

ASYMMETRY, THE SPOILER

For twenty-five years since the Oslo Agreement, Palestinian–Israeli negotiations have been characterized by a starkly uneven power dynamic. To reach a final solution, today’s negotiators must commit to leveling the playing field

By Nabil Fahmy

When Egyptian President Anwar Sadat took the decision to go to war with Israel on October 6, 1973, he did so to improve conditions for negotiating the withdrawal of Israeli occupation in Sinai. By changing the reality on the ground, Sadat demonstrated a key aspect of negotiations: they are most effective when the power dynamic between adversaries, be that political, legal, or military, is relatively equal. In the context of the Palestinian–Israeli peace process, asymmetry of power has been the downfall of negotiations from Oslo to the present day.

To remedy this situation and improve the chances of reaching an agreement, four things are needed: an agreed strategic goal determined from the start and made known to all parties, a timeframe, an unbiased third party, and oversight—the willingness to hold both sides accountable. The absence of these conditions has stymied efforts to reach a final agreement up to this point.

Oslo to Obama: Putting Process over Outcome

After the first Palestinian Intifada (1987–91) both the Israelis and Palestinians understood that real progress could not be achieved if they did not find a way to respond to each other’s political and security concerns. “There were only so many bones I could break,” as Israeli Prime Minister Yitzhak Rabin wisely encapsulated when I met him in the early 1990s at the Ittihadiya presidential palace in Cairo and asked why he had agreed to the Oslo process. That was the core reason for the initial success of the Oslo process, which began with secret talks in Norway in January 1993 and culminated in the signing of the Oslo I Accord at the White House eight months later. The agreement, also referred to as the “Declaration of Principles on Interim Self-Government Arrangements” (DoP), set out to establish the general guidelines for negotiations to come, as well as lay the foundations for a five-year transitional period of Palestinian interim self-government in Gaza and the West Bank.

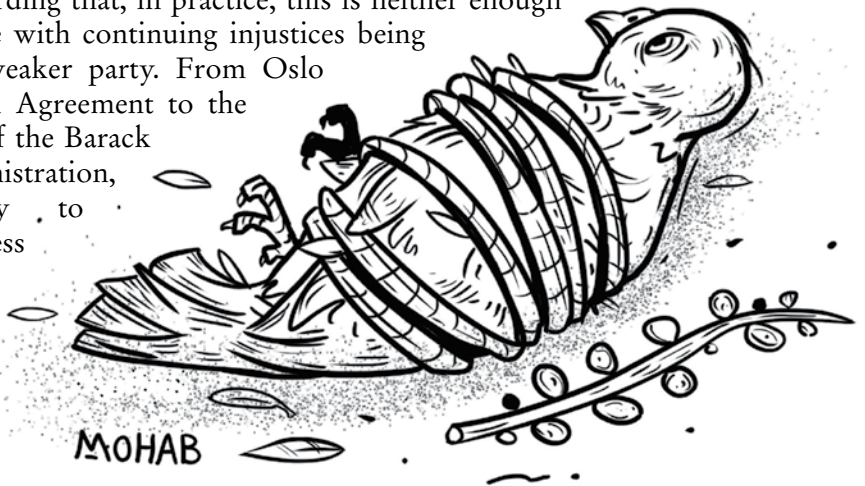
Although I was not initially supportive of the Oslo process, I had come around before it was signed. It was the right step to take for both sides, although a

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much more tenuous one for the Palestinians. The ambiguity in language and the assumption of incremental, protracted change based on the progressive building of confidence between the parties did not favor the Palestinians, particularly since the most complicated issues, such as the right to return and settlements, were intentionally excluded from the agreement and left to be negotiated in subsequent, follow-up talks. The Palestinians were the weaker of the two parties; consequently they would ultimately pay a heavier price if things went wrong as a consequence of the shifting political mood in Israel as well as the entrenched American political bias in favor of Israel.

The agreement was to become a reality until defeated by its contractual parties themselves out of Israeli intransigence and the Palestinian inability to take a stand early on with the first aberrations to the process. The Israelis were never held accountable for not implementing Oslo, particularly after Rabin's assassination. As revolving Israeli governments were constituted on a more conservative, hardline approach, they moved further away from the Oslo commitments which would have gradually given Palestinians more authority over more lands in Gaza and the West Bank. On top of this, Palestinian compromises especially with regards to postponing implementation of Israeli withdrawals from occupied lands and accepting limited security capacities brought fewer and fewer dividends. Thus, the path of the Palestinian–Israeli peace process and its consistency became more haphazard.

