

Failure of International Mediation in Ethnic Conflict:
the Oslo Accords and the Israel-Palestine Conflict

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Introduction

On September 13, 1993, Yasser Arafat as the leader of the Palestinian Liberation Organization (PLO) and Yitzhak Rabin as Prime Minister of Israel shook hands on the White House lawn after the signing of the Declaration of Principles (hereafter Oslo I).¹ The Israeli-Palestinian Interim Agreement (hereafter Oslo II) would be signed two years after. At the time, the sight of Yasser Arafat and Yitzhak Rabin together gave many hope that this intractable conflict was at long last coming to an end. However, deadlines set out in Oslo II came and went without considerable progress toward peace. As settlement expansion exploded, bypass roads restricted to Israelis were constructed, and Palestinians were passed over for employment in Israel, the hopeful spirit engendered by the agreements faded away into frustration with the nature of the occupation.² Terrorist attacks by Hamas and Hezbollah in Israel increased creating a dangerous cycle of Israeli Defense Force (IDF) retaliation that threatens the inhabitants of the West Bank and Gaza to this day.³

The unfortunate outcome of these agreements (collectively known as the Oslo Accords) has led many researchers to investigate why they were unable to end the conflict. Many of these accounts attribute the failure to aspects such as the exclusion of key issues of contention like Jerusalem⁴; the failure of Israeli Prime Ministers to implement the agreement⁵; the inadequacy of using the Arab-Israeli interstate model of conflict resolution for an intrastate conflict⁶; the

¹ Charles D. Smith, *Palestine and the Arab-Israeli Conflict: a History with Documents*, 9th ed. (Boston: Bedford/St. Martin's, 2017), 443.

² Mike Berry and Greg Philo, *Israel and Palestine: Competing Histories* (Pluto Press, 2006), 96-7.

³ *Ibid.*, 99.

⁴ John Quigley, "The Oslo Accords: International Law and the Israeli-Palestinian Peace Agreements, *Suffolk Transnat'l L. Rev.* 25 (2001): 73-89.

⁵ Ron Pundak, "From Oslo to Taba: What Went Wrong?," *Survival* 43, no. 3 (2001): 31-45.

⁶ Oren Barak, "The Failure of the Israeli-Palestinian Peace Process, 1993-2000," *Journal of Peace Research* 42, no. 6 (2005): 719-736.

conflict not being ripe for negotiation⁷; activism against the Accords by opponents⁸; or the guiding principles of the agreement (gradualism and constructive ambiguity)⁹. Despite these varied accounts of the failure of the Oslo Accords, few arguments focus on the structural features of the documents themselves. This paper seeks to fill this gap.

This paper will utilize the revised contingency model to analyze the content of the Oslo Accords. The contingency model was originally developed by Bercovitch, Anagnoson, and Wille, then revised by Bercovitch and Simpson.¹⁰ The revised model examines the outcome of mediation (success or failure) as the interplay between three sets of variables: context, performance, and implementation. This paper focuses on variables contained within the performance and implementation categories which are lack of specificity and mediator bias. However, in this paper, I will also argue that the revised model is still missing an additional variable: reconciliation. Reconciliation is “a societal-cultural process that encompasses the majority of society members, who form new beliefs about the former adversary, about their own society, and about the relationship between the two groups”.¹¹ It is typically accompanied by social, cultural, and political changes that can bring about a relationship between two groups based on mutual trust.¹² Groups in conflict with each other, especially for a long period of time,

⁷ Jonathan Rynhold, “The Failure of the Oslo Process: Inherently Flawed or Flawed Implementation?” *Mideast Security and Policy Studies* no. 76 (2008): 1-26.

⁸ Ian S. Lustick, “The Oslo agreement as an obstacle to peace,” *Journal of Palestine Studies* 27, no. 1 (1997): 61-66.

⁹ Orde F. Kittrie, “More Process than Peace: Legitimacy, Compliance, and the Oslo Accords,” *Michigan Law Review* 101 (2002): 1661-1714.

¹⁰ Jacob J. Bercovitch, Theodore Anagnoson, and Donnette L. Wille, “Some Conceptual Issues and Empirical Trends in the Study of Successful Mediation in International Relations,” *Journal of Peace Research* 28, no. 1 (1991): 7-17; Jacob Bercovitch and Leah Simpson, “International Mediation and the Question of Failed Peace Agreements: Improving Conflict Management and Implementation,” *Peace & Change* 35, no. 1 (2010): 77-80.

¹¹ Daniel Bar-Tal, “From Intractable Conflict Through Conflict Resolution to Reconciliation: Psychological Analysis,” *Political Psychology* 21, no. 2 (2000): 356.

¹² Nadim N. Rouhana, “Group Identity and Power Asymmetry in Reconciliation Processes: The Israeli-Palestinian Case,” *Peace and Conflict* 10, no. 1 (2004): 35.

cannot simply return to pre-war dynamics, so it is important to consider reconciliation as a process that complements and strengthens conflict resolution. Therefore, this paper argues that the failure of the Oslo Accords is due to lack of specificity, mediator bias, and lack of reconciliation features.

Conflict Background

The true origins of the Israel-Palestine conflict date to World War I. During the conflict, Britain and France foresaw the fall of the Ottoman Empire and began to divvy up the Ottoman Middle East amongst themselves.¹³ At this time, Britain made various conflictory agreements with the Arabs, the Zionist movement, and France regarding independence in the Middle East and territorial divisions.¹⁴ The Balfour Declaration is the most important of these as it indicated that the British government would favor “the establishment in Palestine of a national home for the Jewish people”.¹⁵ The statement was vague enough that Zionists interpreted it to mean a national state and for the Arabs and Americans to interpret it as a national sanctuary in Palestine.¹⁶ For this reason as well as questions of its legality, the Balfour Declaration became one of the most controversial documents of the entire conflict.¹⁷

In the San Remo Conference in April 1920, Britain was given Palestine as a protectorate.¹⁸ Yet, Britain would only retain control of Palestine for 27 years. During its mandate, Zionist policies and increased Jewish immigration exacerbated inequality between the Arabs and the

¹³ Harms and Ferry, *Palestine-Israel Conflict*, 68

¹⁴ Smith, *Palestine and the Arab-Israeli Conflict*, 53-68.

