

Recipe for Failure: The Impotence of the Oslo Accords.

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Introduction

The Israeli-Palestinian conflict is one of the longest running, active, violent conflicts within our global community. Historically, it has been marred with diverse and entrenched facets which often seem to lead to further heightening of tensions. As such, it comes without any surprise that there has been a wealth of academic discourse concentrated on this conflict, as well as bringing an end to it. Furthermore, there exist a myriad of theories within this discourse which offer a vast array of explanations as to why the conflict persists. This discourse has taken many angles and perspectives, ranging from explanations which highlight religion as the major factor behind the conflict, to others which draw attention to acts of terror which create ever escalating levels of violent behaviour that is difficult to break through mediation.

Much has been written on how the policies of groups such as Hamas, or Fatah, as well those of the Israeli government, have aggravated the other side, laying the ground work for a perpetual cycle of violence. Similarly, volumes have been written blaming one side or the other, polarizing the issue even further, entrenching animosities. Claims to the land, supported by a host of explanations, are matched in number by more contemporary “justifications” of one side reacting violently to the violent acts of the other, cementing a political deadlock. Indeed, both sides have been blamed for the same atrocities, while both claim victimhood, making a viable peace seem out of sight. However, as protracted as this conflict has been, in 1993, and against all odds, third party mediations were established by the United States to once and for all establish peace in a land holy to many. This took shape in the Oslo Accords which were designed as a long term peace process. Indeed, it lasted until the year 2000. From the beginning there was much fanfare around the mediations, and understandably so with the Declaration of Principles passionately pronouncing that all sides

...agree that it is time to put an end to decades of confrontation and conflict, recognise their mutual legitimate and political rights, and strive to live in peaceful coexistence and mutual dignity and security and achieve a just, lasting and comprehensive peace settlement and historic reconciliation through the agreed political process

The following paper will analyze the success of the U.S mediated Oslo Accords by measuring key empirical facets of it against various theories offered by a host of scholars within the field of mediation, conflict resolution, and peace studies. However, to truly grasp this conflict, the perusing U.S lead mediation, its aims, and how successful it was, a brief background of the conflict leading to the mediations is needed.

Background and Aims of the Mediation

It is difficult to pinpoint exactly when, where, why, or how the Israeli/Palestinian conflict began. Some may argue that the conflict dates back many centuries or even thousands of years, while others may attribute tensions to the 20th century. However, as vague and contested as the roots of this conflict may be, what is easy to see is that as of 1948, with the creation of Israel, the dynamics in the region took a sharp turn. The creation of Israel saw the expulsion of at least 750,000 Palestinians from the newly created state of Israel, creating a massive refugee crisis which plagues the conflict to this day (Allan 48). In the decades which followed both Israelis and Palestinians saw tensions rise. Israelis saw themselves as victims of sporadic acts of terror which threatened their day to day security, while as of 1967 Palestinians found themselves living under a repressive military occupation that quickly manifested itself in the form of massive, fortified Jewish settlements being built within the post 1948 Palestinian borders, alongside military check points, Jewish-only roads, the construction of a wall which expropriated Palestinian land while separating Palestinian communities from each other, and a massive influx of settlers, often armed with automatic machine guns, roaming Palestinian streets.

After decades of tensions, which often surfaced through violence in the form of sporadic attacks, military incursions, or even a mass uprising in the form of the first Intifada in 1987, the Oslo Accords, piloted by the U.S, professed that it aimed to create a new environment free of the issues which had formerly made both Israelis and Palestinians feel victimized and under threat. This mediation, lead by U.S President Clinton, had an ultimate goal of creating a Palestinian nation, free of Israeli occupation, while assuring Israeli security amongst many other issues. Article I of the Declaration, titled “Aims of Negotiations” read:

“The aim of the Israeli-Palestinian negotiations within the current Middle East peace process is, among other things, to establish a Palestinian Interim Self-Government Authority, the elected Council (the "Council"), for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period not exceeding five years, leading to a permanent settlement based on Security Council resolutions 242 (1967) and 338 (1973).

It is understood that the interim arrangements are an integral part of the whole peace process and that the negotiations on the permanent status will lead to the implementation of Security Council resolutions 242 (1967) and 338 (1973).”

The ambitious declaration was awaited by complications brewing ahead.

