p.84); Ian S. Lustick, *Paradigm Lost: From Two-State Solution to One-State Reality*, (Lustick, 2019); or Kasrils, 2013.

With this mood prevailing in literature on the conflict, there is little scholarly interest in the details of how a two-state solution could be achieved. For some, doing so is at best naïve: failing to appreciate the fatal harm done to the two-state paradigm by the Israeli settlement project and other developments. At worst, it is to provide cover to an apartheid reality by keeping alive the ‘democracy plus occupation’ interpretation of the Israel-Palestine space. Notably, one has to go back to 2014 to find an article in the *Journal of Palestine Studies* briefly related to the two-state solution, (cf. Al-Botmeh, *Implications of the Kerry Framework: The Jordan Valley*, 2014). The last detailed analysis of two-state prospects was published by the journal in 2012: *Western Interests, Israeli Unilateralism, and the Two-State Solution*, (Gordon & Cohen, 2012). The entity which would be most affected by a two-state solution would be the State of Palestine. The fact that the *Journal of Palestine Studies* has largely avoided discussing such a resolution to the conflict for a decade must be taken as a sign of deep pessimism about its viability, and chances for realisation in the immediate future of Palestine.

Needless to say, there is no detailed, up-to-date study of the viability of land swaps in the context of a two-state solution; after all, this is a specific aspect of an increasingly unpopular paradigm. There is good reason to address this research gap in a scholarly setting. Firstly, however worsened are the prospects for a two-state settlement since the talks of 2000-2001, 2007-08 or even 2013-14 - such a settlement remains the official objective of the international community, almost without exception. This includes the UN Security Council, US, EU, the United Kingdom, the People’s Republic of China, and the Palestinian Authority itself - the list goes on. So long as the two-state solution remains official policy, detailed discussion of its viability continues to be relevant. Secondly, the mood in academia regarding a two-state solution has been pessimistic for so long that its ‘death’ has become something of a received wisdom - repeated, without detailed careful substantiation, (as in the examples above). Achieving a territorial separation is a fundamental

requirement of a two-state solution. In previous negotiations, the formula used by both the Palestinian and Israeli sides to achieve this has been land swaps. As such, in existing precedent the viability of the two-state solution has been bound up with the viability of land swaps. If after review of up-to-date evidence, it is clear swaps are no longer operable, the case for the ‘death’ of the two-state solution is considerably strengthened. There is no dedicated study of land swaps in existing scholarly literature, up-to-date or otherwise. Thirdly, a leak of official documents in 2011 has provided a rich and detailed source-base for analysis of Israeli-Palestinian negotiations in the post-Oslo period up to 2009, (see below). Perhaps due to a lack of interest in the two-state solution, this database has not been used to its illuminating potential.

## **Analytical Framework**

### **i Aims**

The research agenda of this paper is in four parts. The first establishes Israeli and Palestinian interests from the available evidence - as expressed by each side, and interpreted by the other. The second part analyses the boundaries of each Israeli and Palestinian territorial proposal between 2000 and 2008. It highlights the large discrepancies created by differing methodologies used by the sides. The third part investigates which specific areas have been selected for territorial exchange. This exercise helps identify the ‘lowest common denominator’ areas that both sides have selected for transfer in the event of a land swap. The fourth part assesses previous Palestinian and Israeli proposals against the two vital ‘material’ - ie. physical - criteria upon which a land swap agreement depends: the size of the Israeli settler population in the West Bank; and the availability of unpopulated pre-1967 territory in Israel proper. It then discusses how the limits of a ‘materially possible’ land swap are set by the limits of political possibility, and are therefore mutable - at least in principle.

### **ii Scope**

The scope of this paper is limited to land swaps as a device to achieve Israeli-Palestinian territorial separation. It operates within the framework of ‘permanent status’ issues derived from the Oslo Accords. For those who drafted the Accords, these were the seven key issues of the Israeli-Palestinian conflict, upon which a final agreement and separation depended: ‘Jerusalem’; ‘refugees’; ‘settlements’; ‘security arrangements’; ‘borders’; ‘relations and cooperation with other neighbours’; and ‘other issues of common interest’ such as aquifer resources, (cf. Watson, 2000). This paper is fully addressed to the ‘borders’ permanent status issue, partially to the ‘settlements’ and ‘Jerusalem’ issues, and occasionally to the others. Clearly, drawing a border is far from sufficient to achieve permanent status. It is necessary, however. If a territorial separation is impossible, then a two-state



settlement is impossible. Most of the evidence reviewed in this paper is from Israeli-Palestinian high level negotiations between the Camp David Summit of 11-25 July 2000, and the resignation of Ehud Olmert as Israeli Prime Minister on 21 September 2008.

### **iii Evidence**

This paper relies on primary source analysis. Material is taken from a wide range of sources, including Palestinian and Israeli government statements; journalism; memoirs; and map projections of territorial proposals. Whilst there is a low availability of recent peer-reviewed scholarship analysing the prospects of a territorial separation (and none specifically addressed to land swaps), there is a good level of ‘grey literature’ coverage - whether from think tanks, NGO’s, newspapers, memoirs, etc. Demographic data for the settler presence in the OPT was sourced from the Israeli Central Bureau of Statistics (ICBS) and the Jerusalem Institute for Policy Research (JIPR). In the former case, the most recent data available is from 2022 for settlements with a population over 2,000. The latest data for settlements with a smaller population is from 2019. In the latter case, the latest data on the settler presence in Jerusalem is from 2020.

The key evidence base for this paper is from the ‘Palestine Papers’ (PP) - a set of over 1,600 documents leaked by Al Jazeera in 2011. It mostly comprises confidential internal documents written by the Negotiations Support Unit (NSU) of the Palestinian Negotiations Affairs Department (NAD). The NSU was at the front-line of negotiations with the Israeli side, producing strategy and political documents to assist and advise the Palestinian negotiators. The reliability of the Papers is a basic assumption of this paper, albeit an informed one. After the leak, Saeb Erekat claimed the documents were ‘taken out of context and contain lies... Al-Jazeera’s information is full of distortions and fraud’, (Hounshell, 2011). As well as Al Jazeera, however, co-publisher The Guardian claims to have ‘authenticated the bulk of the papers independently’, (Guardian, 2011). The documents have been cited in peer-reviewed research, (cf. Zayani, 2013).

### **iv Methodology**

The Israeli and Palestinian sides have issued territorial proposals on the basis of differing methodologies, (see details below). This paper considers both methodologies simultaneously to show how proposals appear from either perspective. Though scholars are aware of the different Israeli and Palestinian methodology, and have shown its implications in specific cases, (cf. Pressman, 2003), it is an original contribution of this paper to do so comprehensively and transparently to all high-level proposals available in the record. To assess trends in the ‘viability’ of land swaps today, this paper derives the two key material variables from its prior analysis: settler incorporation rate, and Israeli land swap reserves. With up-to-date population data from ICBS,

and map projections of past territorial proposals, it is possible to ‘apply’ past proposals to present day demographic realities - and evaluate them according to the relevant criteria. This makes it possible to compare the intended effect of prior proposals to their likely outcome today.

### **v Limitations**

This paper does not analyse land swap positions taken during the 2013-14 high level talks, between Abbas and Israeli Prime Minister Netanyahu. Firstly, there is scarce information about the territorial dimension of those talks. In any case, secondly, those talks do not appear to have been productive on the borders issue, (cf. Indyk, 2014). According to Michael Herzog, the Netanyahu administration rejected Palestinian offers after 2009 ‘on the basis that Israel will not engage in detailed territorial negotiations or present its map without assurances on core security requirements’, and if the Palestinian side did not set aside its preconditions, (Herzog, 2011, p.13). Neither does this paper consider the ‘Trump Peace Plan’ of 28 January 2020, (Peace to Prosperity, 2020). Whilst the Plan contained a detailed territorial proposal, it was not issued to the Palestinians in the context of bilateral negotiations, and was immediately rejected by them. Given the lack of more recent evidence, what was true of the Israeli position in 2008 should not be assumed to be true now. Comparing past proposals to the realities of the present is a useful exercise to estimate negative trends in the viability of land swap options.

Little can be said with certainty about the classified, shifting negotiations which are the subject of this paper. It is unusual to have the level of insight into negotiations permitted by the Palestine Papers. No comparable leak of Israeli-authored documents has occurred; though much can be learned of their negotiating position from NSU records, and minutes of negotiating sessions - as well as from wider official statements, testimonials, sources, and secondary literature. This means that evidence about the Israeli position is often taken from Palestinian documents: this is further reason for caution. Maps of land swap proposals should be taken as illustrative at best, (with the exception of a Palestinian map of their own proposal, included in the Papers). Lastly, the available demographic data for this paper was not entirely from 2022, and ICBS do not count the population of unauthorised Israeli ‘outposts’ in the West Bank. Related figures are therefore likely underestimations.

## Part I: Territorial interests

### i. Israeli interests

The Israeli side has been prepared to cede pre-1967 territories to the Palestinians because it has judged certain territories in the West Bank to be more valuable. As such, Israel does not have an intrinsic interest in land swaps *per se*. Rather, land swaps have been adopted by the Israeli side to achieve Palestinian assent for Israeli sovereignty over territories in the West Bank. The Palestine Papers include evidence as to Israeli criteria for assessing the value of these territories. On 8 April 2008, chief negotiator Tzipi Livni projected a partial map of an Israeli territorial proposal to Ahmed Qurei and the Palestinian team. Expecting objection to the extent of annexations in the proposal, she stated 'in advance' that 'you are going to feel as if we are taking from you'. She hoped the Palestinians would see the converse of these territorial losses, noting their 'goal is to prevent moving 250,000 settlers' - as paraphrased by the NSU note-taker. She declared the 'instructions I gave them in creating the maps' were: 'the maximum number of Israelis'; 'No Palestinians'; 'Only building areas'; 'Not the zoning places'; 'Some security needs inside'; 'The connection between this [i.e. the settlements] and Israel', (PP 2415, p.6-7). Three of these criteria are ambiguous. In drawing up its proposal, the Israeli side relied on its own definition and scope of security needs and 'building areas'. It is also unclear what the 'zoning places' is a reference to: the West Bank has a variety of political, military, industrial, and housing zones. In any case, this is a criterion of where *not* to annex, rather than a positive criteria for annexation.

The NSU interpreted Israeli interests in broad alignment with how the Israelis expressed them. On 15 August 2008, Samih Al-Abed and the NSU Territory Team sent a 'Preliminary Assessment of the Israeli Proposal' to the overall negotiating team. They noted its incompleteness: no proposal for Jerusalem; clarity on the Jordan valley and eastern border deferred until after completion of security arrangements talks; indication of interest in additional annexations 'adjacent' the 1967 lines; and no specification of 'what areas from Israeli territory they are willing to cede as part of the swap', (PP 3127, p.1). Nonetheless, 'Palestinians acknowledge and are prepared to accommodate the *legitimate* interests of Israel, - such as their attachment to Jerusalem, security and minimizing the political and economic cost of the evacuation', (PP 3127, p.3). The latter criterion is almost certainly a reference to settler incorporation. From the Palestinian perspective, it is preferable not to acknowledge the retention of an illegal settler presence in the West Bank as a 'legitimate' interest - hence the choice of referring instead to political and economic cost. The Palestinians relied upon the same euphemism when presenting their own territorial proposal to the Israelis, on 4 May 2008. As outlined by Al-Abed, Israeli interests were 'Reduction of political

and financial cost'; 'Jerusalem'; and 'Security', (PP 2648, p.4). In an internal matrix of post-Annapolis negotiating positions, dated 1<sup>st</sup> November 2008, they listed Israeli interests as 'Primarily "facts on the ground", minimizing number of settlers evacuated, "security needs" and contiguity of settlements with Israel', (PP 3477, p.11). In practice, these interests meant the annexation of 'all major "blocs" (esp. Etzion, Adumim, Modi'in, Ariel/Shomron) and other settlements "close to the line", to 'Keep 80% of Israeli settlers (i.e., 89% with EJ & NML)', and 'May have additional claims in Hebron/Qiryat Arba' and Jordan Valley, depending on security arrangements.' (PP 3477, p.11).

