Chapter 8

Strategic Decisions Taken During the Israeli-Palestinian Peace Process as Barriers to Resolving the Conflict

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Mahatma Gandhi's famous quote – "We must become the change we want to see in the world" – makes the definition of 'strategy' very clear. *It is the comprehensive and coherent conception of the ultimate goals of the leadership in combination with the main routes to achievement of these goals.*

The success of negotiations in any sector – business, civil dispute resolution, or political processes – is hard to predict on the basis of one of the parties' "correct strategy" because success depends on coordination and harmony between the "correct strategies" of both sides simultaneously, in parallel, and throughout the entire process. This condition illustrates the fragility of a strategy even when it is the correct one, but it also challenges the leader to rise above and beyond in formulating or "finding" a strategy – a "grand strategy" – that can overcome the obstacles posed by the counter-strategy.

Based on our experience in following the negotiating process with the Palestinians through its various stages and derivative developments since 1993, as well as on research and analysis of writings on this issue, our starting assumption is that the Israeli-Palestinian conflict can indeed be resolved through negotiations between the parties, but that this will require overcoming difficult or preventative obstacles. This chapter aims to present and analyze the barriers that led to the failure of the Oslo formula for negotiations and to draw lessons in the following three key areas:

1. **The strategic decision of each of the parties as a matter of substance** (the "grand strategy") that lays a firm foundation for resolution of the Israeli-Palestinian conflict through a process of negotiations towards peace;

2. **The decision by each of the parties about a negotiating strategy in accordance with the strategic substantive decision** regarding resolution of the conflict through negotiation – the *"how"* decision; and

3. **Decisions taken by each of the parties regarding resolution of the substantive issues of the conflict, with attention to an agreed-upon source of authority, and each side's degree of willingness to make the necessary strategic compromises.**

In operative terms and on the basis of in-depth work, a correct strategy is defined as follows: a strategic outline requires a principled focus on three different and complementary factors for fulfillment:

1. **Outlook based on fundamental and underlying principles** (Dror, 1989) – this outlook allows in-depth exploration of problems and addressing their root causes, as distinct from the common tendency to focus only on what is visible above the surface.

2. **Comprehensive and coherent outlook** – addressing various aspects from a comprehensive perspective in order to achieve a complete and comprehensive picture of the situation ("a multi-layered web composed of various pieces" according to Dror); and

3. **Long-term outlook with the characteristics of overview and vision**, which are not affected by the working definitions that result from the current situation and are not erased by them.

Judging on the basis of the abovementioned principles, the "surprise" of the Oslo Accords regarding Israeli political leadership, combined with the well-known fact that the agreement was initiated and prepared primarily by a non-governmental academic team, indicates that the Israeli decision to proceed according to the Accords' formula lacked a strategic foundation (Beilin, 1993).[82] Perhaps this

[82] Since her earliest days, Israel had not formulated a strategy for peace with the Arab world because she did not believe that the Arab world would ever come to terms with her existence. "Why would the Arabs make peace?" Ben-Gurion asked Nahum Goldman in a heart-to-heart conversation between the two just a few years after the birth of the state. "If I were an Arab leader, I would never accept the existence of Israel. It's only natural! We took their lands. True, God promised them to

factor embodied – already in the early stages – one of the seeds of the failure of the process. Conversely, Arafat was involved in the secret contacts from the very beginning, and the Palestinian side included PLO officials – the same officials who are negotiating with Israel to this day. These facts alone serve as early evidence – or at least suggest – that the Palestinian decision to follow the Oslo process rested on a strategic foundation. These assumptions do not, of course, provide evidence of the sincerity of the intentions underlying the Palestinian decision or, alternatively, lack of Israeli sincerity to reach a compromise with the Palestinians.