Inter-non-compatibility

In the world of sports, an athlete will derive maximum effectiveness in a match if she or he is competing in their respective sport. A polo player on horseback will not farewell against water polo player, nor in the game of water polo in general. Similarly, the Palestinians, as a non-sovereign group, were mismatched in the Oslo Accords next to the Israeli state in an interstate mediation framed as being between two states. Rather, mediations between Israel and the Palestinian were ones that took place between a state and a non-sovereign, fractured group. Dean Pruitt and Peter Carnevale highlight how problematic such a mismatch can be in a third party mediations (45-47). Pruitt and Carnevale explain that when parties within a mediation differ in their structure or capabilities it become extremely difficult to establish a solid basis for a mutually agreed upon settlement. The Oslo Accords, however, completely overlooked this fundamental and crucial fact, making the mediations highly ineffective. Oren Barak, from the Department of Political Science and International Relations at the Hebrew University of Jerusalem accurately observes that a problem is created “when concepts and tools used to address interstate conflicts are employed in the realm of intergroup conflicts, creating a certain bias that impinges on the way these conflicts are understood and treated” (721). The U.S failed to frame the mediation appropriately, bringing together the correct types of groups which can work within it. This disparity in the composition of the groups is of utmost importance, for its existence devalues the mediations greatly as one side of the mediation is not just unfit for an interstate mediation, but even if the mediations go forward, the resolutions and agreements which are agreed upon will be problematic as they were mediated from a place of great asymmetry.

The Oslo Accords created a mediation framework bound to be flimsy during the proceeding, and difficult, if not impossible, to implement once the mediations were complete. Framing mediations to match the true nature and composition of the parties involved, as prescribed by the likes of Pruitt and Carnevale, is paramount to laying a solid foundation for both

discussion of the issues, and alleviating them in the aftermath of the mediations. Thus, the third party mediation fundamentally failed on both these crucial yet basic levels. Barak explains that

“Unlike conflicts between states, intergroup conflicts involve non-uniform actors that are neither sovereign nor territorially defined. This has two major implications: first, group leaders have neither a monopoly over the use of force nor sufficient guarantees that their constituencies would go along” (720).

The Palestinian side, which in regards to Oslo namely refers to Yasir Arafat and the PLO, who unilaterally represented the Palestinians at the Accords, by no means embodied an all encompassing, legitimate representation of the Palestinians. Conversely, the land and people Israel occupies is fractured into many different groups, each with unique circumstances, alliances, grievances, and dispositions. Prominent groups such as Hamas were completely barred from the Accords. Gaza was inaccurately and unilaterally represented in the mediation process by PLO representatives who were disconnected from the region personally and politically. Richard Jackson, in his article titled *Successful Negotiation in International Violent Conflict*, drives this point home, explaining that successful resolutions are most likely to occur if representatives of groups are high ranking and hold significant power and control over those who they represent (335). The U.S, as the mediator, did not bring these people to the table. Even though Yasir Arafat was the most prominent Palestinian political figure, he alone monopolized neither power nor the will of all Palestinians, bringing into question the very structure of the mediation’s faulty framing. One ought to ponder the probability of successful mediations if one of the parties within the proceedings does not accurately represent their side, nor has the power to implement decisions made during the proceedings. Basic logic would deem such a scenario to result in a fiasco, and history has proven this logic to be true.

Blurring of Boundaries

The Oslo Accords were fraud with more than just an irrational structure described in the preceding section; the Accords were also marred with yet another pivotal flaw: neglecting the root causes of the conflict. Linda N. Putnam, an authority on conflict resolution, states that optimization of mediations occurs through transformations which accurately address the root causes of the conflict, acknowledging “the real problems” which those within the proceedings face (276). If this point seems basic, it is because it is; however, it is also of fundamental importance and value to any successful outcome and thus cannot be overlooked. In the case of the Israeli/Palestinian conflict, it is most striking that the same key issues which brought about

the hostilities, and the subsequent U.S lead Oslo mediations, were blatantly pushed under the metaphorical carpet of the proceedings, swept aside and forgotten. The U.S did not make a push to get the two sides to address these issues head on. In regards to the lack of attention given to fundamental issues in the proceedings, Kathleen Cavanaugh, from the London School of Economics, explains how addressing the root causes was circumvented:

“Language is left deliberately vague or even contradictory. For example, Article 1 of the DOP (Declaration of Principles) indicates that ‘negotiations on the permanent status will lead to the implementation of UN Security Council Resolutions 242 and 338.’ This would ostensibly comply with customary international law prohibiting the acquisition of territory by war and calling for the withdrawal of forces from occupied territories. However, subsection 3 of Article 1 defers consideration of most of the key sticking points of negotiations - the status of Jerusalem, settlements, refugees, borders and security - to the final negotiations.”(p12)