There is reason to identify the principal Israeli interest as being the incorporation of as much of the settler population into sovereign Israel as possible. There is a large spatial overlap between settler incorporation and other Israeli territorial interests in the West Bank. Most settlers live close to the 1967 armistice lines. This means the more populated settlement areas also tend to be the most 'contiguous' with pre-1967 Israel, (Makovsky et al., 2011). The settlements in East Jerusalem, moreover, have a population of c. 233,900, or c. 34% of the total settler population, (JIPR, 2020). Regarding its security needs, Israel would benefit from expanding its borders into the West Bank along its 'narrow waist', from Jerusalem to Haifa - home to c. 4,918,000 people and most of the Israeli industrial base, (ICBS, 2020). Annexations along this border would widen that waist, giving greater 'strategic depth' and height to Israel, as well as sovereign control of substantial aquifer resources, (cf. Benn, 2002), (Falah, 2005). Over 150,000 Israelis live close to the Green Line, north of Jerusalem. That is 21% of the settler total, and 33% of the settler population in the West Bank outside East Jerusalem, (ICBS 2019; 2022).

Israel would also strategically benefit from sovereign control of the eastern border with Jordan to provide warning and strategic depth against any potential threats from across the Jordan River, (cf. JINSA, 2020), (Makovsky et al., 2011). The Jordan Valley and Northern Dead Sea were mostly designated Area C under the Oslo Accords - under full Israeli civil and military control. This area covers c. 30% of the West Bank, and has a settler population of over 11,000. It contains the largest water resource in both Israel and Palestine - the Jordan river, and for both residential and agricultural purposes it is the 'largest land reserve for future development of the West Bank', (B'tselem, 2017). Despite its resources and security benefits, the Israeli side has relinquished the Jordan Valley to the Palestinians in previous territorial proposals, (see details below). Forced to choose, it has preferred the annexation of the more densely populated settlement areas along the Green Line, east of Tel Aviv. Given that Israel would benefit from control of the Jordan Valley as well, Israeli negotiators between 2000 and 2008 likely found its annexation would be an immediate deal-breaker for the Palestinians.

In negotiations, the Israeli side sought to justify annexations on demographic grounds - despite having a range of additional territorial interests. Neither Livni nor the NSU mentioned religious and symbolic sites as a priority for Israeli annexation. This set of interests have undoubtedly shaped the pattern of Israeli settlement in the West Bank; most prominently, for example, in the city of Hebron. It would appear, however, that unless complemented with a large population or proximity to the Green Line, religious/symbolic interests have been insufficient for Israeli annexation, (see below). In her proposal of 8 April 2008, most of the heavily populated settlements along the Green Line were to remain in Israeli hands, but settlements in the Jordan Valley were relinquished. For each annexation, Livni relied upon demographic data as the implied justification. They sought 54 km<sup>2</sup> in the Gush Etzion area, 'Population of the bloc is 50,000'. For Ma'ale Adumim, they claimed '1%-58km<sup>2</sup>, 40,000 people'; for Modi'in Illit, '11km<sup>2</sup>, 45,000 people'; and 'Ariel is 28,000 people alone', '70,000 in the fingers', '131km<sup>2</sup>', (PP 2415, pp.6-9). As such, the Israeli negotiators framed their proposals on a basis of 'maximum Israelis, minimum land, no Palestinians' - as opposed to security, or natural resource criteria. Prioritising dense, heavily populated areas over more expansive but less populated areas is likely because Israel intends to evacuate all Israelis from areas under Palestinian sovereignty in the event of permanent status. This presents a large logistical and political challenge, which can only be mitigated by including as many settlers as possible within sovereign Israeli boundaries. An Israeli government which compels too many of its citizens to relocate can expect a potentially fatal electoral backlash from those affected, and those in favour of the settlement project.

## **ii. Palestinian interests**

Given the choice, the PA would not engage in a territorial exchange. Following the Palestinian Declaration of Independence, November 1988, the PLO shifted its territorial objectives from 'Historic Palestine' to the 1967 lines. As expressed in an NSU document, 'Contours of the Palestinian State': 'The Palestinian Liberation Organization (PLO) made a historic compromise in 1988 in the pursuit of peace by recognizing Israel on 78 percent of historical Palestine and pursuing Palestinian statehood on the remaining 22 percent as part of a two-state solution', (PP 4814, p.1). In their response to proposals by President Clinton (see below), dated 1<sup>st</sup> January 2001, the NSU stated: 'the Palestinian side has no territorial needs in Israel, except for a corridor linking the West Bank and the Gaza Strip, which will be covered in a land swap', (Rabbo, et al., 2001). With the minor exception of a 'safe passage' between Gaza and the West Bank, receiving land from pre-1967 Israel is not a profitable objective for the Palestinians. It is a way to mitigate territorial losses arising from the Israeli settlement project that the Palestinians do not estimate themselves able to undo.

In a memorandum prepared on 13 February 2001, the NSU listed their land swap criteria in detail. For Israeli annexations, these were as follows. Firstly, 'Contiguity' - 'any annexation must not violate the requirements of maintaining the ability of Palestinian territory to touch or adjoin'; secondly, 'No roads should be annexed', with Israeli right of transit negotiated instead; thirdly, not a 'single Palestinian individual' should be displaced or affected; fourthly, Israeli annexations must not prejudice Palestinian water rights, 'In other words, sovereignty over the annexed areas would not be traditional full sovereignty'; fifthly, annexations must be limited to 'structures in settlements physically inhabited by Israeli settlers as of a particular pre-set date'; and lastly, annexations should not be within 1km of designated Palestinian development areas. The NSU also listed criteria for 'adding Israeli territory to Palestine'. They sought a decision from the leadership on whether territory must be 'immediately adjacent to the Armistice Line', or immediately adjacent to the 'Armistice Line in the West Bank' - in other words, whether land next to the Gaza Strip was an acceptable exchange for land in the West Bank. The NSU suggested that Palestinian annexations must be 'taken from the same immediate areas as Palestinian territory annexed to Israel' - the 'Jerusalem for Jerusalem' principle. They sought a decision on whether to seek 'equal' or 'equitable' exchanges, where the former requires symmetry in value and size, and the latter allows for exchanges of different size. They specified that 'Israeli territory to be added must not be inhabited', and should 'preferably' complement Palestinian agricultural, industrial, and urban growth, as well as contiguity of the Palestinian state, (PP 74, p.2-3).

On 13 February 2008, the NSU drafted an ideal version of a territorial permanent status agreement. It begins: 'In accordance with UNSC Resolutions 242 and 338, the international borders between Palestine and Israel are the June 4<sup>th</sup>, 1967 borders', defined by the 1949 Armistice Agreements, 'including any mutually agreed legal modifications thereto', (PP 2258, p.1). Despite 1967 formally delineating the border, 'The Parties may agree to mutual, minor, equitable, and reciprocal modifications to the border, in a total amount not exceeding [ ] square kilometres from the territory of each of Israel and Palestine'. The Jerusalem-for-Jerusalem principle was narrowed only to that city, with an implied willingness to accept land next to Gaza for land in the West Bank: 'The areas considered for swap should be adjacent to the 1967 border', not affecting contiguity, (PP 2258, p.1). Where the 2001 memorandum rejected any inhabited land to be ceded from Israel, the 2008 draft specified that areas populated by Palestinians must not be swapped. This expands the scope of pre-1967 territories that Israel could cede by including areas populated by 'non-Palestinian Israelis' - mostly Jewish Israelis, or formerly populated by them and evacuated for land swap purposes.

The NSU explicitly rejected the concept of ‘settlement blocs’ or ‘aggregated settlements with empty land in between them’, making clear that settlements would be considered on a case-by-case and ‘built up area’ basis only. Lastly, and in line with the 2001 memorandum, swaps would not prejudice ‘Palestinian interests and rights in water or other natural resources’, (PP 2258, p.1). This document adopted the compromised ‘equitable’ formula rather ‘equal’. However, issuing a Palestinian proposal to the Israelis on 4 May 2008, chief negotiator Ahmed Qurei called for a ‘swap of land with the same value and size and by the ration of 1:1’, (PP 2648, p.2). Since this was expressed during a negotiating session, it seems likely the NSU draft of 13 February is more indicative of what the Palestinians are truly willing to accept. Namely, an ‘equitable’ exchange along the 1967 lines, equal in value but not necessarily area; with no Palestinians included; with a like-for-like principle in Jerusalem; and without prejudice to natural resource rights.

## **Part II: ‘Land for land, peace for peace’**

### **Israeli and Palestinian methodologies**

The sides have never agreed on the size in km<sup>2</sup> of the baseline from which land swap ratios are calculated. The Israeli side do not include 71km<sup>2</sup> of East Jerusalem and surrounding West Bank areas annexed to Israel under the Jerusalem Law of 30 July 1980, (Basic Law, 1980). Neither do they include the 50km<sup>2</sup> Latrun ‘No Man’s Land’, which was a buffer zone between Israel and Jordan from 1948 to 1967; or the 195km<sup>2</sup> part of the Dead Sea renounced by Jordan in its 1994 peace treaty with Israel, and claimed by the Palestinians, (See Figure 1). As such, the Israeli negotiations baseline for the West Bank amounts to c. 5,538km<sup>2</sup>. By including the ‘discrepancy regions’ in their baseline, the Palestinian side calculates c. 5,854km<sup>2</sup> of West Bank territory: leaving a gap of 316km<sup>2</sup> between the sides, (Applied Research Institute, 2001). Moreover, Israel has calculated its swap ratios from only the West Bank - excluding the c. 365km<sup>2</sup> of the Gaza Strip from its baseline. When the Palestinians have proposed a swap, it has been calculated ‘over the area of the West Bank *and* Gaza Strip’, (PP 3632, p.4). Lastly, there is some minor variation in the size of territory claimed by the Palestinian side - perhaps attributable to the complexity of the existing borders and the treaties from which they are derived. In one internal draft, the NSU stated ‘Palestine shall encompass all (6205 km<sup>2</sup> of) Palestinian territory that Israel occupied’, (PP 2027). When issuing a Palestinian offer to the Israeli team on 4 May 2008, however, Saeb Erekat claimed ‘all of the land Israel occupied in 1967 whose total area is 6,238 square kilometers’, (PP 2648). In December 2018, Erekat also referred to ‘6,235 sq. km.’ on official PA television, (Marcus, 2019).

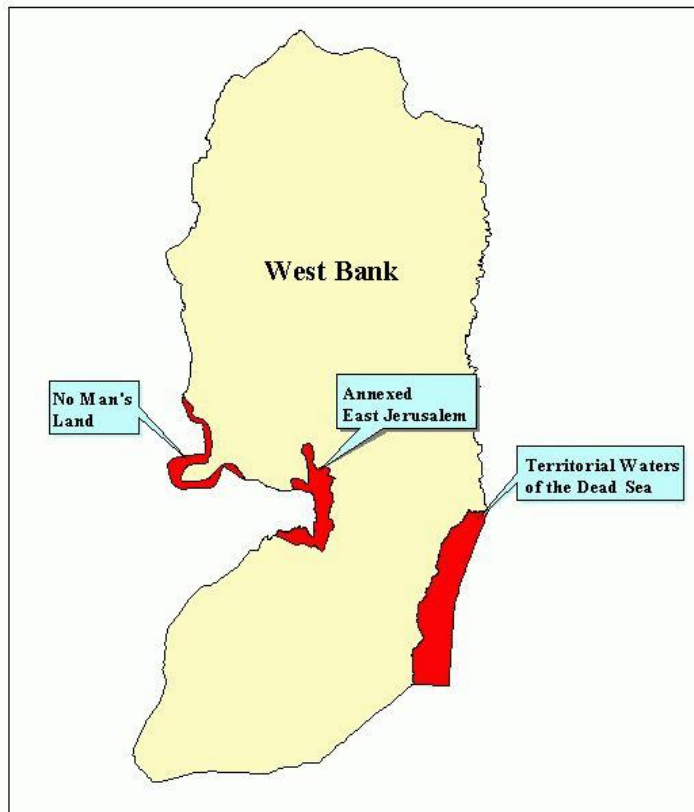


Figure 1, The 'discrepancy regions', (Applied Research Institute, 2001)

The consequence of these discrepancies is that 1% of land swap does not mean the same thing to both parties. Taken together, their effect is to make Israeli land swap proposals appear less extensive than they do from the Palestinian perspective. For the Israelis, a hypothetical 1-1, 1% land swap would mean Israeli annexation of 55.4km<sup>2</sup> of the West Bank, compensated to the Palestinians with 55.4km<sup>2</sup> of pre-1967 Israeli territory. For the Palestinians, however, this same swap would mean an annexation of 55.4km<sup>2</sup> into Palestine, in exchange for 371.4km<sup>2</sup> out of it -

assuming full Israeli retention of the Dead Sea. In the more likely scenario where the Palestinian claim in the Dead Sea is upheld - Israel choosing to prioritise annexations on the land - that swap would still mean 55.4km<sup>2</sup> in for 176.4km<sup>2</sup> out. Expressed in percentage form, that is 0.9% of the OPT into Palestine, for 2.8% of the OPT out; and 1% of the West Bank in, for 3% out. As compared to the notional equity of the Israeli perspective, these are far from trivial differences. They are differences which must always be taken into account when evaluating land swap proposals of past and present.