¹⁵ Ibid, 93.

¹⁶ Harms and Ferry, *Palestine-Israel Conflict*, 70.

¹⁷ Ibid, 69.

¹⁸ Ibid, 75.

Jews which led to sporadic episodes of violence.¹⁹ Following World War II, increased violence in Palestine and British economic crisis would lead Britain to hand Palestine over to the UN.²⁰ Britain hoped that this would help them gain UN support for a continued British role.²¹ However, the majority report prepared by the commission of eleven UN member countries instead suggested to end the British mandate and partition Palestine into two states: one Jewish and one Arab.²² A period of intense lobbying by Zionist groups followed and on November 29, 1947, the UN voted to partition Palestine giving 56% of the land to the Zionists.²³

Without the proper authority to enforce their decision and lack of peacekeeper intervention, what followed was a year of civil and international war. Once the Palestinian guerrilla forces were defeated, on May 14, 1948, David Ben-Gurion declared the “‘establishment of a Jewish state in Palestine, to be called the State of Israel’”.²⁴ Israel continued to fight its Arab neighbors for the rest of 1948, but defeated them summarily.²⁵ Afterwards, Israel had expanded its territory to 78% of Palestine and the remaining 22% would be given to Egypt and Jordan in agreements after the war: Gaza to Egypt and the West Bank to Jordan.²⁶

The previous truce between Israel and its neighbors (which also included Syria) would last until June 1967. During the 1950s, tensions had been high between Egypt’s President Nasser, the US, Britain, France, and Israel over Nasser’s critiques of Western colonialism and failed Western campaigns to oust him.²⁷ The area also became a proxy for the Cold War as the

¹⁹ Smith, *Palestine and the Arab-Israeli Conflict*, 115-143.

²⁰ Ibid, 185-6. See also Harms and Ferry, *Palestine-Israel Conflict*, 89.

²¹ Ibid.

²² Harms and Ferry, *Palestine-Israel Conflict*, 90.

²³ Ibid, 91.

²⁴ Ibid, 94.

²⁵ Ibid, 95-6, 98.

²⁶ Ibid, 98.

²⁷ Ibid, 104-7.

US supported Israel and the Soviet Union supported Egypt, Syria, and Iraq.²⁸ Tensions increased in Israel as the PLO and al-Fatah increasingly directed attacks there from the borders of Egypt and Syria.²⁹ The (false) Soviet warning of an Arab military buildup was the breaking point, so Israel entered Gaza and the Sinai Peninsula on June 5, 1967.³⁰ In six days, Israel would take the Gaza Strip, the West Bank, and Syria's Golan Heights while refusing to sign ceasefires and ignoring a UN Resolution to halt the offensive.³¹ Afterwards, the UN Security Council passed Resolution 242 calling for the "withdrawal of Israel armed forces from territories occupied in the recent conflict" and "respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace".³² This would become the basis for peace efforts and remains so to this day.

Israeli occupation after the 1967 war became increasingly repressive leading to the outbreak of the First Intifada in 1987. On December 8, 1987, an IDF truck crashed into a cars carrying Palestinian workers killing them.³³ The protests that followed erupted into the First Intifada. The rebellion was fueled by a sense of isolation from the Arab world and frustration with conditions of Israeli military occupation.³⁴ A UN report on human rights in the Occupied Territories describes a situation of land and property seizure, arming settlers to commit violence, mass arrests, closure of universities, etc. perpetuated by the Israeli military government.³⁵

²⁸ Smith, *Palestine and the Arab-Israeli Conflict*, 276-8.

²⁹ Ibid, 271.

³⁰ Harms and Ferry, *Palestine-Israel Conflict*, 110-11.

³¹ Ibid.

³² United Nations Security Council, 1382nd meeting, *Resolution 242 (1967)*, [http://undocs.org/S/RES/242\(1967\)](http://undocs.org/S/RES/242(1967)).

³³ Smith, *Palestine and the Arab-Israeli Conflict*, 399.

³⁴ Harms and Ferry, *Palestine-Israel Conflict*, 142-3

³⁵ United Nations Economic and Social Council, "Question of the violation of human rights in the occupied Arab territories, including Palestine", 19 February 1985, 21st meeting, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/5D22B3703C8766F505256604006CBA65>.

The first six months alone recorded 42,355 incidents of rebellion (mostly stone throwing) which were often met with tear gas, IDF beatings, detention and torture, or death.³⁶ The Intifada would last until 1991. Israel's heavy-handed response drew international criticism and served as the impetus to subsequent peace processes including the Oslo Accords.³⁷

Oslo I and Oslo II (known collectively as the Oslo Accords) were landmark agreements signed between Israeli Prime Minister Yitzhak Rabin and PLO Chairman Yasser Arafat.³⁸ They marked the first significant agreements made between Israel and Palestine in the course of the conflict. Oslo I began as backchannel negotiations between Norway and Israel and Palestine separately. Oslo I was signed on September 13, 1993 and primarily set up a timetable and basis for further negotiations, but importantly included mutual recognition and withdrawal of Israel from Gaza and Jericho (a town in the West Bank).³⁹ Oslo II was a subsequent negotiation stipulated in Oslo I and signed on September 24, 1995. Most of this agreement divided up control of areas of the West Bank between the Palestinians and Israelis and set up a Palestinian government.⁴⁰ Much of the progress theoretically made in these accords would never be realized.

Violence and inaction continue to plague the Israel-Palestine Conflict. Prime Minister Rabin was assassinated by a Jewish fundamentalist shortly after Oslo II was signed.⁴¹ The Second Intifada would erupt in 2000 and Hamas terrorist attacks would justify repeated Israeli military operations in the Occupied Territories.⁴² Israeli withdrawal from areas indicated in Oslo

³⁶ Smith, *Palestine and the Arab-Israeli Conflict*, 407-8.