Such blatant disregard for these key issues is especially troubling in the light of the fact that the conflict was based around them. Mediations will fail to be successful if the underpinnings of the conflict being mediated are not addressed, raising the question “what is the point of mediating anyway?” What is even more troubling is that when a certain document within the Accords did mention the key issues, other wording within the Accords, as well as the structure of the mediation itself, made working on the issues seemingly impossible. This is due to the fact that the texts which surfaced out of the mediations were not only vague, but vague in a way which allowed Israel to shift the agreements in the direction which was conducive to its own interests as opposed to being conducive to peace. Israel seems to have an obvious advantage throughout the proceedings. Cavanaugh highlights an example of this imbalanced paradigm:

“‘Under Article XXXI.7 of the Interim Agreement, ‘[n] either side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations.’ This suggests that the construction of Israeli settlements and the confiscation of land for by-pass roads in the Occupied Territories is not permissible. This provision, however, conflicts with another positing that settlement construction and administration of settlements are beyond the remit of the Accords. Hence, Israel can claim: In fact, neither of the agreements in force between Israel and the PLO - the Declaration of Principles and the Interim Agreement - contain any provision prohibiting or restricting the establishment or expansion of Israeli settlements. Similarly, none of the other agreements between the two sides, now superseded by the Interim Agreement, contained such a provision. At various stages during the negotiations over these agreements, requests were made by the Palestinian side to include such a provision. Israel, however, opposed the inclusion of such a provision, pointing out that Israeli policy in this regard had already been established in a number of decisions by the Israeli Government, and explaining that it was not prepared to undertake any commitment beyond these unilateral Government decisions.”

Similarly, Emma Murphy from the Centre for Middle Eastern and Islamic Studies drives home the notion that Israel maintained the upper hand throughout the proceedings, dictating the terms of a mediation which were supposed to be mutually agreed upon, by pointing out that “...Israel was in a position virtually to dictate the terms of the agreement. As Shimon Peres put it, "In some ways we are negotiating with ourselves” (37). Here, two fundamental problems surface. Firstly, the gross power disparity which benefited the Israeli side created an environment where Palestinians were hard pressed to find equity, creating grievances, and subsequently taking legitimacy away from the proceedings and thus making success more difficult to achieve (Jackson, 335). Secondly, as pointed out by Richard Jackson

“On the occasions that talks become bogged down or deadlocked, senior officials can sometimes play an important role in restarting the negotiations... When the central negotiating figures are primary decision makers, such as heads of state or rebel movement leaders, negotiation success rates are as high as 61%. Comparatively, when the negotiators are both low-level officials, success falls to 39%, which is well below the average success rate. International negotiation, therefore, is often facilitated by the presence of high-level officials who possess significant decision making power” (336-337)

The U.S.’s failure to equip the mediation with Israeli leaders ranking high enough to overcome the bogging down of the mediation in the light of issues which needed the blessings of the Israeli government adds to dampening the possibility of a successful mediation.

Oasis of Aid

Aid is often used as an incentive to bring parties to the mediation table, offering them incentives for compliance with certain agreements. Upon face value, this can be seen as a potentially useful tool in the quest for a mediated peace. However, aid is a powerful tool which derives its value from both the structures in which it is applied, as well as how it is applied. It naturally follows that when aid is applied in an unsuitable setting it can have a null or negative effect; both of these unsatisfactory effects were present in the aid dynamics of the Accords. First and foremost, the aid given to the Palestinian side was null in that the state of the occupied lands, which were at the heart of the mediation, made aid futile. This reality was overlooked, making the aid given largely useless. Murphy insightfully explains that “The international community has made the fundamental error of separating aid from the wider context of the deal. No amount of international aid will sustain the Palestinian economy if Palestinian workers are denied

employment in Israel in the short- term. No amount of support for agriculture will help if the best land is being expropriated.”(36) Given that these were the realities that existed on the ground, the aid was not only ineffective, but it can also be argued that aid had a damaging effect on the peace process. In such a scenario, the damage is rooted in the fact such aid may give the false impression that measures are being taken to persuade the recipient party while the same party does not change their policies after receiving the aid. Indeed, camps within Israel who were against the peace talks were quick to pounce on the Palestinians lack of observable improvements in the face of the generous aid given, accusing the recipients of not being committed to the peace process, causing friction, animosity, and framing the ineffectiveness of the aid in a way which laid blame on the Palestinians who were structurally gridlocked and unable to properly utilize the aid given. Thus, aid is not valuable in itself, but rather it is valuable within the correct framework which the Palestinians did not possess. This idea is supported by Donald Rothchild who, in reference to outside incentives, explains that weak parties lacking autonomy in third party mediation may fail to benefit from outside incentives such as aid, making the aid ineffectual, and thus not benefiting the mediation process (14). Rothchild also points out the damaging affect the aid can have, paving the way for an antagonistic reaction from the Israeli side, as put forth earlier (15). Thus, given such a problematic scenario, it can be argued that aid would have perhaps been best left off the mediation table by the U.S.