### 1 Camp David Summit, 11-25 July 2000

The parties first attempted to conclude a permanent status agreement at Camp David, in July 2000. As noted by Nigel Parsons, 'Caution is required when comparing proposals' from this summit, because 'the original offer was never set down on paper and different accounts have emerged of what was said and done'. That said, we have more reliable information about the territorial dimension of negotiations than the other permanent status issues: 'some of the contours are subject to general agreement, particularly in relation to the territorial basis', 'including possible resolution to the issues of Jerusalem and settlements', (Parsons, 2005, p.223). The fact that available information is complex, limited, and flawed does not mean that it should not be analysed, only that it should be treated with full appreciation of the relevant nuances.



According to Jeremy Pressman, the Israeli side offered 91% of West Bank territory, plus territories in pre-1967 Israel equivalent to an additional 1% of the West Bank. Given the different Palestinian baseline, this offer represented only 86% of the West Bank to the Palestinians, plus the c. 1% land swap, (Pressman, 2003, p.17). The effect of the differing methodology is substantial. From their own perspective, the Israelis sought c. 498km<sup>2</sup> of annexations, to be compensated with c. 55km<sup>2</sup>. From the Palestinian perspective, the absence of East Jerusalem, Latrun, and Dead Sea discrepancy regions in the Israeli baseline meant the same offer entailed an Israeli annexation of c. 814km<sup>2</sup>, still to be compensated with only 55km<sup>2</sup>. That is, rather than a c. 9-1 swap, the Palestinians were offered a 14-1 swap. Instead of this, according to Elie Podeh, the Palestinians reportedly sought a 1-for-1 swap, not exceeding 2.3% of the ‘territory’, (Podeh, 2015, p.283). Assuming Palestinian methodology, inclusive of the discrepancy regions and the Gaza Strip, this offer implied 143km<sup>2</sup> for 143km<sup>2</sup>. From the Israeli perspective, this offer meant full Palestinian sovereignty over areas it did not consider to be up for negotiation: Latrun, East Jerusalem, and in the Dead Sea. As such, rather than a 1-for-1 swap, the Palestinians sought 450km<sup>2</sup> of ‘Israeli’ territory, (the discrepancy regions, and 143km<sup>2</sup> of pre-1967 Israel) in exchange for 143km<sup>2</sup> of settled territory in the West Bank. That is, a ratio of c. 3-1 in Palestinian favour. In Podeh’s account it is unclear what methodology the Palestinian ‘2.3%’ was based upon. This is indicative of the imprecision with which scholars have discussed Israeli-Palestinian territorial proposals.

Reflecting these ambiguities, since the Camp David summit, different actors have projected contradictory maps of what was allegedly offered. See Figure 2 and 3 for a ‘Map Reflecting Actual Proposal at Camp David’, contrasted with the ‘Palestinian Characterization of the Final Proposal at Camp David’ - as published by American negotiator Dennis Ross in his 2004 memoir *The Missing Peace*, (Ross, 2004), (Washington Institute, 2004). As he claims, the Palestinian side has publicly misrepresented the Israeli offer for political reasons, to better explain their rejection of Israeli proposals. This narrative should be taken with scepticism. Amongst the 2011 Palestine Papers there is a leaked document illustrating the Palestinian view of the Israeli offer at Camp David - see Figure 4, (PP 2427). It accords with Ross’s map of the ‘Palestinian Characterization’. It is unclear what benefit the Palestinian negotiating team would have derived from misrepresenting information to *themselves* in a confidential document. The Palestinians have a substantial interest in accurately recording where the Israeli side have made concessions, and put up resistance.



Figure 2, *Map Reflecting Actual Proposal at Camp David*. (Washington Institute, 2004)

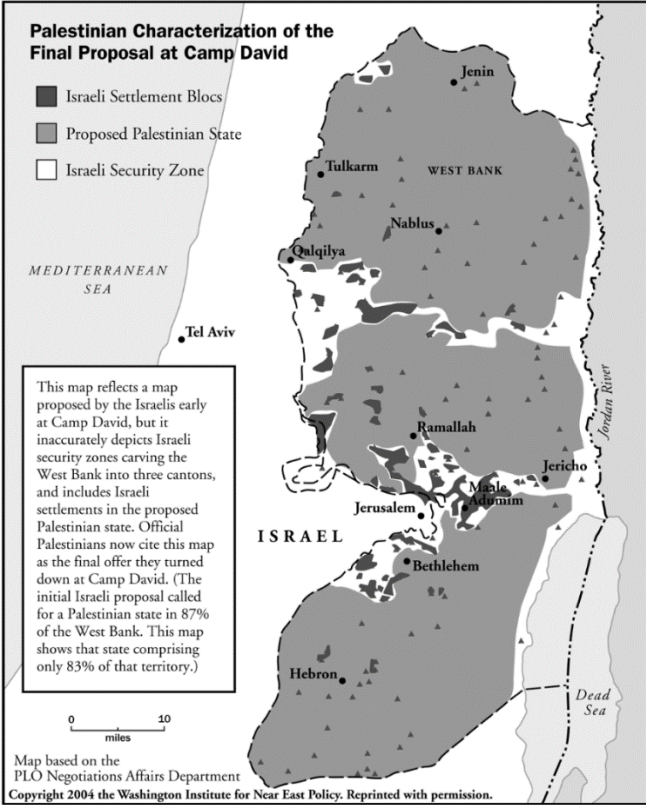


Figure 3, *Palestinian Characterization of the Final Proposal at Camp David*, (Washington Institute, 2004)

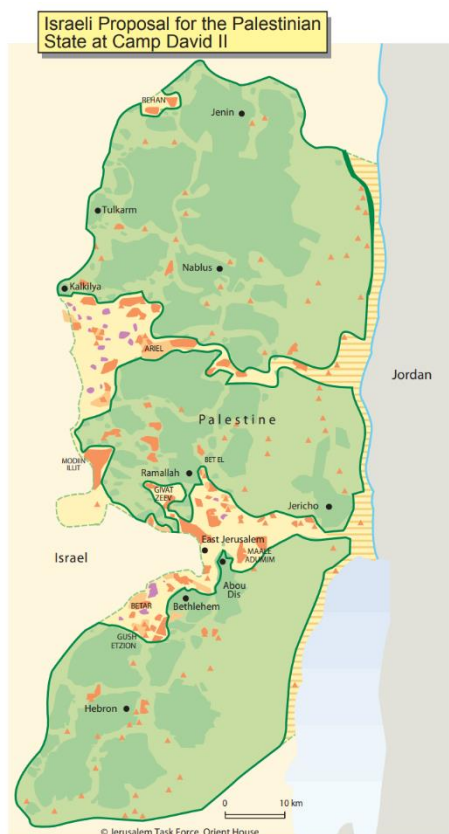


Figure 4, *Israeli Proposal for the Palestinian State at Camp David II*, (PP 2427)

## 2 Taba Summit, 21-27 January 2001

On December 23 2000, President Clinton presented the sides with the permanent-status framework now known as the ‘Clinton Parameters’. It included a land-swap proposal of 1-3% of Israeli territory for 4-6% of West Bank territory, accommodating 80% of settlers, with the potential for further swaps of leased territory, (Clinton, 2000). The baseline for the percentages was unstated - likely to increase the chance of both sides accepting the Parameters. The Parameters also called for a division of Jerusalem under the ‘general principle’ that ‘Arab areas are Palestinian and Jewish ones are Israeli’. On 31 December, Prime Minister Barak accepted the Parameters with reservations - though none of which relating to the territorial proposal, (IMFA, 2003). On January 1, the Palestinian Negotiating Team responded officially, with various concerns and requesting clarification. They criticised the use of percentages to outline the land swap, with no detailed map included, and continued to ‘insist that any annexed land must be compensated with land of equal size and value’, (Palestinian Response, 2001). The sides returned to negotiations at Taba, between 21 and 27 January. Some information about the negotiations can be derived from a ‘Non-Paper’ written by the EU Special Representative to the Middle East Process, Miguel Ángel Moratinos. Reportedly, ‘Although the paper has no official status, it has been acknowledged by the parties as

being a relatively fair description of the outcome of the negotiations on the permanent issues at Taba', (Moratinos, 2001). The Non-Paper is also cited in relevant literature as a fair representation of Taba, (cf. Kapshuk, 2019).

Allegedly, the Palestinians offered 3.1% of the West Bank to Israel - 'less than the lower limit proposed in the Clinton plan', on a 1-for-1 swap basis, provided that Israel accept the 'June 4, 1967 border as the basis for the border'. Yet again, it is unclear what methodology was used to reach a 3.1% figure. According to Pressman, the Palestinian figure of '3 percent' was inclusive of Israeli annexations in Latrun and East Jerusalem. From the Israeli perspective, these regions were either not up for negotiation or were already part of Israel-proper, and therefore did not represent a concession from the Palestinian side. As such, 'what was 3 percent to Palestinians was only 2 percent to Israelis, (Pressman, p.22). The difference between Pressman's 3% and Moratinos' 3.1% may be due to approximation or error. See Figure 5 for a map of the Palestinian proposal at Taba of 23 January 2001, produced by the Palestinian Liberation Organization headquarters in Jerusalem at that time, (Enderlin, 2003, p.240).

According to Moratinos, the Israeli side sought the upper limit of the Clinton parameters - 6% of the West Bank, as well as an 'additional 2 percent in the context of a leasing agreement'. The Israeli foreign minister Shlomo Ben-Ami also showed a more minimal '5%' annexation map to the Palestinian side, with no additional territorial leases. However, Prime Minister Barak intervened in the negotiations and invalidated the '5%' map, (Moratinos, 2001). Though the Clinton Parameters required a 1-3% cession from Israel, neither of the Israeli maps specified land swap areas to be ceded to the Palestinians, (Pressman, p.38). The sides continued to accept the 'Clinton suggestion' of dividing sovereignty in Jerusalem on ethnic lines, though the Palestinians rejected Israeli sovereignty over two specific post-1967 settlements in East Jerusalem, and another two in the 'Greater Jerusalem Area' (see details below). For a projection of the Israeli proposal at Taba, see Figure 6, produced by the Palestinian Academic Society for the Study of International Affairs, (PASSIA, 2001).