³⁷ Berry and Philo, *Israel and Palestine*, 85-7.

³⁸ Ibid, 91-8.

³⁹ Smith, *Palestine and the Arab-Israeli Conflict*, 435-8.

⁴⁰ Ibid, 446-51.

⁴¹ Berry and Philo, *Israel and Palestine*, 98.

⁴² Harms and Ferry, *Palestine-Israel Conflict*, 187-190, 194-6, 199-201, 204-5.

It was never completed and settlement activity continues. To this day, another comprehensive agreement has not been reached between Israel and Palestine despite repeated attempts.⁴³

Literature Review and Theoretical Background

Literature in the field of international mediation is rapidly expanding. In this paper and the corresponding literature, mediation refers to “a process of conflict management where disputants seek the assistance of, or accept an offer of help from, an individual, group, state, or organization to settle their conflict or resolve their differences without resorting to physical force or invoking the authority of the law”.⁴⁴ Well characterized within the literature are the specific variables that affect mediation outcomes with regard, typically, to interstate war. Kleiboer provides a comprehensive list of variables classified as either inherent to the conflict, mediator, or relationship between the parties: for example, regime type, conflict intensity, mediator status, and the international context (among others).⁴⁵ She then uses these variables to close theoretical gaps in the literature by proposing prototheories of international mediation that posit it as either power-brokerage, political problem solving, domination, or re-establishing social relationships.⁴⁶ To these variables, Hoffman and Bercovitch add structural components which are explicit provisions or characteristics of the agreement itself. Structural components include demilitarized zones, third-party guarantees of peace, and peacekeepers.⁴⁷ Based on these categories of variables, Bercovitch and Simpson revise the contingency model which categorizes these types

⁴³ Ibid.

⁴⁴ Bercovitch, Anagnoson, and Wille, “Concepts and Empirical Trends in Successful Mediation,” 8.

⁴⁵ Marieke Kleiboer, "Understanding Success and Failure of International Mediation," *Journal of Conflict resolution* 40, no. 2 (1996): 361-374.

⁴⁶ Ibid, 379-384.

⁴⁷ Evan Hoffman and Jacob Bercovitch, "Examining Structural Components Of Peace Agreements And Their Durability," *Conflict Resolution Quarterly* 28 (4): 399-426. doi:10.1002/crq.20031.

of mediation variables in an attempt to show how they interact to generate an outcome.⁴⁸ The revised model added structural components (referred to in the revised model as implementation variables) to a framework that already included context and process variables. The authors assert this model can then be used to analyze cases with any combination of variables present in the framework. The work in this paper will utilize the revised contingency model to apply structural and process variables to the Israel-Palestine conflict.

Drawing on the aforementioned literature are papers that specifically adapt mediation variables to the literature on civil wars. Gurses, Rost, and McLeod focus on how mediation can impact the duration of peace in civil wars.⁴⁹ They begin by compiling a list of variables discussed in the civil war literature, such as the presence of third-party security guarantees, previous mediation attempts by the same party, and peacekeeping missions.⁵⁰ They then go on to test the likelihood of failure at any given point based on variables related to the country, previous conflict, and mediation to analyze statistically those which had the greatest impact on duration of the peace following the agreement. Among mediation variables, they find that superpower involvement and mediated agreements significantly reduce the duration of peace in their dataset, but that the presence of mediators overall increases it.⁵¹ Bercovitch and DeRouen also seek to investigate the determinants of successful mediation, but, more specifically, in ethnic civil wars.⁵² They looked at mediation setting (location, identity of parties), issues (territorial vs. religious), and context (level of hostility, number of fatalities) in an original dataset of ethnic civil wars to

⁴⁸ Bercovitch and Simpson, "Question of Failed Peace Agreements," 77-80.

⁴⁹ Mehmet Gurses, Nicolas Rost, and Patrick McLeod, "Mediating Civil War Settlements and the Duration of Peace," *International Interactions* 34, no. 2 (2008): 130-1.

⁵⁰ Ibid, 131-4.

⁵¹ Ibid, 148.

⁵² Jacob Bercovitch and Karl DeRouen, "Managing Ethnic Civil Wars: Assessing the Determinants of Successful Mediation," *Civil Wars* 7, no. 1 (2005): 99.

determine which ones had the greatest effect on whether or not a settlement was reached.⁵³ They found that negotiation at a neutral site and willingness of the parties increases success while superpower mediation, war intensity, and imposed mediation impact success negatively.⁵⁴ This single-case study is grounded in the quantitative analyses of these variables in order to pick variables shown to have a significant effect on mediation outcome.

A frequently debated concept in the mediation literature is the elusive notion of success. Most authors have to address whether or not mediation is successful, but the literature has not settled on a universally recognized definition of what success means for international mediation. Many authors will create definitions of success that fit specifically to the content of their paper, but this reduces their applicability outside of that particular discussion; still others try to create broader definitions of success. For example, Gurses, Rost, and McLeod define success as being the “duration of peace between the two parties following the end of civil war”.⁵⁵ Bercovitch and Simpson define success as the creation of an agreement as a result of third-party influence and its implementation that allows the outsiders to leave without fear of recurring hostilities.⁵⁶ Bercovitch and DeRouen, however, classify a successful outcome as one which “makes a difference in the level of conflict (as measured by reduced fatalities, or the acceptance of an agreement)”.⁵⁷ This is a rather vague definition and not entirely useful as the mere acceptance of an agreement is no indication of whether or not it will be implemented or successfully end the conflict. Additionally, Bercovitch was an author on two of these pieces, but the definitions of success are wildly different which indicates that even the same author (who is very well regarded

⁵³ Ibid, 102-8.

⁵⁴ Ibid, 108.

⁵⁵ Gurses, Rost, and McLeod, “Mediating Civil War Settlements,” 130.