Constructing an Adversary

Successful mediations bring to the table conflicting side which are willing to embrace each other in a manner which creates goodwill, trust, and mutual understanding. The role of the mediator is to facilitate the establishment of this relationship. According to Hietial Maill, the United States has the ability, and thus responsibility as a mediator with the interest of all concerned in mind, and “power to induce cooperation, to legitimize, to inspire” (10). Certain outcomes of the Oslo Accords, however, exemplified the exact opposite. The U.S, as a third party facilitator, failed to bring about trust building measures to empower the Accords, but more disturbingly, brought upon policies that went as far as damage the little trust, cooperation, and legitimacy that did exist. One of the agreements which the U.S brokered with such an effect was the Wye Memorandum of 1998. Born out of the Oslo Accords, the Wye Memorandum, covering security aspects of the mediation, displays the U.S’s lack of attention to building trust and respect between Israel and the Palestinians. The key principle of the Memorandum was

reciprocity based around security. Surely reciprocal measures taken by both sides have the capacity to build a certain amount of trust and mutual respect for it shows the common commitment to peace and more importantly, the willingness to work towards it. That being said, one would expect such a measure to in fact coincide with Maill's advocacy for the mediator's role to be one of a facilitator of building goodwill between the parties. However, the Wye Memorandum manifested itself as a one-sided obligation. Naseer Aruri, an expert on these proceedings, points out of the inequalities within the Memorandum:

“The long list of Palestinian "security actions" that is at the heart of the agreement has no Israeli counterpart. The Palestinian side must make known its policy of ‘zero tolerance for terror,’ must embark on the systematic and effective combat of terrorist organizations, apprehend individuals suspected of acts of violence and terror, and so on; no comparable actions are required of the Israelis with regard to settler violence and terror.” (23)

Another example Aruri shines light on regards the use of weapons:

“The Palestinian side must ‘vigorously and continuously implement a systematic program for the collection and appropriate handling’ of weapons, while Israeli ‘civilian’ settlers don automatic weapons issued to them by the government and use them against unarmed Palestinians with virtual impunity, as has been amply documented by all the major international human rights organizations, including the Israeli group B'Tselem”

Surely such divergent policies sponsored by the mediator fail to create trust between the parties at hand, destabilizing the mediation and the prospect for peace as a whole. However, it gets more problematic than that. Not only was Wye inequitable, but it also skewed the mediation process in a way which would allow the Israeli camp to further chip away at the Palestinian side, accusing them of not following agreements which Israel itself did not even have to abide by. The goal posts were positioned in a way to leave the Palestinian under constant attack, further degrading the strong relationship needed between both sides for an optimal mediation result as prescribed by Maill. By having one-sided obligations, Palestinians could be, and indeed were, constantly attacked of not carrying out their obligations. The Wye Memorandum acted as a vehicle to demonize the Palestinian camp and thus gave Israel an opportunity to fabricate that they had a vicious, unwilling, unreasonable, and dishonest partner in peace. Aruri explains that “The clear implication that the earlier agreements have not been implemented because of PA (Palestinian Authority) unwillingness or inability to honor its security commitments is one of the most humiliating aspects of the Wye agreement.” (23) Surely, pushing the Palestinians into such an unfair arrangement, coupled with the subsequent scrutiny and finger pointing which followed,

indicates the mediator's ineffectiveness in establishing in a non-hostile, non-adversarial framework for the two sides to work in.