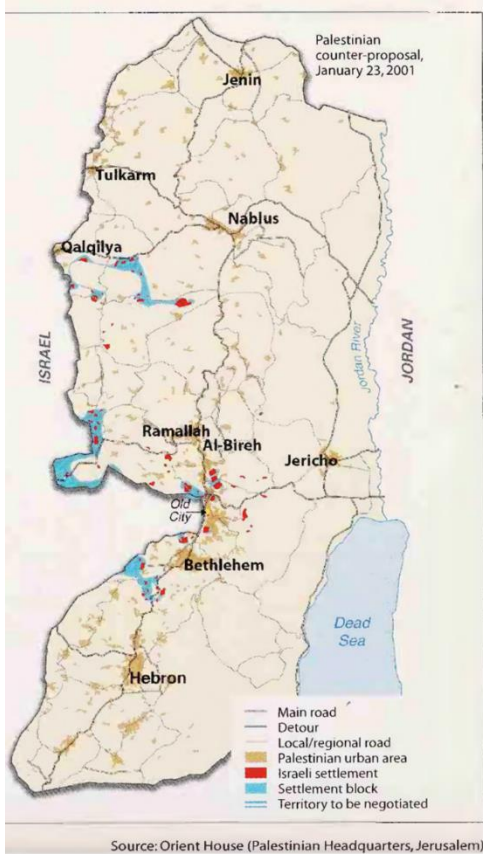


Figure 5, Palestinian proposal at Taba, 23 January 2001, (Enderlin, 2003, p.240).

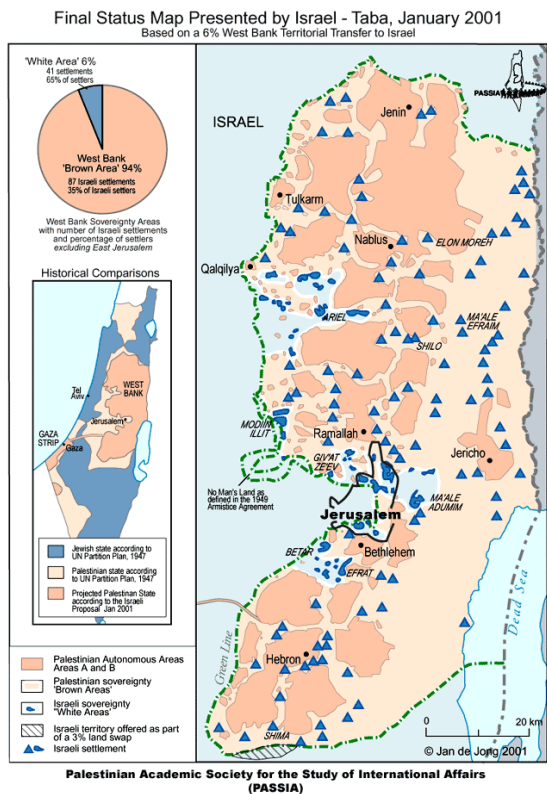


Figure 6, 'Final Status Map Presented by Israel - Taba, January 2001', (PASSIA, n.d.), (Reprinted with permission)

### 3 Israeli proposal, Annapolis, 7 April 2008

More reliable information is available regarding the high-level negotiations that occurred after the Annapolis Conference of November 2007. The Palestine Papers leak includes minutes of meetings between the sides, recorded by the Palestinian Negotiations Support Unit (NSU), in which two Israeli and one Palestinian territorial proposal are discussed. On 15 August 2008, the NSU circulated a 'Preliminary Assessment of the Israeli Proposal', 'based on information gleaned from the Israeli presentations of March 31 and April 7'. According to this document the Israeli side presented incomplete maps, without specifying their position on Jerusalem, or the eastern border with Jordan: the former being a separate permanent status issue, and the latter 'they insist be tackled only after security arrangements are agreed to'. The Israeli side sought 7.3% of the West Bank, according to Israeli methodology. Assuming a baseline of c. 5,538km<sup>2</sup>, that implies an annexation of 404km<sup>2</sup> from the Israeli perspective. In compensation, the Palestinians would receive 'the equivalent of 5.0% from Israeli territory', or roughly 277km<sup>2</sup>. They would also be granted non-sovereign control over an additional 2.3% or 127km<sup>2</sup> of 'safe passage' territory connecting Gaza and the West Bank, (PP 3127).

The NSU noted the '7.3%' of Israeli annexations proposed to them was equivalent to 9.2% according to their methodology, and thus the proposed swap was 'actually closer to a 2:1 swap (9.2% in exchange for 5.0%)', (PP 3127, p.1). With Palestinian methodology applied, the 5% of pre-1967 Israeli territory offered to them is reduced to 4.9%. Curiously, the NSU chose to round it back up to 5% as it was originally expressed by the Israelis. In this instance, it appears the Palestinians did not count the Dead Sea waters in their baseline for the West Bank. In a summary of territorial negotiations dated 29 October 2008, they note the 'total area in their proposal is roughly 520km<sup>2</sup>, which amounts to 9.2% of the West Bank', (PP 3468, p.2). This calculation is only correct if the baseline for the West Bank is c. 5,650km<sup>2</sup> - the area of the Palestinian definition of the West Bank, subtracted the area of the Dead Sea. Notably, these figures are for the incomplete Israeli proposal. The partial proposal implied a more expansive set of annexations in the whole. The Palestinian side extrapolated the missing information in a projection of the Israeli offer, (see Figure 7). They estimated the addition of Israeli annexations in the discrepancy regions would result in a loss of 600km<sup>2</sup> (10.6%) from the Palestinian perspective and a gain of 452km<sup>2</sup> (8%) from the Israeli. As before, the implicit baseline of c. 5,650km<sup>2</sup> did not include the Dead Sea.

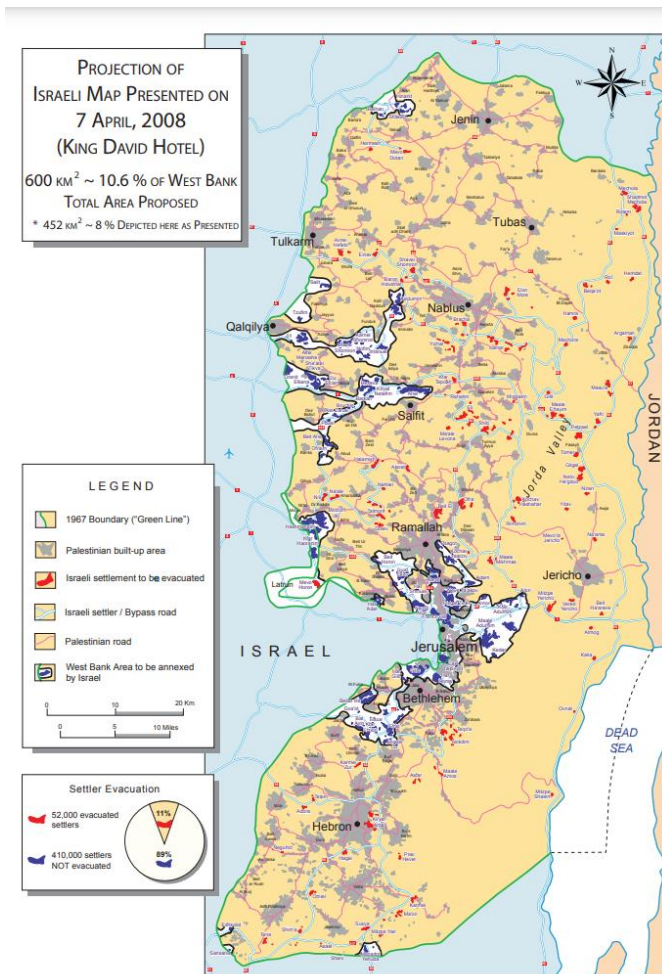


Figure 7, 'Projection of Israeli Map Presented on 7 April, 2008', (PP 2424)

#### 4 Palestinian proposal, Annapolis, 3 May 2008

During the post-Annapolis negotiations, the Palestinian side presented a full territorial proposal. On 4 May 2008, they discussed it in detail with the Israeli side. The relevant minutes are available in the Palestine Papers. The Palestinian side began by emphasising the 1967 baseline - 'whose total area is 6,238 square kilometres' - comprised of the West Bank inclusive of No Man's Land, East Jerusalem, and the Jordan Valley, the Gaza Strip, and 'Part of' the Dead Sea, (PP 2648, p.1). See Figure 8 for the map presented at the meeting. According to their methodology, the Palestinian team suggested an equal 1.9% exchange: 119km<sup>2</sup> to Israel, for 119km<sup>2</sup> out of it. The Palestinians offered to cede 18.19km<sup>2</sup> of No Man's Land, and 21.82km<sup>2</sup> of East Jerusalem to the Israelis - a total of 40km<sup>2</sup>, (PP 2648, p.6-9). According to Israeli methodology, neither of these territories were part of the baseline and therefore did not represent Palestinian concessions. Therefore, from the Israeli perspective the Palestinian offer entailed 119km<sup>2</sup> out of Israel in exchange for 79km<sup>2</sup>

into it. That is, a swap ratio of 1.5-to-1 in favour of the Palestinians, and an Israeli annexation of 1.4% of the West Bank.

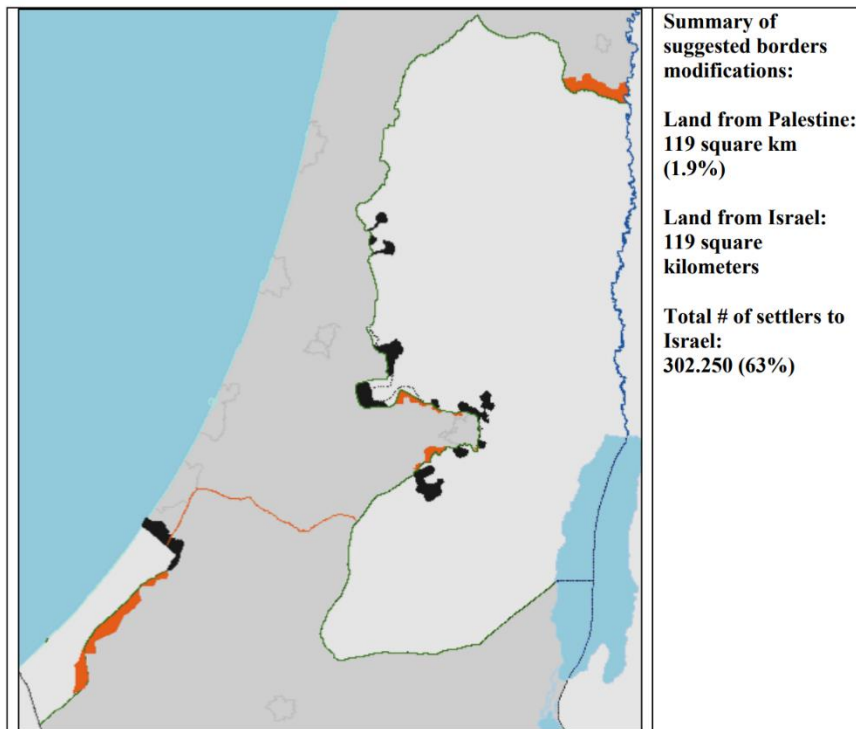


Figure 8, 'Summary of suggested border modifications', (PP 2648)

### 5 Israeli proposal, Olmert 'Package Offer', 31 August 2008

During the post-Annapolis process, Olmert and Abbas met thirty-six times, (Isacharoff, 2013). On the 31st August 2008, Olmert presented a comprehensive proposal, intended to address all permanent status issues. The NSU record an Israeli offer of 6.8% of the West Bank, compensated with 5.5% from pre-1967 territory and a non-sovereign 'safe passage' to Gaza of unspecified size, (See Figure 9), (PP 3463). From the Israeli perspective, that is c. 376km<sup>2</sup> of the West Bank in exchange for c. 305km<sup>2</sup> of pre-1967 Israel. Applying their own methodology, the NSU estimated the offer to mean an Israeli annexation of 490km<sup>2</sup>, or 8.7% of the West Bank, in exchange for c. 305km<sup>2</sup> - a ratio of 1.6-1 in Israeli favour, (PP 3632, p.4). As before, that implies a baseline of c. 5,650km<sup>2</sup> - the Palestinian calculation for the West Bank, minus Dead Sea territory. In negotiations on 7 September, the Palestinians requested a copy of Olmert's map. The Israeli side refused: 'As I told you, it was a package', 'If you accept this package, then we discuss the details', 'So now we are waiting to hear from your president', (PP 3424, p.2). As later summarised by the NSU, the 'Israeli team made clear that latter proposal is to be considered as part of a "package" deal covering all permanent status issues and not a stand-alone proposal on borders', (PP 3463, p.2).