The leaders of Israel and the PLO had come a long way when they reached a mutual commitment in the autumn of 1993 to resolve the historical conflict between themselves through peaceful means and implemented a number of interim agreements, signed in the framework of the Oslo process. The process was based on U.N. Resolutions 242 and 338, which address resolution of the territorial and humanitarian problems generated by the Six Day War. This process was intended to lead to the establishment of a Palestinian political entity alongside Israel.[83] The status of this entity was supposed to be determined through negotiations on a permanent arrangement upon the conclusion of a five-year interim phase (Abu Mazen, 1994; Abu Alaa, 1998). Negotiations on a permanent arrangement, however, which took place from late 1999 through January 2001, led to further polarization of the parties' positions and to confrontation with questions that touch upon the origins of the conflict, the results of the 1948 war, and the prolonged and violent confrontation.

The complete picture of the causes for the collapse of the effort to resolve the conflict is composed of various elements, visible and hidden. Some of these apparently require psychological and cultural analysis, while others require

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us, but what does that matter to them? Our God is not their God. We come from Israel, it's true, but that was 2,000 years ago, and what does that mean to them? Anti-Semitism, the Nazis, Hitler, Auschwitz all happened, but were they their fault? They only see one thing: we came along and took their lands. Why should they accept that? Maybe they will forget in a generation or two, but at the moment there is no chance of this" (Goldman, 1968).

[83] The Israeli and Palestinian positions were polarized: while Israel sought to minimize the future possibility of the formation of a Palestinian political entity with the status of an independent state, the Palestinians realized from the outset that the Oslo process should lead to the establishment of a sovereign Palestinian state (this assessment is based on personal conversations that took place in early 1994 with representatives of the Israeli and Palestinian delegations to the Oslo talks).

exploration of the political standing of leaders on both sides and their ability to make historic decisions, in addition to examination of the factors that affected their readiness to pursue an agreement. All of these are significant in relation to the visible positions adopted by each side during the negotiations, positions that often represented hidden content with tactical, and even manipulative, significance.

In the years that have passed since negotiations on a permanent arrangement came to a halt, the reasons why a permanent arrangement was not achieved have been researched in various contexts by the leaders and advisors who were involved in the negotiations, by academics, and by prominent media personalities. Some asserted that during the Camp David Summit (July 2000), Israel presented a practical proposal for an arrangement that was rejected by the Palestinians because Arafat was not interested in recognizing Israel as a Jewish state and in concluding a two-state agreement with it. Others claimed that Israel did not present a proposal that the Palestinians could accept and that its conduct during the negotiations – such as the demand to reach a speedy decision within one summit – prevented the achievement of an agreement. Some asserted that the process was doomed to failure from the start because Arafat had not changed his ways and continued to adhere to the strategy of "a Palestinian state from the sea to the river." A few argued that the principal reason for inability to reach a permanent arrangement is rooted in mismanagement of the negotiations on all sides rather than in a substantive inability to reach an agreement (Sher, 2001; Malley & Agha, 2001, Drucker, 2002; Klein, 2001; Bar-Siman-Tov (ed.), 2003; Pundak & Arieli, 2003; Rubinstein et al., 2003; Lavie, 2004; Ben-Ami, 2004).

The analysis presented here addresses the quality of the strategic decisions taken by leaders on both sides with respect to reaching an agreement at two critical points in time: at the start of the Oslo process in 1993 and at the start of final status talks in November 1999. The question we will explore with respect to the first point in time is: did the leaders truly and sincerely expect to reach an agreement that would address the results of the 1967 war and to pay the price demanded of them? That is, did they expect that the PLO would not demand a right of return, and that Israel would concede the territories of the West Bank and Gaza Strip that it captured in 1967 (including administration of East Jerusalem)?

The question regarding the second point in time is: did the leaders on both sides understand the significance of moving from a discussion of the 1967 problems to a discussion of the "1948 file" when they decided that final status talks would entail detailed agreement on all issues – including the right of return – and lead to an end to the conflict? Did the Israeli side understand that this would necessarily lead to a Palestinian demand for recognition of the historic injustice perpetuated against them in 1948 and of the right of return as per their interpretation of U.N. Resolution 194? Did the Palestinian side think that Israel could accept these demands? And did both sides believe that it would be possible to reach an agreement despite their peoples' clashing national and religious narratives?