As the post-Oslo years would go on to demonstrate, vague intentions allow parties to use negotiations for everything but reaching an agreement. As the optimism of Oslo dwindled in the late 1990s, the Americans would repeatedly and superficially argue at every hurdle that talking was better than killing, disregarding that, in practice, this is neither enough nor sustainable with continuing injustices being dealt to the weaker party. From Oslo to the Hebron Agreement to the peace efforts of the Barack Obama administration, the tendency to privilege process and talking over a clear goal with a set timeframe encouraged



both parties to avoid making actual compromises, and left negotiations vulnerable to the passage of time, events, and outside forces, including growing frustration on the part of Palestinians, the outbreak of the Second Intifada, the dissolution of unity on the Palestinian side with the rise of Hamas, and the sidelining impact of the September 11, 2001 attacks.

In the fall of 1996, Israelis and Palestinians attempted to negotiate what was to become the Hebron Agreement to expand Palestinian authority in the old city. Sent to assist Arafat in the talks, I spent six days in Gaza going over the texts and discussions the Palestinians were having with the Israelis who were led by Prime Minister Benjamin Netanyahu, along with an American delegation composed of U.S. diplomats Dennis Ross, Aaron Miller, and others. I was surprised to see how easily the Israelis dragged the Americans into getting bogged down by minor details like the size of vacant parking lots or how wide sidewalks were, due to presumed security concerns. The Palestinians had clearly not yet decided whether a deal was useful to them and endlessly took advantage of the Americans too. By then, the Americans had become addicted to process rather than policy substance, and Israelis and Palestinians understood this well.

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This tendency to privilege talking and process without establishing a timeframe or agreed-upon outcome would resurface at times when even the will was there to lead balanced negotiations and see things through. The Obama years provide a perfect example. Contrary to most American presidents, Obama empathized with the plight of the Palestinians from the outset and immediately jumped into the fray of Arab–Israeli politics in his first year in office, appointing former Senator George Mitchell, the renowned negotiator of the 1998 Irish Good Friday Agreement, as special emissary for the Arab–Israeli conflict.

Yet, Obama missed an auspicious opportunity at the beginning of his first term by choosing incremental diplomacy over bold statesmanship for his Middle East efforts. After leaving government, I was visiting Washington in the spring of 2009 to speak at an event at the Brookings Institution. Mitchell, whom I knew from years past, took me aside to explain his plans, in which he wanted to focus first on incremental measures that would build confidence, like reciprocally stopping settlement expansion and incitement.

I was against the expansion of Israeli settlements of course. However, I urged him to adopt a holistic, comprehensive approach. The Palestinian–Israeli conflict was by then down to the core issues of borders, Jerusalem, refugees, and security. In my opinion, they had to be dealt with as a package where the two

parties would compromise in exchange for closure of the conflict through peace, fulfilling their aspirations for Palestinian nationhood and Israeli acceptance and security. I strongly cautioned Mitchell that pursuing an incremental approach was doomed to fail, and would again drown Obama in the minutiae of Israeli and Palestinian bickering and politics.

Mitchell listened carefully but was clearly not convinced, emphatically reiterating that incrementalism had succeeded in the Irish negotiations, an achievement that he was legitimately proud of, but from which I felt he was drawing the wrong conclusions. We had already had extensive and substantive negotiations over the Arab–Israeli conflict at that point. This made closure, not process, paramount.

After months of this incremental process, Mitchell announced the failure of his efforts in light of Netanyahu’s refusal to stop Israeli settlement activity in the West Bank despite a temporary ten-month moratorium. Secretary of State John Kerry would make similar mistakes in the years to follow, pursuing valiant but ultimately futile negotiations largely without White House support as Obama moved to distance himself from the conflict, recognizing Israeli intransigence.

Between July 2013 and June 2014, when I served as foreign minister of Egypt, Kerry and I frequently met and consulted. I was impressed by Kerry’s commitment but recognized that he was making the same mistake

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of his predecessors in responding to intransigence by focusing mostly on process, with the flawed assumption that if the parties talked to each other enough, they would be able to find solutions. Once again, this proved a tired premise because of the great imbalance in political and security powers of the two conflicting parties. Israeli intransigence essentially forced Kerry to deviate from concluding Palestinian–Israeli peace to achieving a framework agreement on a set of principles.

Third-party Bias and the Absence of Oversight

In spite of its flaws, Obama’s approach to the conflict stood out as more empathetic to Palestinian aspirations. His speeches in Cairo and Jerusalem and Kerry’s statement at the Brookings Institution in the first days of the administration were clear indications. Nevertheless, the Americans’ hesitation to hold Israel accountable, the power asymmetry between Palestinians and Israelis, and the absence of a clearly defined, mutually agreed-upon strategic objective with a timeframe for negotiations led to Oslo’s failure.