⁵⁶ Bercovitch and Simpson, “Question of Failed Peace Agreements,” 73.

⁵⁷ Bercovitch and DeRouen, “Managing Ethnic Civil Wars,” 103.

within the field) will alter their definition as the paper allows. This paper will utilize the definition provided by Bercovitch and Simpson as defined above for it includes both acceptance and implementation of an agreement that ultimately leads to a sustainable peace.

Due to the nature of this conflict, literature on ethnicity and ethnic civil war was also examined. Varshney's definition of ethnicity is most apt for the case of Israel-Palestine. Ethnicity is defined as a sense of collective belonging based on common descent, history, culture, religion, language, or race.⁵⁸ Using this definition of ethnicity, Bercovitch and DeRouen go on to define ethnic civil war as a violent conflict in which two or more ethnic groups inhabiting the same region perceive each other and are perceived as different despite sharing some common features and at least one of the groups involved has a strong sense of grievance.⁵⁹ They go on to state several features unique to ethnic civil wars: ethnicity provides an identification element that can sustain conflict, they usually become internationalized and spill over into other countries, and they have a low incidence of being ended through negotiation. This literature contextualizes the Israel-Palestine conflict which adheres to this definition of ethnic civil war and is characterized by its unique features. The ethnic dimension of the conflict also underlines why reconciliation is critical to lasting peace, so it informed the inclusion of reconciliation as a variable to be added to the revised contingency framework.

Reconciliation is an oft omitted, but incredibly important literature on which to draw in the context of an ethnic civil war. In a conflict such as this, the warring parties occupy the same state, so in the aftermath of any conflict, they must coexist. Conflict decreases feelings of trust between these groups and reconciliation is fundamental to increasing trust in order to facilitate a

⁵⁸ Ashutosh Varshney, "Ethnicity and Ethnic Conflict." *Oxford Handbook of Comparative Politics* (2007): 277.

⁵⁹ Bercovitch and DeRouen, "Managing Ethnic Civil Wars," 99.

lasting peace agreement. Rouhana conceptualizes reconciliation alongside a framework that includes conflict settlement and conflict resolution, but argues that it is fundamentally distinct.⁶⁰ She states that reconciliation is a process whose goal is to create a relationship between the parties founded on mutual legitimacy. In her framework for reconciliation, justice, truth, historical responsibility, and political and social restructuring must be addressed.⁶¹ Kelman builds upon the previous work by furthering the distinction between conflict settlement and reconciliation. He argues that reconciliation comes out of and links to conflict resolution where the true test of an agreement is its ability to facilitate ultimate reconciliation.⁶² Reconciliation, in Kelman's view, involves primarily an identity change that removes the negation of the others' identity as the core of one's identity. The identity change, in turn, facilitates attitudinal changes that reduce the vulnerability of the relationship to degradation as situations change.⁶³ He, then, identifies five conditions to reconciliation: mutual recognition of the others nationhood and humanity, development of a common moral basis for peace, confrontation with history, acknowledgement of responsibility, and establishment of patterns and institutional mechanisms of cooperation.⁶⁴ Based on these authors, reconciliation should be considered a process concomitant with conflict resolution in which both goals are intertwined and strengthened by the realization of the other.

⁶⁰ Rouhana, "Power Asymmetry in Reconciliation," 34-5.

⁶¹ Ibid, 36-8.

⁶² Herbert C. Kelman, "Conflict Resolution and Reconciliation: A Social-Psychological Perspective on Ending Violent Conflict Between Identity Groups," *Landscapes of Violence* 1, no. 1 (2010): 3.

⁶³ Ibid, 4.

⁶⁴ Ibid, 6.

Oslo Accords

Specificity

Agreement specificity is considered within the literature to be a structural component with a significant impact on the outcome of a peace agreement. Fortna considers the role of specificity specifically in ceasefire agreements, however, as cease-fires are part of a greater process of conflict negotiation and resolution, her argument can still be useful here. She states that as long as incentives to break the agreement are greater than deterrents, the risk of noncompliance causes tension between the two parties that can easily flare into renewed violence.⁶⁵ The role of specificity in an agreement, therefore, is to define clearly and explicitly compliance and noncompliance. Fortna, then, utilizes statistical analysis of a ceasefires dataset that supports specificity (in conjunction with other variables) as indicative of longer lasting peace.⁶⁶ Yet, Fortna operationalizes specificity within her work as the number of paragraphs in an agreement, but I would argue that length of an agreement does not correlate with its specificity.⁶⁷ For example, Fortna considered the Israeli-Egyptian Peace Agreement of 1979 to be highly specific, but this agreement's 33 pages pale in comparison to the 300 page Oslo II agreement.⁶⁸ As a result, specificity in this paper refers to use of specific language or detailed extrapolation of provisions within the agreement.

⁶⁵ Virginia Page Fortna, "Scraps of paper? Agreements and the Durability of Peace," *International Organization* 57, no. 2 (2003): 342.

⁶⁶ Ibid, 362.

⁶⁷ Ibid, 369.

⁶⁸ Ibid, 362; "Peace Treaty Between the State of Israel and the Arab Republic of Egypt," signed March 26, 1979, *United Nations Treaty Series* vol. 1136, registration no. 1-17813, <https://peacemaker.un.org/egyptisrael-peacetreaty79>; "Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II)," signed September 28, 1995, <https://mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/THE%20ISRAELI-PALESTINIAN%20INTERIM%20AGREEMENT.aspx>.

Ambiguity in an agreement has several important consequences. Specificity alleviates misunderstandings and tensions that arise from accidental noncompliance that can occur when an agreement is ambiguous. Additionally, it helps to prevent participants in the agreement from arguing their way out of upholding certain provisions based on an interpretation of vague language—a problem which plagued these accords—that may lead to the other participant(s) retaking up arms.⁶⁹ For example, in Oslo II, mention was made that “the integrity and status [of the territories] will be preserved during the interim period” which Palestinians interpreted to mean settlement expansion violated the Accord, but Israel argued it referred to political status only.⁷⁰ Ambiguity can also create a false sense that an issue is resolved or of what has been conceded or gained by the parties.⁷¹ All of these consequences lead to increased tensions between the parties that can flare up into renewed fighting. As a result, nonspecific agreements reduce the duration of peace.