The Quality of the Strategic Decision at the Outset of the Political Process

The quality and substance of strategic decisions are evaluated, among other means, on the basis of their past origins, their reliance on guiding worldviews and principles, and the degree of coherence between these decisions and past decisions (Yaniv, 1994; Tal, 1995).

The Palestinian Side

The PLO leadership made its political decisions regarding the conflict with Israel approximately five years prior to the Oslo process, at the 19th assembly of the Palestinian National Council (the parliament of the Palestinian people) in November 1988 in Algiers. At this historic gathering, which took place approximately one year after the start of the first *Intifada* and six months after Jordan's decision regarding administrative disengagement from the West Bank, the PLO accepted U.N. Security Council Resolution 242, paving the way for a political process with Israel. Arafat understood that his survival as leader of the Palestinian people depended on his ability to meet the aspirations of the West Bank and Gaza Strip residents to be liberated from occupation through an agreement with Israel (Lavie, 2003; Steinberg, 2008).

At this meeting the PLO accepted Resolution 242, as well as other U.N. resolutions dealing with the question of Palestine, and formulated a political

stance that distinguished clearly between the question of establishing a state and the 1967 borders on the one hand, and the refugee question and "historic injustice of 1948" on the other. This stance had three elements:

1. Acceptance of the U.N. partition plan according to Resolution 181 of 1947, which means establishment of a Palestinian state with international legitimacy, not conditional on Israel's goodwill or a political trade-off with Israel;

2. Establishment of a Palestinian state along the 1967 borders as well as East Jerusalem on the basis of U.N. Resolution 242, to be implemented according to the precedents of its implementation with other Arab countries, including dismantling of all settlements and the return of the those uprooted in 1967; and

3. Implementation of the refugees' right of return or their resettlement and compensation for property on the basis of U.N. Resolution 194 of 1948 (Susser, 1990; Abu Mazen, 1994).

The significance of these decisions was that they represented, on the one hand, a historic national decision to accept, at this stage of the national struggle, a territory smaller than Palestine (some 22%) in comparison to what had been offered to the Palestinians through the partition plan and, on the other hand, insistence on implementation of the right of return, which, in practical terms, translates into a final and declared refusal to concede "all of Palestine."[84] In legal terms, these decisions on the part of the Palestinian National Council are firm and valid as long as no other decisions are taken. They were at the basis of the Palestinian political position during the Madrid Conference of October 1991, the Oslo Accords of September 1993, and the final status talks that took place from November 1999 until January 2001, as well as the Annapolis process of 2008.

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[84] In fact, Arafat undertook a process similar to that taken by Menachem Begin, who upon becoming prime minister in 1977 decided that his government's policy would be based on Resolution 242 and thereby paved the way to withdrawal from the Sinai Peninsula and to peace with Egypt, without conceding the principle of Greater Israel (the complete Land of Israel). Both leaders thus took decisions that reflected pragmatism and realpolitik while simultaneously preserving their ideology regarding the entirety of their countries.

The Israeli Side

Israel's "surprise" at the 1993 Oslo Accords might be evidence that the strategic decision to operate in accordance with the Oslo process did not rest on the past. Already in 1968, only a few months after the Six Day War, we find a proposal outlining an agreement with the Palestinian residents of the West Bank. The proposal, which was formulated into a draft agreement between Moshe Dayan and Sheikh Ali al-Ja'abari of Hebron,[85] was based on the same principles that later became the principles of Camp David (1978) and the Oslo Accords (1993): a five-year autonomy agreement during which the parties would discuss a permanent or final status agreement. The first stage in implementing the agreement was to be autonomy for the Gaza Strip and Jericho. This proposal was brought to the attention of King Hussein of Jordan for his approval, but he categorically rejected it, fearing that the notion of autonomy would seep across the borders into his kingdom (Tevet, 1969: 241-251; Abbul Hadi, 1975: 336; Maoz, 1985: 109-115; Bavli, 2002: 115-157).