On 16 September, Olmert improved on his offer to Abbas - 5 days before his resignation as Israeli Prime Minister. Information about the content of his offer varies. As claimed by Elie Podeh, Olmert offered 6.5% in exchange for 5.8%, plus 0.7% of non-sovereign 'safe passage' (See Figure 11), (Podeh, p.347). Writing for Newsweek, however, the then US Secretary of State, Condoleezza Rice, has put the figure at 6.3 percent and 'Olmert gave Abbas cause to believe that he was willing to reduce that number to 5.8 percent', (Rice, 2011). In an interview with MEMRI, Saeb Erekat claimed the 'areas that the Israelis want to keep constitute 6.5% of the West Bank, and in return they offered us [areas equivalent in size to] 5.8%', 'the remaining 0.7% will be a safe passage', (MEMRI, 2009). On 17 December 2009, Ha'aretz reported on the offer, 'based on sources who received detailed information about Olmert's proposals', (Benn, 2009, p.206). In this account, Olmert sought 6.3% of the West Bank, in exchange for 327km<sup>2</sup> of pre-1967 Israeli territory, (See Figure 10). According to Ha'aretz, a transfer to the State of Palestine of 327km<sup>2</sup> would represent 5.8% of the West Bank. This implies a baseline of 5,637km<sup>2</sup>. That figure is c. 100km<sup>2</sup> larger than the typical Israeli baseline.

Its provenance is unclear: neither East Jerusalem, No Man's Land, or the Dead Sea is this size. A cession of 5.8% of the typical Israeli baseline would mean 321km<sup>2</sup> to Palestine - a difference of c. 6km<sup>2</sup> with the Ha'aretz figure is within the margin of error. Moreover, unless the space allocated for the 'safe passage' was less than the 0.7% reported elsewhere, these figures would imply Palestinian control over 6.5% (5.8% + 0.7%) in exchange for 6.3% of Israeli annexation. Offering control of more territory than it would receive is inconsistent with previous Israeli negotiating positions. Responding to the Ha'aretz figures, Olmert's office said: 'naturally for reasons of national responsibility, we cannot relate to the content of that map and the details of that proposal', 'At the same time, it should be stressed that in the details contained in your question, there are a not inconsiderable number of inaccuracies that are not consistent with the map that was ultimately presented', (Benn, 2009, p.207-208). Given the above, it seems likely Ha'aretz marginally overcounted the size of proposed Israeli cessions to the Palestinians as 327km<sup>2</sup>, and was possibly mistaken in reporting an Israeli offer of 6.3% rather than 6.5% (alongside Condoleezza Rice). The Podeh figures of 6.5%-5.5%-0.7% are most plausible.

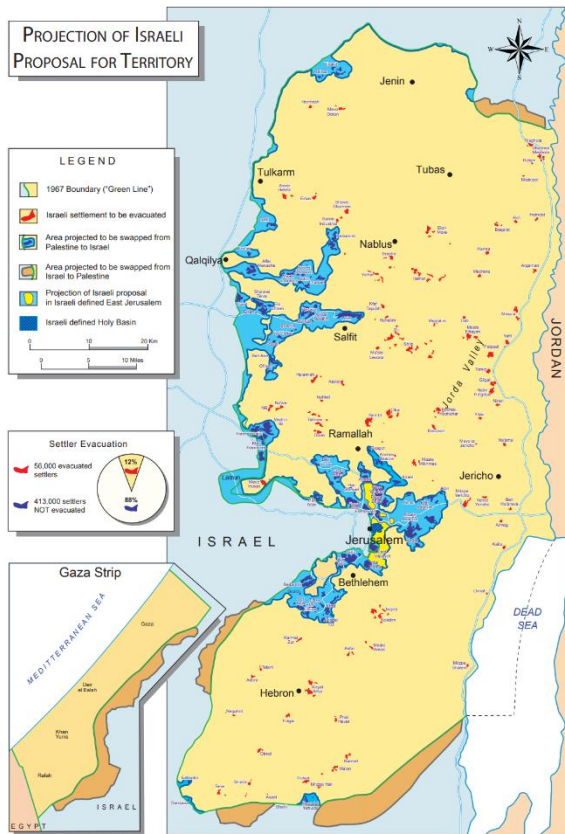


Figure 9, NSU Projection of Olmert offer of 31 August 2008, (PP 4736)

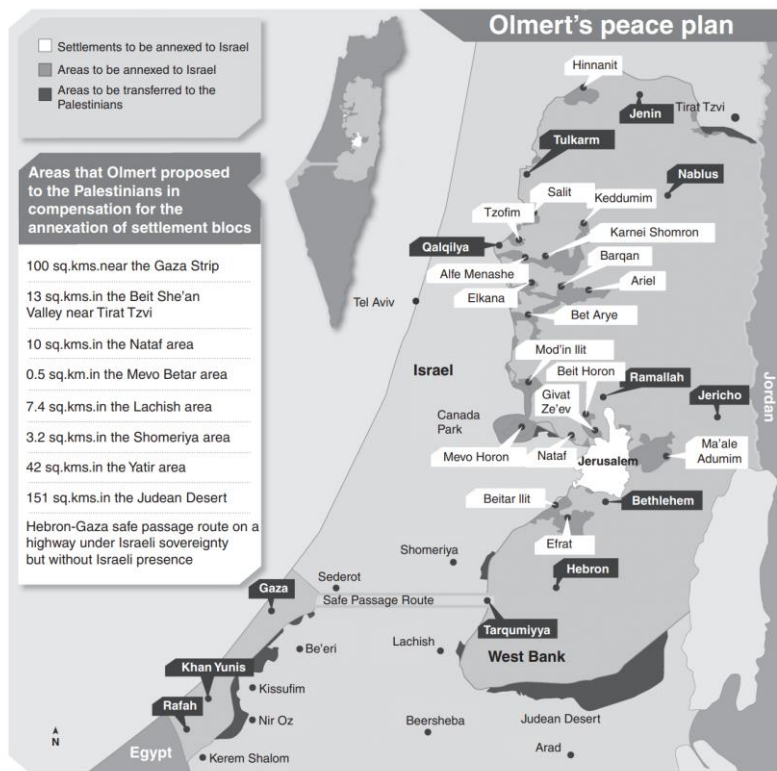


Figure 10, Ha'aretz projection of Olmert's offer to the Palestinians of 17 September 2008, (Benn, 2009)

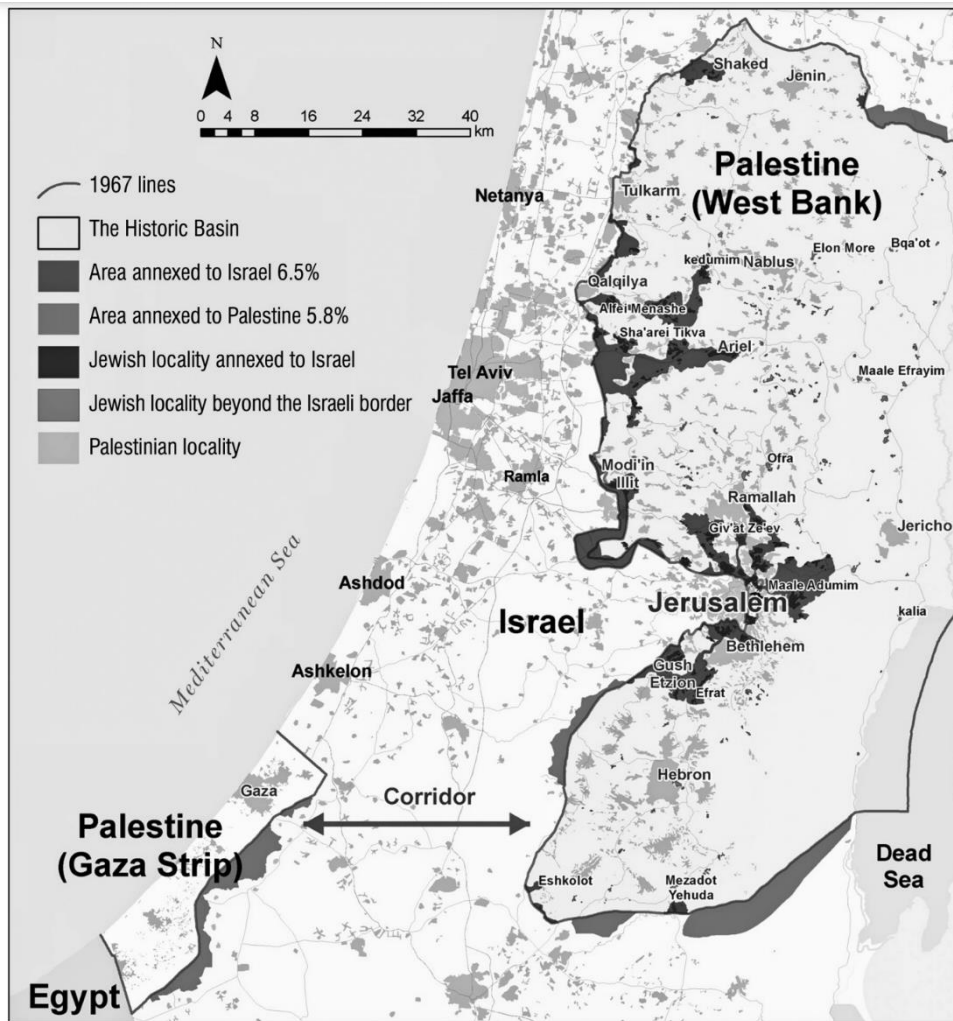


Figure 11, Olmert offer 17 September 2008, Map by Shaul Arieli, (Reprinted with permission), (Podeh, 2015, p.348)

### Part III: Annexation locations

The above cited figures and maps are a partial and imperfect guide to previous Israeli and Palestinian negotiating positions. They are, however, the best information available to form an expectation of what a territorial separation could look like - if it is even possible given present realities. Such analysis is a necessary basis to claim the ‘two-state solution is dead’ - however challenging the source material. This section compares territorial proposals, aiming at a rough sense of which areas have been consistently lined up for annexation by either party. For regions which have been exchanged in both Israeli and Palestinian proposals, there is grounds to consider them potential *candidates* for future exchange, in the event of a permanent status agreement. This comparison relied upon a spreadsheet of Israeli settlements, their most recent population data, and the above cited maps of territorial proposals.

### **i. Israeli annexations**

In some Israeli discourse, occasional reference is made to ‘consensus settlements’. These are West Bank settlements which an alleged consensus of observers expect to be included in Israeli borders, following a permanent status agreement with the Palestinians. As put by Mitchell Bard, ‘Roughly 71% of the Jews in the West Bank live in five settlement “blocs,” four of which are near the 1949 Armistice Line’, ‘Most Israelis believe these blocs should become part of Israel when final borders are drawn’. According to Mitchell, there are 38 of these ‘consensus’ settlements, in 6 ‘blocs’. These are: Betar Illit; 5 settlements around Givat Ze’ev; 13 in Gush Etzion; 11 around Ariel; 4 around Modi’in Illit; and 4 around Ma’ale Adumim, (Bard, n.d.). Tellingly, this list does not include Israeli ‘neighbourhoods’ in East Jerusalem, which according to the Palestinians and most of the world community are illegal settlements in Occupied Palestinian Territory, no less than those in the West Bank.