Despite their length, the Oslo Accords are still widely considered to be nonspecific with specificity varying depending on the article.⁷² Throughout the Oslo Accords, committees are made to deal with oversight or function of specific aspects of the agreement. However, many of these committees are ill-defined. For example, Article XXVI, Section 5 of Oslo II outlines the creation of a “Monitoring and Steering Committee” responsible for overseeing implementation of the agreement.⁷³ Beyond that, the only other information about this committee is that it will be

⁶⁹ Amy L. Smith and David R. Smock, *Managing a Mediation Process*, (2008), 57; Kittrie, “More Process than Peace”, 1704-5.

⁷⁰ “Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II),” signed September 28, 1995, <https://peacemaker.un.org/israelopt-osloII95>; Smith, *Palestine and the Arab-Israeli Conflict*, 449.

⁷¹ Kittrie, “More Process than Peace,” 1703-4.

⁷² Rynhold, “Failure of the Oslo Process,” 10; Kittrie, “More Process than Peace,” 1701-1706.

⁷³ “Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II),” signed September 28, 1995, <https://mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/THE%20ISRAELI-PALESTINIAN%20INTERIM%20AGREEMENT.aspx>.

composed of the heads of other committees made in the agreement and the joint heads will establish the rules and procedures. There is no discussion of by what mechanisms the committee is to monitor or enforce implementation, any mechanisms for appealing their decision regarding implementation, or even how the joint heads of the committee will be chosen. This committee, in particular, is one of the least well-defined of all created in the agreement. Yet, this committee may be one of the most important specifically because it deals with the crucial process of agreement implementation. Without implementation, an agreement is meaningless. In a conflict where trust and cooperation is seemingly nonexistent, crafting a committee that serves this role requires much more specificity regarding its function, authority, mechanisms, etc. Consequently, lack of specificity in this instance hampers a committee that would play an important role in ensuring success of the agreement and potentially straightening out further ambiguity within the agreement as implementation progressed.

Another example of lack of specificity is in regards to settlement of disputes which is introduced in Oslo I and restated in Oslo II. These articles state that disputes should be settled first through the Liaison Committee (which in itself is not well-specified), then through a conciliation method they agree upon, and finally to an Arbitration Committee that will be set up by the parties.⁷⁴ Once again, this is all that is enumerated in the agreement relating to these dispute resolution mechanisms. At no point is the dispute process spelled out in any detail nor is the Arbitration Committee's specifics. In any agreement that requires party coordination, especially on something as complex as joint jurisdiction and succession of governance, disputes are very likely to occur. Without well-specified mechanisms for settling these disputes, however,

⁷⁴ Ibid.

they can easily spiral into a recurrence of conflict. Additionally, with the notoriously difficult relationship that Israel and Palestine have had, it seems counterintuitive to create provisions in the agreement that require them to come to a consensus outside the purview of the agreement. In an asymmetrical conflict such as this, the less powerful party has less leverage with which to negotiate terms beneficial to them. Thus, leaving Israel and Palestine to negotiate amongst themselves important aspects pertaining to implementation will tend to exacerbate the power disparity between them.

Overall, ambiguity is present throughout the agreement, but particularly noticeable in the many committees established in the Accords. Oversight of implementation and dispute settlement, in particular, are crucial aspects of any agreement; to leave the committees responsible for them vague in their processes or structure jeopardizes an agreement from the moment of signing because without implementation, this agreement is merely a piece of paper. Their importance to the success of an agreement is why these two particular examples out of the myriad of choices from these Accords were chosen. Yet, ambiguity is built in to this agreement even down to specific word choice or verbiage which in some cases have caused greater contention than these areas discussed above. These are just more egregious examples.

Mediator Bias

The impact of mediator bias is a process variable heavily debated within the international mediation literature. Initially, mediator impartiality was considered a prerequisite for successful mediation.⁷⁵ In this case, a neutral mediator has no preference for either party in the dispute and

⁷⁵ Peter Wallensteen and Isak Svensson, "Talking Peace: International Mediation in Armed Conflicts," *Journal of Peace Research* 51, no. 2 (2014): 320.

is engaging in mediation for primarily altruistic or humanitarian reasons. It is believed, in this case, that a neutral mediator facilitates communication between the parties allowing mediation to be carried out.⁷⁶ However, critics believe that neutral mediators do have an interest: conflict resolution. Therefore, they may deceive the parties in order to reach a settlement more quickly.⁷⁷ On the other hand, many authors contend that biased mediators are, in fact, better suited as mediators because they hold leverage over one (or both) of the parties.⁷⁸ In this case, biased mediators may be able to get their party to agree to concessions that ultimately facilitate the continuance of the mediation process. In spite of that, this seems overall counterintuitive to the long-term success of a mediated agreement. Above, Bercovitch and DeRouen found through quantitative analysis that party willingness to negotiate increased long-term success while superpower involvement and imposition of mediation decreased it.⁷⁹ These variables all relate to the parties' own control within the process, so though they may seem distinct, the ultimate effects are quite similar. If a party is unwilling to concede on a particular issue, yet does because it is strong-armed into it, it has less of a stake in following through on the agreement. Once out of the mediation environment, that party is likely to resent that they were forced to give in on issues when they were not yet ready. As a result, forms of coercion tend to decrease long-term duration of an agreement. Thus, biased mediators may be effective at reaching a settlement, but that does not necessarily mean the settlement is implemented nor that it lasts. Nevertheless, this debate is far from settled and continues to be discussed within the literature.

⁷⁶ Andrew Kydd, "Which Side Are You On? Bias, Credibility, and Mediation," *American Journal of Political Science* 47, no. 4 (2003): 599.