Ten years before the Palestinians decided to participate in a political process with Israel in accordance with Resolution 242 (Algiers, 1988), Israel had accepted the basic outline of an agreement with the Palestinians in the framework of Middle East Peace as agreed at Camp David in 1978. This framework was based on the principle of "land for peace" and on U.N. Security Council Resolutions 242 and 338 as the legal basis for future peace agreements between Israel and Egypt, the Palestinians, and other Arab countries. The outline for an agreement with the Palestinians was based on the following principles:

♦ Palestinian self-rule would be implemented in the West Bank and Gaza Strip for a period of five years. This regime would represent an early stage towards a permanent arrangement for these territories. Under self-rule, after withdrawal of the Israeli military rule and its civilian administration, the Palestinians would enjoy full autonomy.

♦ In the first stage, autonomy would apply to two areas: the Gaza Strip and the City of Jericho.

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[85] Lecture by Moshe Sasson in 1995 on the occasion of publication of Cohen Shani, S. (1994). *The Paris Campaign: Intelligence and Secret Diplomacy at the Beginning of the State*, Ramot Publishing (Hebrew).

- Palestinians would choose the independent Palestinian administrative authority through free elections.

- The preparations for autonomy would be discussed by Israel, Egypt, and Jordan.

- A Palestinian police force would be established to maintain order. Israel and Jordan would jointly patrol the borders.

- No later than three years after the inception of independent Palestinian rule, permanent-agreement talks would begin among representatives of Israel, Egypt, and Jordan as well as elected Palestinian representatives from the West Bank and Gaza Strip;

- During the transition period, a joint committee with the participation of Egypt, Jordan, Israel, and elected Palestinian representatives would be established in order to discuss the future of those Palestinians who left the West Bank and Gaza Strip in 1967. Egypt, Israel, and "other interested parties" would discuss setting agreed-upon guidelines for solution of the problems of the refugees and those uprooted.

This outline – which was formulated with Egypt in 1978 and was, as noted, part of the framework agreement for Middle East peace – is almost completely identical in wording and principles to the "Declaration of Principles" (Oslo Accords) of 1993. It thus begs the question as to the substance and credibility of Israel's strategic decision regarding the political process with the Palestinians, given that the principles of the Oslo Accords did not contain anything new or any surprises.

Another indicator by which the quality of the strategic decisions of the parties to the Oslo process – Israel and the Palestinians – should be assessed is the measure of alternative decisions available to the parties.

A substantive and credible strategic decision is a coherent decision that rests on primary and long-term national interests. This is a comprehensive decision, free of internal contradictions, based on a solid foundation, and embodying the best strategic alternative, all others having been examined and rejected. Such a

strategic decision[86] stands by itself, without competition. In order for a decision to be defined as a strategic decision, it must meet the fundamental condition of having been chosen through a process of selection among alternative strategies. Reciprocally, a decision taken under circumstances of no alternative will be of lower strategic weight and value (Dror, 1989; Janis and Mann, 1980).[87]

In this sense, the decisions of the two sides were not strategically "strong." Over the years Israel has considered and preferred other solutions to the "Palestinian problem"[88] (Gazit, 1999) – from the Jordanian option, through partial administrative autonomy by way of directed leadership ("village leagues"), to denial of the problem ("there is no Palestinian nation") – or preparedness to live with the problem as a "bearable cost" (Inbari, 1982; Schueftan, 1986; Kimche, 1992; Lavie, 2009). Therefore, the Israeli decision does not meet the criterion of a "chosen strategic alternative" (Ben-Dor, 2009; Michael, 2009).

The PLO leadership also chose the "Oslo option" (Shemesh, 1997; Sela, 1997) under conditions of lack of alternative. Egypt had signed a separate peace treaty with Israel (1979) while indicating that the framework agreement should resolve the Palestinian problem, but without insisting on its implementation (Haber, Schiff and Yaari, 1980). After the Lebanon War in the summer of 1982 and the expulsion of the PLO to Tunisia, the organization gradually lost standing in the Arab and international arenas, as well as military capability. The PLO leadership almost lost its way and its ability to guide and direct the people and the national organizations on the West Bank and in the Gaza Strip. The war and its outcomes marked the beginning of the shifting of Palestinian political operations' center of gravity from exile to the territories (Susser, 1985; Lavie, 2009).