Needless to say, a different perspective is often taken in Israeli politics and society. As put by Blecher: ‘No major party in Israel, and no significant part of the Jewish public, are willing to count the Jewish neighborhoods that fall within the juridical boundaries of Jerusalem as “settlements” to be “frozen”. Failing to treat ‘settlement blocs’ differently from ‘non-consensus’ settlements ‘deeper in the West Bank’ allegedly moves the ‘settlement issue out of the realistic zone of compromise’, (Blecher, p.132). As might be expected, the concepts of consensus settlements and blocs are heavily contested, (cf. Ben White, 2016, *Why Israel invented the concept of “settlement blocs”*). They are rejected by the Palestinian side: ‘No blocs. We don’t recognize the blocs’ - as put by Qurei to Livni in April 2008, (PP 2415). According to Lior Amihai, executive director at Israeli pro-peace organisation Yesh Din: the term ‘settlement blocs’ is ‘used in the discourse to say “well it’s alright; it’s only within the settlement blocs, these will certainly stay under Israeli sovereignty once there’s a two-state solution’, (Amihai, 2014). Given its clearly limited extent, it appears the putative ‘consensus’ exists in part of the spectrum of pro-settler and anti-settler actors in Israeli politics and society regarding the eventual fate of some of the existing settlements.

Taking into account past Palestinian negotiating positions, are there any ‘consensus settlements’ which both sides have proposed for Israeli sovereignty? See Table 1 for the 15 settlements which have been proposed for Israeli sovereignty by both sides, (population data from ICBS). Notably, a much higher degree of ‘consensus’ exists regarding Israeli settlements in East Jerusalem. The Israeli government includes these settlements as part of the Jerusalem municipal area, and so refers to them as ‘neighbourhoods. See Table 2 for the East Jerusalem neighbourhoods which both sides have proposed for Israeli sovereignty. On this evidence, it appears 15 out of ‘38’ settlements in the

West Bank, and 10 in East Jerusalem have some claim to ‘consensus’, inclusive of past Palestinian negotiating positions.

*Table 1, The 15 settlements proposed for Israeli sovereignty by both Israeli and Palestinian negotiating teams*

<b>Settlement name</b>	<b>Population</b>	<b>Settlement name</b>	<b>Population</b>
Modi’in Illit	81,317	El’Azar	2,606
Beitar Illit	63,361	Kfar HaOranim	2,604
Oranit	9,188	Neve Daniel	2,359
Alfei Menashe	7,969	Lapid	2,291
Sha’arei Tikva	6,125	Bat Ayin	1,568
Har Adar	4,117	Kfar Etzion	1,156
Alon Shvut	3,039	Rosh Tzurim	933
Hashmonaim	2,642		
<b>Population total</b>	<b>191,275</b>		

*Table 2, The 10 settlements in East Jerusalem proposed for Israeli sovereignty by both Israeli and Palestinian negotiating teams*

<b>Settlement name</b>	<b>Population</b>	<b>Settlement name</b>	<b>Population</b>
Ramot Allon	50,400	East Talpiot	14,560
Pisgat Ze’ev	43,810	Ramat Eshkol & Giv’at Hamivtar	10,950
Gilo	31,570	French Hill & Mt. Scopus	6,330
Neve Ya’akov	25,930	Jewish Quarter	3,260
Ramat Shlomo	14,810	Ma’a lot Dafna	3,240
<b>Population total</b>	<b>204,860</b>		

The Palestinian side has rejected Israeli sovereignty over five settlements in particular, referred to by the NSU as the ‘redlines’: Ariel; Ma’ale Adumim; Givat Ze’ev; Efrat; and Har Homa - the latter being the one major ‘neighbourhood’ in East Jerusalem the Palestinians have not been willing to cede to Israel, (PP 4240). These settlements are held to be especially prejudicial to Palestinian contiguity, natural resource rights, and other interests. Curiously, the PLO representation of the Palestinian offer at Taba includes Israeli annexation of Ariel, (see Figure 5). In minutes of later

negotiations, no mention is made of such an offer. This is odd considering the strategic importance of Ariel and its large population, as well as its long-standing status as a Palestinian 'redline'. Future research should seek to explain this apparent anomaly.

As can be expected, Israeli proposals have been much more extensive. They have included all five of the Palestinian 'redlines'. Notably, in none of the proposals outlined above did the Israeli side seek sovereignty over settlements in the Jordan Valley - evidently preferring to allocate finite bargaining power to more densely populated settlements elsewhere. The most populated settlements to be left under Palestinian sovereignty in all Israeli proposals outlined above was Kiryat Arba (7,469) - in an isolated position next to the Palestinian city of Hebron; as well as ten other settlements with populations over 2,000, (Talmon; Eli; Tekoa; Har Brakha; Nokdim; Mitzpe Yericho; Na'ale; Kokhav HaShahar). The settlements earmarked for evacuation in previous Israeli proposals have combined a small population with spatial isolation. During the Annapolis process, the Israeli side reduced their proposed annexation area in the West Bank from c. 7.3% to c. 6.8%, and then to c. 6.5% - according to their methodology. Importantly, if Figures 7, 9 & 11 above are indicative of how Israeli cartographers achieved this reduction, it was by more closely drawing the border around settlements, rather than leaving additional settlements under Palestinian sovereignty. In September 2008, the NSU claimed the 'sum total of the built-up areas of all the settlements in the West Bank is around 70 km<sup>2</sup> or (1.2%) of the West Bank', (PP 3328). There has been considerable settlement expansion since then, and so this figure is certainly inaccurate now. Regardless, unless the built up area of the settlements has multiplied by over five times in the years since, the same method could achieve greater reductions in the annexation area today.

## **ii. Palestinian annexations**

Less precise information is available regarding areas offered by Israel to the Palestinians. This has been a strategic choice from Israeli negotiators. As pointed out above, the Israeli side has no intrinsic interest in ceding any of its unpopulated territory. It does have several important interests in the West Bank. The price for Palestinian agreement to some Israeli sovereignty in the West Bank has been territorial compensation from pre-1967 Israel. Given the large material power imbalance between the sides in favour of Israel, however, it cannot be ruled out that circumstances could eventually permit Israel to impose a territorial separation upon the Palestinians (either bilaterally or unilaterally), with Israeli sovereignty over large settlements and other assets, but no territorial compensation from pre-1967 Israel. Given this possibility, it has been prudent of Israeli negotiators not to identify specific regions to cede to the Palestinians. This has been to avoid creating a 'benchmark' favourable to the Palestinians, and not to close down negotiating

possibilities in future. Instead, Israel has relied upon the percentages and ratios outlined above to communicate land swap proposals. As recorded by the NSU in January 2009, the Israeli ‘Technical team not allowed to present GoI position on specific areas in Israel to be swapped’, (PP 3648, p.12). When Olmert gave his proposals to Abbas, he did show multiple maps. However, he did not give them to Abbas. His office later explained: ‘Giving Abu Mazin [Abbas] the map was conditioned upon signing a comprehensive and final agreement with the Palestinians so it would not be used as an “opening position” in future negotiations the Palestinian sought to conduct’, (Journal of Pal, 2010, p.207).

Nonetheless, there is some information available regarding Israeli cessions to the Palestinians. In August 2000, the Washington Institute reported on Camp David: ‘Israel agreed to land swaps, whereby it would relinquish sand dunes near Gaza but inside Israel’, (Makovsky, 2000). The provenance of this information is unclear. It is nonetheless plausible. Given that Camp David was the first time land swaps were discussed, it seems likely Israel would first offer low quality desert land to meet its ‘1%’ territorial compensation offer - rather than beginning with more valuable land. The ‘dunes’ in question are likely the c. 78km<sup>2</sup> Halutza Sands along the border with Egypt, near the Gaza Strip. According to Pressman, the Palestinians ‘rejected’ the Halutza Sands at Camp David, ‘because they claimed it was inferior in quality to the West Bank, (Pressman, p.17).

At Taba, they again rejected Halutza as valid compensation for parts of the West Bank, (Moratinos, 2001). See above the PASSIA projection of the Israeli offer at Taba. In the smaller ‘Historical Comparisons’ map on the left, the Halutza region south of Gaza, next to Egypt, is shown as offered to the Palestinians. Also offered to the Palestinians, according to PASSIA, was a small region south of the Israeli settlement of Shima, (See Figure 6). This potential swap area was not identified on the PLO projections of the Taba proposals. In fact, no swap areas were identified on the PLO maps, (See Figure 5). This could be because neither side proposed any Israeli cessions in the vicinity of the West Bank, and all proposals were near the Gaza Strip (not shown in the maps). It could also be because these maps only depict Israeli annexations, and not options for Palestinian compensation. The latter seems more likely. From internal Palestinian discussion of land swap criteria, it is clear they preferred to receive compensation for the West Bank, near the West Bank. Likewise, the NSU projection of the post-Annapolis Israeli offer - ‘7.3%’ - does not indicate compensatory areas for the Palestinians, (See Figure 7). The available projections of what Olmert offered the Palestinians from pre-1967 Israel are contradictory, though bear some general resemblance to each other. See Figure 10 for the Ha’aretz projection; and Figure 11 for the projection included by Elie Podeh. In both, the two largest areas for transfer to the Palestinians are next to the Gaza Strip, and in the Judean Desert south of the West Bank. The size and shape

of the areas differs. Both include an area in the north-east of the West Bank; and to the west of Hebron - but again, of different sizes.

More specific information is available regarding which areas of pre-1967 Israel the NSU considered suitable for Palestinian sovereignty. The NSU minutes of their presentation of 3 May 2008 contain maps and data for a complete territorial proposal, (See Figure 8). The Israeli team was told ‘the intention is not to take even one Israeli’ in Palestinian sovereign areas, (PP 2648, p.8). As such, it seems the NSU estimated the swap areas to be almost entirely unpopulated. They suggested an Israeli cession of 8.12km<sup>2</sup> in the Bethlehem area; 0.37km<sup>2</sup> south of Jerusalem; 9.06km<sup>2</sup> south of No Man’s Land; 35.7km<sup>2</sup> on the north-east of the West Bank; and 55.27km<sup>2</sup> alongside the Gaza Strip. See Figures 12-16 for the detailed maps projected by the NSU. During the presentation, the Israeli team claimed there was a ‘kibbutz’ in the swap areas south of No Man’s Land, and north of the West Bank (See Figures 14 & 15), and Livni said the NSU may ‘want to correct parts of it’, to avoid annexing or displacing Israelis in pre-1967 territory, (PP 2648, p.8-15). On the basis of this evidence (flawed though it is), it seems there was some common ground between the sides regarding which areas would provide the large part of Israeli transfers to the Palestinians. Namely, along the Gaza Strip and in the north-east corner of the West Bank. Though Israeli offers focused on the Halutza Sand region at Camp David and Taba, this was seemingly dropped in the post-Annapolis process. That said, Israeli proposals sought to compensate for a larger Israeli annexation in the West Bank than the Palestinian proposal. So if we take the Ha’aretz estimations (See Figure 10) as illustrative, the Israelis offered c. 100km<sup>2</sup> near Gaza - where the NSU sought only 55.27km<sup>2</sup>. According to Ha’aretz, the largest area offered by Israel was c. 151km<sup>2</sup> in the Judean Desert. The Palestinians showed no interest in this area - likely because it lacks high quality arable land. Conversely, where the NSU sought 35.7km<sup>2</sup> in the north-east West Bank, the Israelis only offered c. 13km<sup>2</sup>.