⁷⁷ Ibid, 598; Alastair Smith and Allan Stam, "Mediation and Peacekeeping in a Random Walk Model of Civil and Interstate War," *International Studies Review* 5, no. 4 (2003): 127.

⁷⁸ Wallensteen and Svensson, "Talking Peace," 320.

⁷⁹ Bercovitch and DeRouen, "Mediating Ethnic Civil Wars," 108.

In the case of Israel and Palestine, mediator bias negatively impacted the outcome of the negotiation. Norway appeared from the outside to be a neutral facilitator and even went to great lengths to ensure process equity between the two parties: giving them the same meals, same cars, same time with which to make their case, etc.⁸⁰ Initially, Norway provided merely a space in which the parties were forced to meet and discuss.⁸¹ However, as the talks progressed, Norway's Foreign Minister became increasingly involved and began to take on an active role as mediator between the two parties.⁸² This role favored Israel throughout the process. On multiple occasions, the Foreign Minister met with Yasser Arafat in private at the behest of Israel to persuade him to agree to Israel's terms.⁸³ The Foreign Minister would then report back to Israel what was discussed in the meeting and the general mood of Arafat on these issues. For example, in Oslo I, the PLO hoped to get a corridor between Gaza and the West Bank to facilitate passage between the two, but Norway's Foreign Minister argued that Israel would not accept that and persuaded them to accept the term "safe passage" (which has no meaning) instead.⁸⁴ Norway practically bent-over-backwards to accommodate Israel throughout the process, yet they provided no such help to the Palestinians. There is no evidence to suggest that Norway tried to convince Israel to accept greater concessions or that they gave information to the PLO about what Israel was willing to negotiate on.⁸⁵ Consequently, Oslo I—and by extension Oslo II—was characterized by few Israeli concessions and little fulfillment of PLO demands.

⁸⁰ Hilde Henriksen Waage, "Postscript to Oslo: the Mystery of Norway's Missing Files," *Journal of Palestine Studies* 38, no. 1 (2008): 63.

⁸¹ Hilde Henriksen Waage, "Norway's Role in the Middle East Peace Talks: Between a Strong State and a Weak Belligerent," *Journal of Palestine Studies* 34, no. 4 (2005): 9.

⁸² *Ibid.*, 11-12.

⁸³ *Ibid.*, 12-14.

⁸⁴ "Declaration of Principles on Interim Self-Government Arrangements (Oslo Accords)", signed September 13, 1993, <https://peacemaker.un.org/israelopt-osloaccord93>; Waage, "Norway's Role in the Middle East," 12.

⁸⁵ Waage, "Norway's Role in the Middle East," 19.

Despite their leading role in facilitating negotiation previously, the US played merely an indirect role in the backchannel negotiations in Oslo I. At the time of the backchannel, the US was involved in its own semi-public peace negotiations with Israel and Palestine that had stalled.

⁸⁶ This was due in part to a belief by the Palestinian delegation that the US bias toward Israel kept Israel from seriously negotiating with them.⁸⁷ Thus, both parties increasingly hedged their bets on the Oslo process as a way to overcome the stalemate that had begun to characterize the repeated mediation attempts by Washington. Nevertheless, US approval of what was done at Oslo was seen as crucial to both parties. Memoirs published by multiple high level officials involved in the talks indicate that Israel was looking to US reaction to the agreement as an indication of the trust between the two governments.⁸⁸ Palestine as well was mindful that reaching an agreement with Israel would open them up to receive US aid since the PLO had previously been denied recognition by Washington.⁸⁹ Both Israel and Palestine understood that the US possessed resources that could be used as leverage in the event that the agreement was counter to US interests in the region. Therefore, even without direct US involvement in the negotiation of the Oslo Accords, the US's tremendous resources and known alignment with Israel meant that they exercised considerable indirect control over the agreement.

In the above two cases, neither Norway nor the United States acted as neutral arbiters in the negotiations between Israel and Palestine. In both cases, the countries tended to favor Israel despite their differing motivations for doing so. It seems that the idea that no mediators are truly

⁸⁶ Daniel C. Kurtzer, Scott B. Lasensky, William B. Quandt, Steven L. Spiegel, and Shibley Telhami, *The Peace Puzzle: America's Quest for Arab-Israeli Peace*, (Cornell University Press, 2012), 33.

⁸⁷ Ibid.

⁸⁸ Daniel Lieberfeld, "Secrecy and "Two-Level Games" in the Oslo Accord: What the Primary Sources Tell Us." *International Negotiation* 13, no. 1 (2008): 140.

⁸⁹ Ibid, 137.

neutral may be exemplified here in that Norway's preoccupation with the prestige that would come from mediating an agreement in this historically intractable conflict was more important to them than neutrally attending to both parties.⁹⁰ Furthermore, the knowledge of US interests and vast resources meant that both parties were only willing to go as far as they knew the US would support. The Oslo Accords, thus, came to reflect more so what the Israelis were willing to concede on (crossing none of their "red lines" like settlements) and less what the Palestinians demanded from the process.

Reconciliation

International mediation literature has long ignored the issue of reconciliation in its reconstruction of the process of conflict resolution. However, recent scholarship has begun to recognize the vital role that reconciliation plays concomitant with the process of conflict resolution. Reconciliation is especially critical to the conflict resolution process in the case of ethnic civil wars. This is due to the fact that the parties in ethnic civil wars do not fit the realist understanding of conflict in which parties fight over tangible interests and prefer peace due to recognition of the costs of war.⁹¹ Reconciliation, therefore, utilizes a psychological needs based model which recognizes that when the parties' basic needs are threatened, emotional states manifest that lead to conflict perpetuation.⁹² Further, these emotions are harnessed by political leaders using ethnic symbols to project hostility onto the ethnic out-group creating a "symbolic

⁹⁰ Waage, "Norway's Missing Files," 55.

⁹¹ Stuart J Kaufman, "Escaping the Symbolic Politics Trap: Reconciliation Initiatives and Conflict Resolution in Ethnic Wars." *Journal of Peace Research* 43, no. 2 (2006): 201-2.