Dishonest Broker

Asymmetrical conflicts can be extremely difficult to unravel, with the powerful party typically having the upper hand, allowing it to enforce its will on the less powerful party, making a viable peace seemingly unfeasible. Hietial Maill unloads this idea in a logical way, and explains how a mediator can aid in overcoming this obstacle:

“In asymmetric conflicts the structure is such that the top dog always wins, the underdog always loses. The only way to resolve the conflict is to change the structure, but this can never be in the interests of the top dog. So there are no win-win outcomes and the third party has to join forces with the underdog to bring about a resolution”(12)

To optimize a mediation's chance of success, mediation must be embodied by a fair and equal handed mediator who is free of personal bias and interest. This may be true of a conflict free of a significant power disparity; however, as rationalized above, even more is needed from the mediator in a conflict where there is such great asymmetry. Therefore, the U.S, as the outside third party, ought put pressure on Israel as to not allow Israel to maintain the upper hand and capture the strategic hilltops of the peace process, giving it substantial power over the Accords, and thus defecting from coming to a mutually agreed upon settlement. Unfortunately, both a quick and lengthy analysis of the Oslo Accords or the Israeli/Palestinian conflict as whole will reveal that not only did the U.S fail to side with the “underdog” as to overcome the pitfall of the crippling and vulgar power asymmetry which existed, but it even failed to act as a fair and balanced mediator. Though volumes can be written about the United State's well documented and publicized unwavering support of Israel, one needs to only look at the U.S's financial support of Israel, the pattern of the U.S's record number of veto votes to bail Israel out of United Nation's Security Council resolutions, or even American Presidents' consistent and constant rhetorical backing of Israel to see that the mediator at hand is not even handed. Contrast the U.S's unprecedented relationship with Israel with the U.S's relationship with the Palestinian Liberation Organization (PLO) and the clear evidence of strong bias is disturbing. The PLO, who represented the Palestinian side at Oslo, has in the recent past been branded a terrorist organization by the U.S and viciously categorized as an enemy of both the U.S and Israel before Oslo. To expect the U.S to be an honest broker given the history, context, and characters involved in the mediation would be foolish. It so logically follows that it would be even more

foolish to expect a sustainable peace agreement to be birthed from a type of mediation where the mediator embodies such profound favouritism and prejudice. Even if the actions of the United States pre-Oslo were to be disregarded, the U.S structuring of Oslo itself, the lopsided documents and policies it formulated as the mediator, the policies it pushed, and adversarial stance it took with the Palestinian side is clear evidence of a truth that is difficult to ignore: that the U.S was not an honest broker in this third party mediation.

Conclusion

Though the Oslo Accords were supposed to only last until 1998, they went on until the year 2000. However, peace was not achieved in the year 2000, nor a mutually agreed upon settlement. Instead, the year 2000 ushered in the Second Intifada with dissatisfaction and grievances taking over what was supposed to result in peace two years earlier. Frustrations had indeed boiled over, not the least helped by the damaging effect of the Oslo Accords. Since then, settlements have expanded, the number of settlers has steadily risen, more Jewish only roads have been paved, the infamous wall has been expanded expropriating more land and separating more communities, and the death toll has increased on both sides. The lack of peace manifests itself in the form of increasing suffering. Most recently Gaza saw over 1300 of its people killed while Israel suffered 13 losses in the war it waged in Gaza in 2008. These historical snippets are only the tip of the iceberg when reflecting back on the years post Oslo. Thus, grievances have been further entrenched, the sides further polarized, and the suffering exaggerated, and peace have been moved further out of sight.

Reflecting back on the Oslo Accords, one has to wonder how the third party mediations could have been plagued with so many fundamental flaws. From the structure, to the policies which came from it, Oslo failed to be conducive to a sustainable peace. With the downfalls being so obvious, and the inequality so blatant, one is left pondering why the mediations took place in the first place. Was Oslo intentionally set up for disaster as to buy time, or perhaps was it to give the facade of working towards peace? Did there exist a desire to further weaken and fragment the Palestinians, or did this happen by coincidence? One has to formulate their own conclusions on this matter, taking into account both the realities of the Accords as well as logic.

It is disheartening that each time moves towards peace fail, it makes it more difficult to establish the foundation of trust needed for subsequent successful peace talks. It is equally difficult to convince either side of working towards peace again given the track record of painful

and demoralizing failures. Looking back at Oslo, it would be dishonest to call the third party mediations anything close to resembling a success. However, the Oslo Accords do not have to be useless. Rather, the Accords should act as a lesson for future mediations. Hopefully future groups who mediate the next peace process (optimistically assuming there is one) will have learnt from the mistakes of the U.S as a third party mediator in Oslo. It would be foolish to repeat the mistakes of Oslo, such false framings, inappropriate aid, demonization, and uneven handedness. There is much to avoid from the Oslo model and indeed there is much to learn from its failures. However, there is also a real opportunity to improve on its downfalls in an effort to mediate a true peace process. Looking forward, if or when parties step to mediation table again, certain aspects of Oslo will serve as a guideline for a road to wander down again.

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