In the wake of the Oslo signing, American President Bill Clinton—who unlike

past and subsequent newly elected American presidents witnessed Palestinian–Israeli wins rather early in his tenure—implemented policies which heavily favored the Israelis. Regrettably, his administration’s policies further blurred the distinction between American and Israeli interests and priorities which historically and to this day were not always identical. United States Envoy to the Middle East Dennis Ross, who was the lead American negotiator in the peace process, inferred in his memoirs about this period that his primary objective was to ensure that Israel’s interests were served.

This bias became a constituting factor of the peace efforts Clinton would pursue, especially the ill-conceived Camp David II talks, and encouraged the Israelis to dig in their heels. Little was achieved on the Israel–Palestine track during his tenure. The problem persisted under George W. Bush, revealing a fundamental lack of understanding by the Americans of the issues that were keeping negotiations stuck.

On June 24, 2002, President Bush announced as official U.S. policy his vision of two states, Palestine and Israel living side-by-side—a first for a sitting American president—and was set to submit a roadmap for the resumption of negotiations. Consistent with past practice, the Israelis, after some grumbling, announced their support for the roadmap Bush laid out, but only after laying down fourteen different reservations and conditions that essentially negated its basic foundation. Ariel Sharon had other plans in mind, primarily a unilateral and uncoordinated withdrawal from Gaza, counterbalanced by a substantial increase in settlement activity, the construction of the separation barrier wall in the West Bank, and the extensive strategic deployment of the Israeli security apparatus all the way to the River Jordan. The goal of this unilateral disengagement, as Dov Weissglass, one of Sharon’s closest advisors, put it, was to “freeze” the peace process.

Egypt, among other Arab countries, complained to the United States that Israel was violating the basic premise of the roadmap. However, in the spring of 2004, in an attempt to entice the Israeli government not to completely reject negotiations, the United States decided to offer assurances, acknowledging and accepting the permanence of certain settlement blocks that had transgressed into Palestinian territory as well as applying limits on the number of refugees to be resettled.

I expressed strong reservations to my American counterparts and to Cairo. America was the main sponsor of the Arab–Israeli peace process. Providing assurances to only one of the adversaries, and accepting limitations on the number of Palestinian refugees as well as the inevitable continuation of the major Israeli settlement blocs in the West Bank, was not only inappropriate because it created an imbalance, but was also illogical because it would prejudice

the results of the negotiations. In a meeting with President Hosni Mubarak and President Bush at the latter's home in Crawford, Texas during this time, President Mubarak and I also cautioned that the United States should not take unilateral positions on final settlement issues inconsistent with the agreed international norms for resolving the conflict and urged Bush to leave these issues for negotiation among the parties.

Nonetheless, the Americans decided to go ahead with the assurances to the Israelis, which, needless to say, did not encourage them to take more constructive positions in engaging the Palestinians. Quite the contrary, it emboldened the Israelis to take more aggressive measures against the Palestinians and toward Arafat in particular, demonstrating the cost not only of third-party bias, but also of refusing to hold the stronger party accountable and enforce oversight.

Reflections on a Quarter Century of Hostilities and Negotiations

Since Oslo, the defining characteristics of Israeli–Palestinian negotiations have continued to be their overwhelming asymmetry, and the failure of all parties to the process to address this situation in ways that could have improved the chances of reaching a final agreement.

For their part, Israeli leaders from David Ben-Gurion to Menachem Begin, Yitzhak Rabin, and Benjamin Netanyahu all pursued opportunistic, mostly expansionist, politics based on an uneven balance of power ignoring the fact

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that the state of Israel was established by the United Nations pursuant to a formula that would create an Israeli state and a Palestinian one, side-by-side. In essence, the right, and particularly the religious right to which present Israeli government belongs, does not believe in a two-state solution with a viable Palestinian state in Gaza and the West Bank. Their opposition to it is ideological rather than security-based.

At the end of the day, Israel is most responsible for the failure of the Arab–Israeli peace processes. Israel felt more secure and regrettably less interested in the difficult choices necessary for a conclusive Palestinian–Israeli peace after securing peace agreements with Egypt and Jordan.

The most aggrieved, the Palestinians, while justified in their aspirations, bear some, if a smaller, share of the responsibility for these failures. Differences between the centrists with those on the extreme right and left of the Palestinian body politic could have been a good negotiating card if the Palestinians had a functioning political system and a governing structure. In their absence, however, these Palestinian factions were often at cross-purposes, even occasionally aggressively working against each other and thus weakening the Palestinian cause.