⁹² Nurit Shnabel, Arie Nadler, Daphna Canetti-Nisim, and Johannes Ullrich, "The Role of Acceptance and Empowerment in Promoting Reconciliation from the Perspective of the Needs-Based Model." *Social Issues and Policy Review* 2, no. 1 (2008): 161-2.

politics trap” from which it is difficult for leaders to extricate themselves.⁹³ Examples of this include Israeli PM Ehud Barak stating that Arabs lie because in Islam there is not the same connotation for lying as there is in Judeo-Christian culture or Yasser Arafat praising the murder of Israelis by Palestinians.⁹⁴ Statements such as these only serve to reinforce entrenched notions of the out-group and harden each groups position that peace is unattainable. Hence, conflict resolution is often not enough to generate a permanent end to conflict because agreements typically address political, economic, and legal needs and not emotional ones.

Reconciliation, as stated above, is theorized to require addressing of justice, truth, historical responsibility, and political and social restructuring in order to be successful.⁹⁵ Through this process, a new relationship is achieved based on mutual trust, legitimacy, security, and recognition. Ultimately, it should also help facilitate the creation of new identities for both parties which do not rest on the negation of the other as a central element.⁹⁶ These ends can be encouraged in a number of ways, namely truth commissions, historical commissions, problem-solving workshops, curricula modification, etc. In the case of a symbolic politics trap, reconciliation is also crucial for de-escalating politics by humanizing the out-group thereby priming the populous for peace and decreasing the availability of people to act as spoilers (subgroups that seek to undermine the process) to the peace process.⁹⁷ As such, it should begin before the start of negotiations and continue long after as true reconciliation can take decades.

⁹³ Kaufman, “Escaping the Symbolic Politics Trap,” 202.

⁹⁴ Berry and Philo, *Israel and Palestine*, 111; Quoted in “Incitement to Violence Against Israel by Leadership of Palestinian Authority-27-Nov-96,” *Israel Ministry of Foreign Affairs*, 27 November 1996, <https://mfa.gov.il/mfa/foreignpolicy/peace/mfadocuments/pages/incitement%20to%20violence%20against%20israel%20by%20leadershi.aspx>.

⁹⁵ Rouhana, “Power Asymmetry in Reconciliation,” 36.

⁹⁶ Kelman, “Conflict Resolution and Reconciliation,” 4.

⁹⁷ Kaufman, “Escaping the Symbolic Politics Trap,” 207-210.

Consequently, reconciliation replaces a foundation between the groups of hostility with one of trust and recognition that can prop up a peace agreement to defend against spoilers and facilitate a longer lasting arrangement than one based solely on politics.

Reconciliation is preeminent for the Israel-Palestine conflict because of the reliance of each group's identity on the negation of the other. Each group has constructed a historical account of their plight in which they are the perpetual victim and the other is the aggressor. Israel's narrative focuses on their historic and religious link to the land while framing the Palestinians present in Palestine as illegal aliens and a threat to Israel due to terrorist attacks and demographic concerns.⁹⁸ Palestinians have instead focused their rhetoric on the illegality of the Jewish state and the removal of Palestinians from their land while neglecting their own use of terror tactics and extreme rhetoric calling for the elimination of Israel.⁹⁹ These narratives threaten the ability of the sides to reach a peace agreement because compromise is viewed as a betrayal against the ethnic group and their historic struggle. One method to remedy an issue of this magnitude that involves notions of historical responsibility and truth (which look different to each party) is to utilize a historical commission. History is political; divergent retellings of a shared history only serve to benefit their respective positions and ignore the common truth held within. Historical commissions, thus, serve as an environment to foster understanding of another group's experience and to reach a broader awareness of the truth and consequences of a historical event. Karn describes bilateral historical commissions that allow groups to come together, but that accept some difference in the retelling of the same event. Using the case of Poland and the Ukraine, he shows that these commissions can use scholarly inquiry from both

⁹⁸ Rouhana, "Power Asymmetry in Reconciliation," 44.

⁹⁹ Rouhana, "Power Asymmetry in Reconciliation," 44-5; see also Alan Dowty, *Israel/Palestine*, Polity, 2008.

sides to illuminate how their respective groups shaped dissemination of the conflict to fit their narrative, act as a space to air grievances, and foster understanding.¹⁰⁰ This is just one example of how reconciliation methods can be applied to Israel-Palestine to overcome some key contentious issues between the two groups. Ultimately, many issues that were ignored in the Oslo Accords stem from divergent retellings of history, such as the right to return of refugees. Consequently, no agreement can be made on these issues until they are addressed between the groups on an emotional, historical level.

Though reconciliation features are present in the Oslo Accords, they are severely insubstantial. The opening article of Oslo I states that Israel and the PLO “recognize their mutual legitimate and political rights”.¹⁰¹ Mutual recognition has long been a contentious issue, so this was seen as a tremendous step toward peace. Recognition is a crucial aspect of reconciliation, but this alone is not enough to foster trust or reconcile decades worth of conflict. Oslo II, Article XXII addresses reconciliation in three parts stating that (1) the groups should refrain from incitement and hostile propaganda and prevent incitement from other groups within their jurisdiction, (2) refrain from the inclusion of motifs in the educational system that will harm reconciliation, and (3) work together to curb illegal activity that harms both groups.¹⁰² Once again, these provisions are extremely vague (as discussed above): no specific motifs are mentioned, no guidelines for crafting new curricula, no enumeration of how they would work

¹⁰⁰ Alexander M. Karn, "Depolarizing the Past: The Role of Historical Commissions in Conflict Mediation and Reconciliation," *Journal of International Affairs* (2006): 37-39.

¹⁰¹ “Declaration of Principles on Interim Self-Government Arrangements (Oslo Accords),” signed September 13, 1993, <https://peacemaker.un.org/israelopt-osloaccord93>.