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[86] Yehezkel Dror described this type of strategy as a "grand strategy" or a "total strategy" in accordance with the French concept.

[87] A decision of low strategic weight is a decision taken under less than optimal conditions. A theoretical discussion can be found in the classic 1980 book *Decision Making* by Irving L. Janis and Leon Mann.

[88] In his book *Trapped Fools*, Shlomo Gazit describes the political leadership's lack of decision making regarding the "Palestinian problem" as follows: "Many Israelis believed that the Palestinians do not pose a political problem, that they lack any political wishes or desires of their own, that their only aspiration is to see the destruction of the State of Israel. It follows that they should not be seen as a partner in dialogue. At most, we could discuss their problems with another party, such as Jordan, Egypt, or even the United States. For these reasons, Israel developed a mental block that prevented any discussion of the territories and their residents."

Members of the "internal" leadership and the PLO leadership expressed opposition to maintaining pursuit of a military solution and argued that this approach only harms the PLO and national unity without bringing the Palestinian people any closer to realization of its rights (Khalaf, 1985). Simultaneously, the Arab world's willingness to stand by the Palestinians in their struggle for self-determination and statehood, at the expense of practical national interests of each individual state also decreased. At the Arab states' summit in Amman in November 1987, the Palestinian problem was not a priority agenda item (Inbari, 1989; Lavie, 2009). The concluding statement of the summit did not explicitly address the need to establish an independent Palestinian state (Maddy-Weitzman, 1987). Only the renewal of the struggle against occupation of the West Bank and Gaza Strip – that is, the first *Intifada* – brought the issue back to the Middle Eastern agenda to some extent (Lavie, 2009).

The hardship inflicted on the local population by the continuation of the *Intifada*, combined with the possibility that masses of immigrants from the former Soviet Union would be settled in the West Bank (Sa'ad, 1991: 204-205; Bastami, 1991: 137-143; JMCC: 1991), led the local leaders to apply pressure on the PLO leadership to break the deadlock. They demanded political pragmatism and the translation of what was achieved through the *Intifada* into political currency in order to reach an agreement and put an end to the Israeli occupation. For lack of an alternative, the PLO leadership realized that it must take into account the positions of the local leaders. This realization grew stronger after the international legitimacy of the PLO was undermined following its support for Iraq during the Gulf War in 1991 and the cessation of financial support from Saudi Arabia and the Gulf states. On the eve of the Madrid conference, the PLO leadership feared that in the context of the new order within the Middle East, the organization would lose its influence. It was therefore willing to have leaders from the territories serve as the primary representatives during the first stages of the political process (Al-Husari, 1991; Bentsur, 1997; Lavie, 2009).

Given that such is the quality of decisions both within Israel and among the Palestinians, it is only natural that the later stages of the political process were riddled with breakdowns and void of content, although this was not the only reason. The Oslo process failed because the decisions of both sides to resolve the conflict peacefully were neither sound nor strategically substantive. In other

words, both sides saw the negotiation process as a tactical cover – if only to play for time and gain international support – an alibi that would enable each of the sides to develop more comfortable solutions with time.

At the psychological and visible levels, weak strategic decisions, which do not in any event provide a strategic foundation for actualization of the political process, create a sense of failure, doubt, and lack of clarity. Such decisions generate inflexible, uncompromising behavior of the sort that does not operate tactically in support of a strategic goal because, after all, the process is destined for failure from the start.