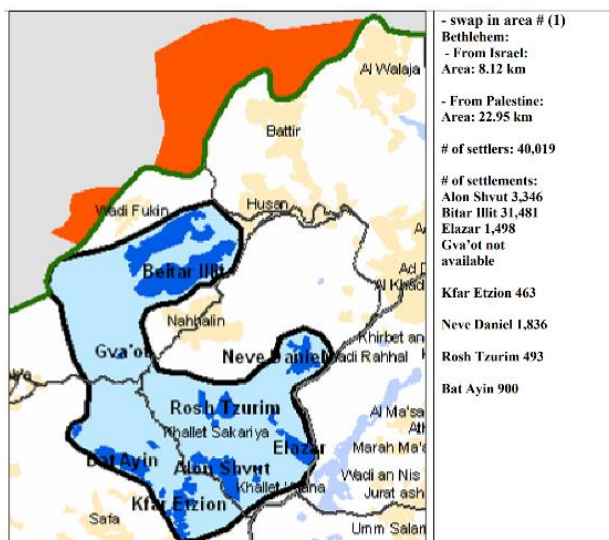


Figure 12, 'swap in area #1', (PP 2648)



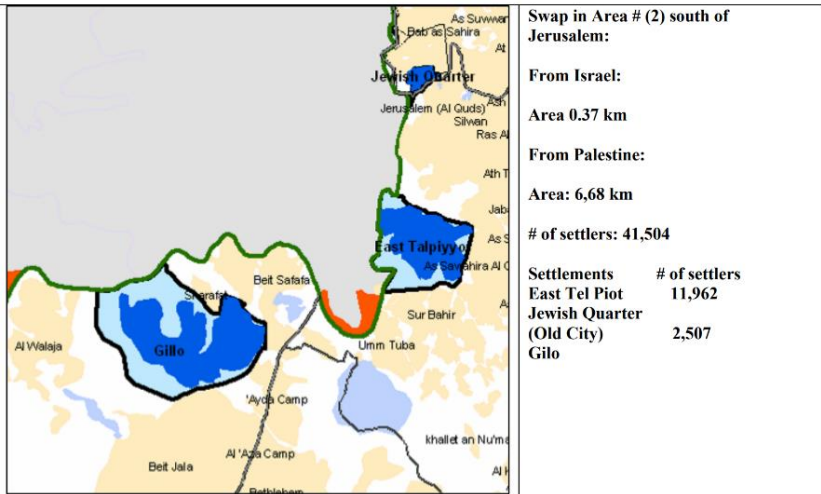


Figure 13, 'swap in area #2', (PP 2648)

**Swap in area (4):**

**From Israel:**  
Area: 9.06 km

**From Palestine:**  
Area: 1.66 km

**# of settlers: 2,673**

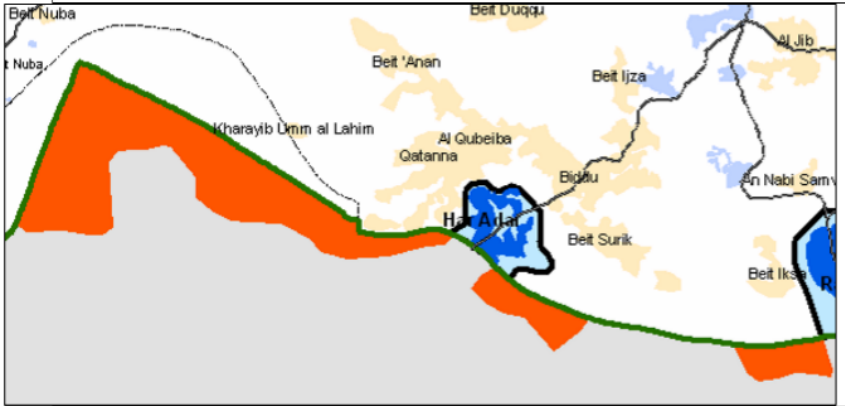


Figure 14, 'swap in area (4)', (PP 2648)

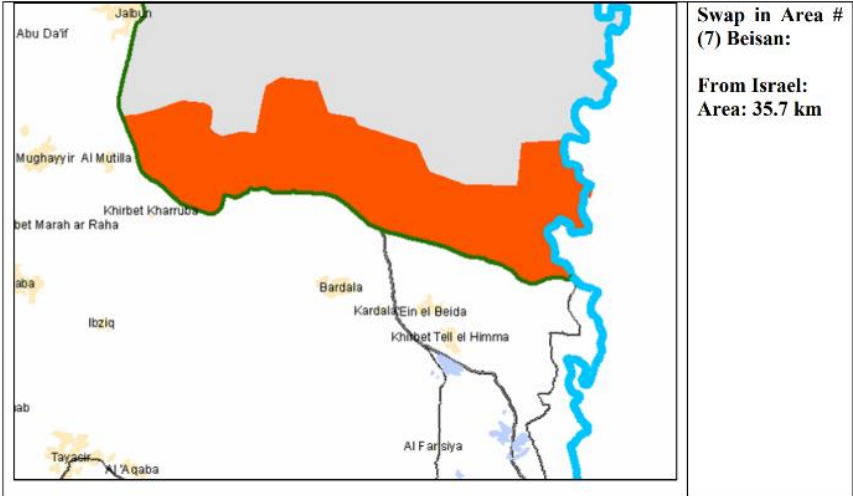


Figure 15, 'swap in area # (7)', (PP 2648)

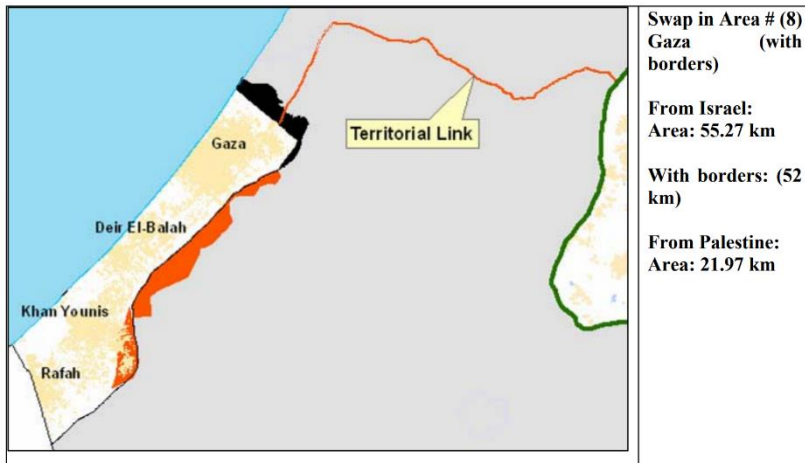


Figure 16, 'swap in area # (8)', (PP 2648)

## Part IV: One-state eternity?

There are two key variables for the continued material viability of a land swap. That is to say, physical variables which constrain the potential scope of an agreed land swap, regardless of the motivation and political considerations of either party. Firstly, is the minimum amount of territory Israel requires in the West Bank. In principle, Israel could eventually need more territory than the Palestinians would ever be able to give. There may simply be too many Israelis living in the West Bank for a partial evacuation to leave an acceptably viable, contiguous, liveable space for the Palestinians. As outlined above, settler incorporation is not the only Israeli interest in the West Bank: there is also natural resource control, security interests, religious sites etc. Though these additional interests are not static, they have not continually grown in the way the settler population in the West Bank has. In theory, improved military or water desalination technology could help mitigate the need for sovereign control over related assets in the West Bank.

Population growth in the West Bank, however, leaves only three permanent status options: more Israelis under Palestinian sovereignty; more annexations; or more evacuations. In 2008, there were an estimated 187,848 Israelis living in East Jerusalem, and 290,262 in the rest of the West Bank - a total of 478,110, (B'tselem, 2019). According to the most recent data, there are now 451,700 Israelis in the West Bank, (ICBS, 2020), and 233,900 in East Jerusalem, (JIPR, 2020) - a total of 685,600. That is a 43% increase in only 14 years. With such rapid and continuing Israeli population growth in the West Bank, it seems intuitive that Israeli territorial needs in the OPT are on as steep a growth trajectory. The other key variable, secondly, is the availability of unpopulated territory in pre-1967 Israel for the Palestinians, or 'Israeli land swap reserves' - as coined by the S. Daniel Abraham Center for Middle East Peace, (SDACMEP, 2018). Put simply, if there is not enough

land to give the Palestinians, there can be no land swap that meets NSU criteria. The present-day prospects for a territorial separation are considered below, considering these two variables, and the most recent Israeli and Palestinian offers to one another available in the record. It should be noted the ICBS demographic data does not count the settler population in unapproved 'outposts' in the West Bank. As such, the following figures almost certainly underestimate the settler population involved. The Palestinian offer of 3 May 2008 can be accurately transcribed onto a spreadsheet, because the accompanying map is available in the record, (See Figure 8). This is not the case for Olmert's offers to the Palestinians. Instead of an official Israeli map, this paper relied upon the NSU internal projection (Figure 9). Though its precision is not guaranteed, it is a useful index.

### **i Settler relocation**

When the NSU made their proposal of 3 May 2008, they estimated it meant 302,250 settlers - '63%' - would be incorporated into sovereign Israel, (PP 2648, p.3). Implicitly, this entailed the evacuation of the remaining 37% - c. 177,511. If their offer was applied today, it would incorporate c. 191,275 (42.3%) of Israeli settlers in the West Bank and c. 208,660 (89.2%) in East Jerusalem into sovereign Israel. That leaves a total incorporation of 399,935 settlers, or 58.3% of those currently resident in the OPT. Unless the sides agreed the left-over settler population could remain in the Palestinian State, this would necessitate the evacuation of 285,665 people from the OPT, or 41.7% of the total. So though the incorporation rate has only declined by 4.7%, this means the evacuation of an additional 108,089 people - an increase of over 60%. This can only be called a dramatic and likely fatal worsening of the prospects for this proposal.

The NSU estimated that Olmert's offer of 31 August 2008 - the '6.8%' map - would entail the incorporation of 413,000 settlers (88%) into sovereign Israel, and the evacuation of 56,000 (12%), (See Figure 9). As discussed above, Olmert improved his offer on 17 September, cutting the proposed annexation area down to '6.5%'. If Figure 11 is an accurate illustration of the latter offer, it again appears the reduction was achieved by tightening the border around settlements rather than excluding them. If applied today, Olmert's offer would mean the incorporation of 372,055 settlers in the West Bank (82.4%); 230,640 settlers in East Jerusalem (98.6% - the remaining few pending a later agreement on the 'Holy Basin'); and a total of 593,102 settlers included across the OPT, (86.5%). Unless permitted to stay, this would mean the evacuation of 92,498 settlers, (13.5%). As such, the settler incorporation rate of Olmert's offer has declined by c. 1.5% from the NSU estimation. Combined with large settler population growth, that marginal decline in the settler incorporation *rate* would nonetheless produce an additional 36,498 potential evacuees - a

65% increase from 2008. These figures are not relevant only to Olmert’s 14 year old offer of ‘6.5%’. They are broadly similar to the outcome of a scenario where Israel unilaterally withdraws to the West Bank Separation Barrier - along which Israel has, in effect, already constructed provisional border infrastructure. That scenario would include 609,482 settlers (88.9%) in ‘sovereign’ Israel, requiring the evacuation of 96,993 (14.1%). Furthermore, at a meeting with President Trump in 2017, Abbas reportedly suggested negotiations recommence at the 6.5% benchmark left by Olmert - more than 3 times the annexation area of the previous Palestinian offer, (Sones, 2017). This apparent shift in the Fatah/PA position towards the Israeli position gives additional relevance to these figures today.

	<b>Palestinian offer, 3 May 2008</b>	<b>Olmert offer, 31 August 2008</b>	<b>Security barrier route</b>
<b>West Bank, settlers included</b>	191,275, (42.3%)	372,055 (82.4%)	364,300 (80.7%)
<b>East Jerusalem, settlers included</b>	208,660 (89.2%)	230,640 (98.6%)	233,900 (100%)
<b>OPT, settlers included</b>	399,935 (58.3%)	593,102 (86.5%)	588,607 (88.9%)
<b>OPT, settler evacuated</b>	285,665 (41.7%)	92,498 (13.5%)	96,993 (14.1%)

*Table 3, Table of territorial proposals, applied to present day demographic situation in the West Bank*

It is perhaps surprising that the 80% settler incorporation rate stipulated by the twenty-two year old Clinton Parameters is apparently still viable. This says more about the misleadingness of percentages than it does the difficulty of achieving a territorial separation. Evacuating c. 100,000 people from the West Bank presents a daunting political, societal, financial, and logistical challenge to an Israeli government inclined towards achieving permanent status. Between August and September 2005, the Israeli government unilaterally withdrew c. 8,000 people from settlements in the Gaza Strip. Contemporary polling indicated Israelis were divided over Gaza withdrawal, with 50 percent support in June 2005, (Reuters, 2005). The government was faced with widespread protests and denunciations, under the anti-withdrawal slogan: ‘Yehudi lo megaresh Yehudi’ - ‘A Jew does not expel another Jew’, (Shor, 2008). Without an expanded annexation area, an evacuation from the West Bank on the lines of either Palestinian or Israeli proposals in 2008 would create an order of magnitude more evacuees than the Gaza withdrawal; and for some ideologically motivated settlers, and citizens - voters - in pre-1967 Israel, the West Bank/‘Judea and Samaria’ is a more religiously, culturally, and historically important territory than the Gaza Strip. Even so, the

trauma of the Gaza withdrawal was highly disproportionate to the relatively small number of evacuees. It is worth considering whether this disproportion means that whilst the financial and logistical costs of evacuation *increase proportionately* to the number of people evacuated, this does *not* necessarily apply to the political costs. Crudely put, whilst evacuating 110,000 people is 10% more expensive than evacuating 100,000, it is possible the government involved will lose the support of the same share of the electoral population in either scenario, and encounter a similar extent of protest and opposition.