¹⁰² “Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II),” signed September 28, 1995, <https://mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/THE%20ISRAELI-PALESTINIAN%20INTERIM%20AGREEMENT.aspx>.

together against illegal activity, what illegal activity they are referring to, etc. As reconciliation measures, they ring hollow. They fail to address any of the aspects of reconciliation like truth or justice stated in Rouhana. They also do not address any of the conditions outlined by Kelman. Additionally, public portrayals of support by leaders and cultivation of positive media during the peace process are important for setting the stage for the agreement.¹⁰³ These were absent during the Oslo Process due to their secret nature. As a result, the public was not ready to reconcile their historical narratives and commit to peace which allowed for spoilers on both sides to undermine the process. By focusing merely on the tangible aspects of an agreement between Israel and Palestine, the agreements failed to address the emotive aspects of the conflict and thus failed to remove the hostile attitudes that characterize the self-perpetuating nature of the conflict. Therefore, commitments made in the Accords were easily reneged on thereby leading to the ultimate failure of the Accords.

Conclusion

Because the Israel-Palestine Conflict had been raging on for 74 years prior to the signing of Oslo I, hopes for the Oslo Accords throughout the international community were high. Unfortunately, however, the Oslo Accords failed to live up to their expectations as deadlines passed and the final settlement was never negotiated. Ultimately, the Accords were doomed from the beginning. Lack of specificity handicapped domestic implementation oversight committees and facilitated differing interpretations of the Accords that allowed Israel to continue the conditions of the occupation. Mediator bias tipped the balance of the Oslo Accords in favor of

¹⁰³ Kaufman, "Escaping the Symbolic Politics Trap," 207-212.

Israel thereby undermining Palestinian support for the process; as a result, Hamas made greater use of terror tactics and gained increased legitimacy in the Occupied Territories. Finally, lack of reconciliation features prevented the Accords from addressing the emotive features of a complex, intractable conflict. The emotive aspects of the conflict kept the delegations inflexible in the negotiation because compromise was viewed as a betrayal by their respective delegations. Furthermore, many contentious aspects were unable to be negotiated at all because fundamental differences in their retellings of the conflict prevent recognition of the other's claims as legitimate. Together, lack of specificity, mediator bias, and lack of reconciliation features undermined acceptance and implementation of the agreements: the final settlement went unrealized as a result.

Unfortunately, the conditions of occupation have only worsened since the 2000s. Repeated attempts at mediation or imposed guidelines have fallen apart.¹⁰⁴ A barrier was constructed around the West Bank that cut off the rest of the West Bank from the illegal settlements created there and in the process confiscated hundreds of thousands of acres of land designated as Palestine.¹⁰⁵ In 2006, Hamas ascended to government after winning the 2005 elections in the Gaza Strip leading the US and Israel to cut off aid and request that other countries follow in kind. Continued hostilities between Israel and Hamas has led to extensive loss of civilian lives and a tightened blockade around Gaza that borders on humanitarian crisis.¹⁰⁶ The Obama Administration locked horns with Israeli Prime Minister Benjamin Netanyahu and could not reach an agreement to end the crisis. Thus far, the Trump Administration has been

¹⁰⁴ Smith, *Palestine and the Arab-Israeli Conflict*, 482-525

¹⁰⁵ Ibid, 498-9.

¹⁰⁶ United Nations General Assembly, *Report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People*, 4 September 2018, 73rd session, <https://www.un.org/unispal/wp-content/uploads/2018/10/A.73.35.pdf>.

unable to negotiate an agreement and instead inflamed tensions with their recognition of Jerusalem as the capital of Israel.¹⁰⁷ A 2017 report commissioned by the United Nations even went so far as to argue that Israel fits the international legal definition of an apartheid regime.¹⁰⁸ With this in mind, it is now more important than ever to move forward with negotiations between Israel and Palestine. Allowing the conflict to continue on as it has will undoubtedly lead to many more civilian casualties and as Israel has shown no penchant for decreasing settlement activity, it will not be long until much of the land granted to Palestine is no longer theirs. At that point, it will be nearly impossible to undo the damage of the past century.

The only way to move forward with negotiations, though, is to understand the shortcomings of past agreements. If future agreements are crafted in the image of the Oslo Accords or unwittingly adopt similar models and strategies, they are destined to fail as well. This is why this paper offers up the variable of reconciliation as crucial to a further revised contingency model because reconciliation has been an oft ignored dimension of the conflict resolution process. Israel and Palestine continue to be stuck in the symbolic politics trap which prevents them from coming to an agreement and furthers the self-perpetuating nature of the conflict. Isolated reconciliation has occurred in the Occupied Territories carried out by NGOs, but without comprehensive attempts by the elite to alter chauvinist rhetoric, peace is not on the table.¹⁰⁹ This study also has important implications for ongoing peace talks in the Yemeni and

¹⁰⁷ Mark Landler, "Trump Recognizes Jerusalem as Israel's Capital and Orders U.S. Embassy to Move," *New York Times*, 6 December 2017, <https://www.nytimes.com/2017/12/06/world/middleeast/trump-jerusalem-israel-capital.html>.

¹⁰⁸ Richard Falk and Virginia Tilley, *Israeli Practices towards the Palestinian People and the Question of Apartheid*, the United Nations Economic and Social Commission for Western Asia, Palestine and the Israeli Occupation, Issue No. 1, <https://archive.org/details/israeli-practices-palestinian-people-apartheid-occupation-english>.

¹⁰⁹ Ifat Maoz, "An Experiment in Peace: Reconciliation-Aimed Workshops of Jewish-Israeli and Palestinian Youth," *Journal of peace Research* 37, no. 6 (2000): 721-736.

Syrian Civil Wars. These conflicts both fall within the category of ethnic civil war and both have already undergone multiple mediation attempts. Therefore, understanding the shortcomings of the agreements in another case of ethnic civil war can help the mediators in these attempts from falling victim to the same problems. As ethnic conflict is becoming more prominent in the world, learning from past failed agreements in intrastate conflict becomes increasingly crucial to stopping conflicts before they reach the point of intractability.

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