The United States and the Soviet Union/Russia should also be blamed for not having accorded sufficient attention to Palestinian aspirations and failing to hold Israel accountable. A decade of a unipolar world created global imbalances in favor of Israel, while inconclusive peace efforts have been detrimental to the credibility of the nascent Palestinian authorities established as the kernel of future governing bodies of the state of Palestine.

A number of important lessons can be drawn if future Arab–Israeli peacemaking is to be successful. First, leaders need to be truly committed to peace and this will require courageous, wise decisions regarding process, timing, and substance; a commitment to their legitimate interests; a desire for progress; and an empathy for the aspirations of their adversaries. To reach agreement, leaders need to develop a partnership, even a difficult one, based on a shared desire to achieve a win-win outcome that can withstand hostility from sections of the public on both sides. Furthermore, leaders who fail to maintain a critical mass of domestic support for their negotiating position cannot bring peace talks to a successful conclusion. In addition, while national commitment is a *sine qua non* for success, it may not suffice alone; garnering both regional and international support for these efforts can be advantageous and even imperative.

In the negotiating process, structure and timing are also of essence. A time will come for bold political steps but successful conflict resolution is not only about grand gestures; rigorous negotiations are equally important. Yet, while negotiating over an extended period may be necessary, it should not morph into an indefinite status quo because diverse political contexts and even a new set of players with different commitments change over time. Therefore, it is important to determine when to pursue incrementalism and when to go for prompt closure. Each of the numerous Arab–Israeli peace efforts, especially those involving Palestinians and Israelis, provides ample evidence confirming these conclusions.

As elusive as a two-state solution may appear today, I think it is still the only peaceful negotiated option that could preserve the unique national identity of both Israelis and Palestinians. The Palestinian state will have to be based on the 1967 Arab borders with Israel, with minor exchanges of territory for the sake of unifying villages and continuity between Gaza and the West Bank. Jerusalem will have to be the capital of the two states, and cooperative arrangements must be adopted for the management of overlapping services or connectivity. The right of return or compensation of Palestinian refugees will have to be recognized by Israel and exercised mostly, but not exclusively, by the newly established Palestinian state. Security arrangements for both states will be needed to ensure against surprise attacks and against the use of territories as launching pads against one another. With regards to the Arab World generally, Arab territories occupied by Israel in 1967 should be handed over in exchange for security and normalization.


Finally, non-regional interference in the Middle East peace process needs to be more balanced. Over the past fifty years, the choice of Arabs and Israelis to go to war or even more so to opt for peace was highly influenced by the impact of, and even incentives offered by, external players. However, America's role in the peace negotiations has become biased, distorting progress especially on the Palestinian–Israeli tract and in many respects making it increasingly untenable. Its position on Jerusalem—particularly with President Donald Trump's unilateral recognition of Jerusalem as the capital of Israel—and its passive support for a two-state solution if agreed upon are surely unacceptable. Its domestic politics are biased toward Israel and in large part against basic Palestinian rights.

It is thus time for an international coalition willing to become the sponsors of efforts to pursue the peaceful resolution of the Arab–Israeli conflict. This coalition would include the United States and others supportive of a two-state solution based on the Madrid peace process parameters and committed to a set

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timeframe. In this respect, the secretary-general of the United Nations must play a more prominent and proactive role. It should not be forgotten that while Egypt, Jordan, and even the Palestinians negotiated with Israel outside of the United Nations, the relevant resolutions of the organization provided the legal foundation for these negotiations, especially Security Council Resolutions 242 and 338; and many others. The United Nations is, then, the custodian of the contemporary world order

and it should therefore not remain complacent to world events or reactive to the whims of nation-states driven by power politics rather than international legitimacy. The rules and principles governing the world order should be applied without preference or prejudice.

The dire circumstances in which peace efforts currently stand should be a clarion call for resolving this historic conflict once and for all. Nevertheless, I am anything but optimistic that this will occur in the short term because the clarity of purpose has come at a time when the political balance of power in the Middle East, and in each of the parties involved in the conflict, has shifted in interest and conviction away from concluding an Arab–Israeli peace. Today, a quarter century after the Madrid Middle East Peace Conference and the Oslo process, regrettably the question is no longer what a two-state solution or a comprehensive Arab–Israeli peace would look like, but rather a much more ominous predicament of determining whether a true Arab–and particularly Palestinian–Israeli peace is in fact possible. 



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