## **ii Land swap reserves**

The second key variable affecting the viability of land swaps is 'Israeli land reserves'. Since 2008, urban expansion in pre-1967 Israel may have eroded the availability of unpopulated land to transfer to the Palestinian State. Over time, this makes Palestinian criteria for land swaps harder to achieve. Faced with seriously depleted Israeli land swap reserves, a Palestinian partner would be faced with three options. They could firstly seek to reduce the Israeli annexation area, in line with the reduced size of the available Palestinian annexation area. Given the scale of settler population growth, trends are subtracting from the ability of the Palestinians to insist on a smaller annexation area. This is reflected in the alleged willingness of Abbas to negotiate from a '6.5%' starting point in 2017, rather than the '1.9%' of nine years earlier, (see above). Secondly, they could seek Israeli evacuations on both sides of the Green Line: from settlements left under Palestinian sovereignty, and from pre-1967 territories selected for transfer to the Palestinians. The Israeli side would be less likely to accept a scenario where only Israelis are relocated, on both sides of the Green Line; and less able to 'sell' this outcome to its public. As such, this option carries the risk the Israeli side would seek Palestinian evacuations in the West Bank, to achieve more preferable borders for itself. Given Palestinian historical traumas, any compelled transfer of Palestinians to meet Israeli interests is likely an impossible proposition. This leaves a third option to the Palestinian side, of compromising on their 'same value' criteria for a land swap, accepting whatever good quality pre-1967 land that is left unpopulated, and supplementing it with low quality land (e.g. Halutza Sands, or in the Judean Desert) to meet the criteria of 'same size and by the ration of 1:1'.

It is beyond present means to survey land use and population trends in Israeli land swap reserves. In 2018, the S. Daniel Abraham Center undertook this exercise. They applied the criteria of: 'adjacent to the 1967 lines', 'without population', 'extend to 1 km from the nearest Israeli house (to accommodate for tactical security)', 'and not impede on contiguity or daily life', (SDACMEP, 2018). In their estimation, Israel had c. 290km<sup>2</sup> meeting these requirements, (See Figure 18). That is equivalent to 5.2% of the Israeli definition of the West Bank; 5.1% of the Palestinian definition

of the West Bank *sans* the Dead Sea; and 4.7% of the Palestinian definition of the OPT. This figure falls short of the c. 312km<sup>2</sup> offered to the Palestinians by Olmert by 22km<sup>2</sup>. This is likely due in part to Israeli urban expansion into its land swap reserves between 2008 and 2018. It may also be due to Olmert’s cartographers using less stringent criteria than the Abraham Center; i.e. allowing for Israeli houses within 1km of the Palestinian border, or some impedance on ‘contiguity or daily life’. The Center included 93.5km<sup>2</sup> of the Judean Desert amongst Israeli land swap reserves - which though adjacent to the West Bank, falls far short of Palestinian criteria for equality in value. These estimations are already four years old. Since then, Israeli swap reserves have likely been depleted further. If the Judean Desert does not provide enough swap area, remaining unpopulated options require a compromise on the Palestinian criterion of adjacency with the 1967 lines: Halutza Sands and the Negev. Since 2008, the land swap formula, the 1967 lines and ‘mutually agreed legal modifications thereto’, have cast an increasingly threadbare cover over the prospect of extensive Israeli annexations in the OPT.

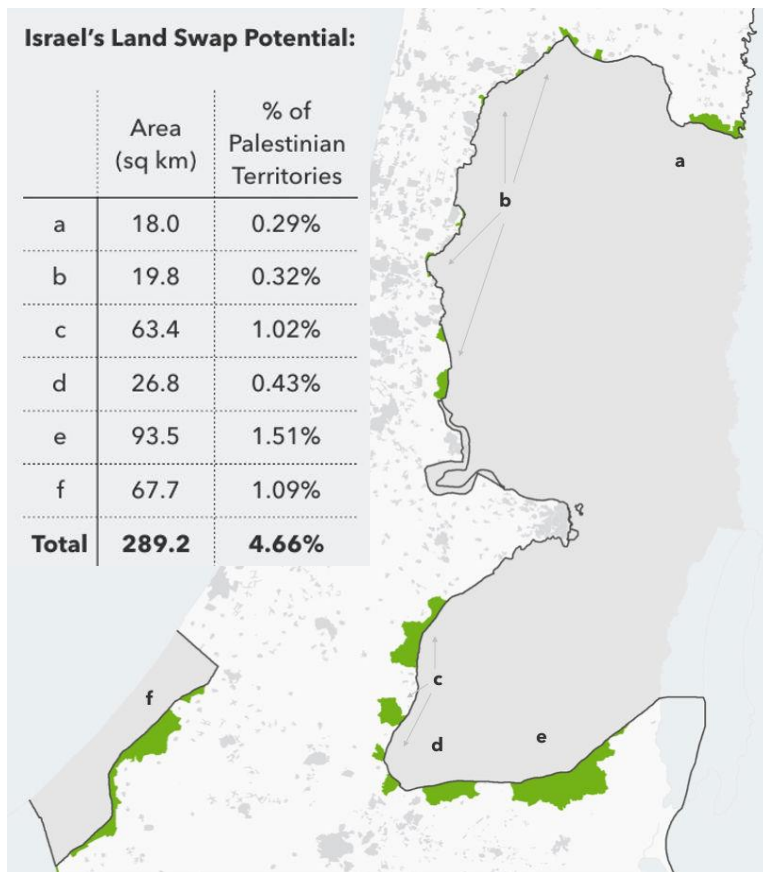


Figure 18, 'Israel's Land Swap Potential', (SDACMEP, 2018)

### iii The four vetoes

If the above analysis is roughly indicative of the material prospects for an Israeli-Palestinian land swap, it is a much more challenging picture than 2008. The Palestinian territorial proposal would likely create more evacuees than any Israeli government would be able to accept. Settler population growth means the Israeli side would be motivated to seek even more extensive annexations. The 2008 offer of '6.5%' would create nearly 100,000 evacuees. The difficulty involved in such an operation aside, there is also no land swap option left that can meet Palestinian criteria for pre-1967 land to add to their territory, (assuming Israel does not lower its territorial demands). To meet larger Israeli needs in the West Bank, the Palestinians likely face the choice of an even more unequal swap, or the face-saving device of desert land to make up the difference. Is all this viable? Regarding settler evacuation, there are much larger population transfers in the historical record. For example, those between Greece and Turkey in 1923, or India and Pakistan in 1947. In its own history, furthermore, Israel has absorbed very large migrations. Between 1948 and 1964, Israel absorbed 1,213,555 immigrants, upon a population core in 1948 of only 806,000, (Smootha, 2008). And between 1990 and 1991, Israel absorbed 375,000 immigrants from areas of the former Soviet Union; and a further 540,000 between 1992 and 2000, (Khanin, 2010).

Clearly, evacuating 100,000 people is not a material impossibility, strictly speaking. Neither is it materially impossible for Palestinian negotiators to violate their internal criteria for a land swap, and accept a larger proportion of infertile desert land in their state. The point here is that the parameters of 'viability' or 'possibility' in this context - as in many others - are set by political, social, and cultural circumstance. For a given territorial proposal to become part of a permanent status agreement, it must avoid four potential vetoes: the Israeli government; the Palestinian government; the Israeli people; and the Palestinian people. These are the arenas in which possibility is defined. At present, there is likely no 'Zone of Potential Agreement' that could avoid all four of these vetoes. If the problem is a lack of political will, however, there is a very high bar to demonstrate why an acceptable land swap, territorial agreement, or indeed two-state solution is permanently impossible.

## Conclusions

This study throws up several actionable conclusions for third-parties interested in the viability of land swaps, such as the EU. Firstly, all discussion of territorial proposals has been muddled (sometimes deliberately) by the differing territorial baseline used by each side. Given that the validity of the Israeli calculation is based upon unilateral actions unrecognised by most of the international community, there is good reason to adopt the Palestinian methodology at all times. That is to say, the size of the OPT is 6,205km<sup>2</sup> - a precise measurement would be helpful. That said, adopting this figure involves taking a view on No Man's Land. Given how much the Palestinian position depends upon international law, ambiguity in the definition of the OPT assists the Israeli side. So secondly, an additional study into whether No Man's Land can be properly termed OPT would be helpful. Thirdly, when discussing the settler incorporation rates of two-state proposals, the Israeli population in East Jerusalem should be counted - for the sake of consistency with international law. Fourthly, a precise study into the built-up area of Israeli settlements in the West Bank would be useful. With this information, it would be possible to ascertain how much the requisite annexation area for certain settlements could conceivably be shrunk. Lastly, monitoring the depletion of Israeli land swap reserves may be strategically revealing. By depleting reserves of unpopulated arable land, the Israeli side may be able to impose worse land swap arrangements upon the Palestinians.

Land swaps are fundamentally a response to an Israeli need. When negotiating permanent status, Israel has prioritised applying sovereignty to its citizens in the West Bank over other interests it has in the West Bank. In other words, settler incorporation is the primary Israeli interest in land swaps. Given the choice, the Palestinian side would prefer a state on the 1949 Armistice Lines. The PA negotiating position has not been strong enough to compel Israel to evacuate all of its civilians from the West Bank. It has been strong enough, however, to compel the Israeli side into offering compensatory territories elsewhere. The Palestinians have sought to be compensated with territories adjacent to the OPT, equal in size, area, and quality to Israeli annexations. Put bluntly, however, PA willingness to engage in land swaps means some of the illegal settlements in the OPT have indeed become 'facts'. Between the Camp David and Taba summits, and the post-Annapolis negotiations from 2007-2008, there was some convergence in the Palestinian and Israeli land swap positions - despite the persistent lack of clarity caused by differing calculation methodologies. The Israeli side reduced the annexation area it sought from the Palestinians, and offered compensatory territory adjacent to the OPT - rather than non-contiguous desert land. Though the Palestinian side did not increase the area it was prepared to cede to Israel, it did consolidate its preparedness to cede almost every Israeli settlement in East Jerusalem, as well as some of the largest settlements



elsewhere. As such, the term ‘consensus settlements’ has some potential validity in reference to the total of 25 settlements and neighbourhoods in the OPT that both sides have proposed for Israeli sovereignty. The Palestinians also conceded on some of their land swap criteria, showing a willingness to receive land next to the Gaza Strip in compensation for land annexed from the West Bank. This paper identifies the settler incorporation rate, and Israeli land reserves as the two physical variables constraining possible land swap options.

The prospects for land swaps have declined on both key metrics. The Palestinian proposal of 3 May 2008 would create c. 285,665 evacuees from the West Bank, unless permitted to stay. Even the Israeli proposal of 17 September 2008 would create over 92,000 evacuees. As well, Israeli land swap reserves have been depleted to the point that any Israeli annexations larger than c. 4.9% of the West Bank could be compensated only with non-contiguous desert land - meeting no Palestinian land swap criteria, or by evacuating Israelis from pre-1967 territories as well. Does this mean the two-state solution is dead? Scholars who wish to make that claim must bear a large burden of proof. They must show why no combination of Israeli-Palestinian negotiating teams and publics could ever agree a land swap agreement within these physical constraints. In the right circumstances, political barriers can be moved.

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