The Negotiating Process

The success of any negotiating process depends on the two principal levels at which it takes place – the levels of substance and process (Galin, 1996). These two levels are intertwined and mutually dependent. The framework set for negotiations must take into account the various possible scenarios that could take place during the process in accordance with:

♦ **The quality of preliminary decision**

♦ **The goals and objectives of negotiations**

♦ **The stages of negotiations**

♦ **Terms and conditions for the course of negotiations**

♦ **Defining the interaction between the parties**

♦ **Defining the scope of maneuverability**

♦ **Mechanisms for coping with crises** (Fishman, 1999).

It seems that the Oslo process suffered handicaps in all of the above areas. The three main and most salient principles defined in the Oslo Accords as part of the negotiating process were the following:

1. Negotiations would proceed from the easy to the difficult, or weighty, issues and would take place in stages: Gaza and Jericho first, then interim agreement, and, finally, final status talks.

2. Trust would be built between the two sides in the course the stages defined above.

3. The main substance of the political process – the final status agreement with all it entails – will remain an open and undetermined issue to be determined during final status talks over the course of the five-year interim arrangement.

These three principles are fundamentally flawed for the purposes of a negotiating process and they posed an obstacle to the political process. Moreover, the principles as established in fact contradict each other internally. In the first place, the political process was left without a definition of its final goal – a sovereign Palestinian state in accordance with Palestinian expectations, but apparently not sovereign according to Israeli intentions. This situation, which encourages the parties to establish firm and hasty facts on the ground, is in stark contrast to the phased nature of the process, which is also, incidentally, intended to build trust between them. Above all, both sides apparently assumed that by the time they reach the "weighty core issues," the negotiating process would be stuck. Thus, even the "small successes" on easily agreeable issues were no more than a front, not backed by actual substance.

We will briefly outline alternative principles, which would likely have supported the negotiating process in a positive way:

♦ **Agreement on the final goal of negotiations** – such an agreement can generate positive motivation on both sides to follow the stages of the process through to the end and to reduce as much as possible the violation of agreements reached along the way. Thus, for example, it is possible that the parties would have reached agreement about the final goal of the negotiations – a Palestinian state – if this were framed as a "conditional agreement." A "conditional agreement" is not a substitute for in-depth negotiations, which in any case would address a variety of issues, such as the nature and quality of terms and conditions for the establishment of a Palestinian state, the character of the state, its security arrangements, the nature of its links to Israel, the state's regional standing, and other relevant issues.

♦ **Trust building between the parties regarding agreements of high value and great cost to both sides** – conversely, as happened in the Oslo process,

the more the discussion of weighty issues is postponed to the end, the more the level of trust is reduced between the parties. Indeed, the very concept of moving "from the easy to the weighty" issues embodies within it the suspicion and mistrust between the parties. The dynamics between the parties in such circumstances cause them to project an increasing sense of mutual mistrust. Alternatively, discussion of the "weighty issues" in accordance with the balancing principle of "nothing is agreed until everything is agreed" has the potential to cultivate trust between the parties. In such a situation, relations of trust between the two sides result from and build upon two key factors. First, it is clear to each of the parties that the other's decision is a substantive, strategic decision taken to resolve the problem at the level of its root causes, while also laying the foundation to do so. Second, both sides rely on the same mutual foundation for resolving the conflict, and the final goals of the political process are clear and agreeable to both.

♦ **Placing all issues on the negotiating table** – rather than discussing issues separately through distinct tracks and stages, placing all of the issues on the table enables open, transparent, and – in particular – flexible negotiations, which can lead to agreements with which both sides are comfortable. Flexibility and space to maneuver are two characteristics without which negotiations are likely to fail, even if infused with goodwill. Flexibility and space to maneuver serve the needs of both sides mutually and thus contribute to the realization of their objectives and their separate and joint interests. In the case of negotiations between Israel and the Palestinians as well, if the principle of flexibility is applied and the space for maneuverability is wide, and if "all the issues are placed on the negotiating table," then a balance will be struck in accordance with the principle that "nothing is agreed until everything is agreed."

On the eve of the Oslo talks, the PLO leadership concluded that the likelihood of Israel accepting a Palestinian right of return was nonexistent, but that an agreement could be reached with Israel regarding the establishment of a Palestinian state along the lines of the 1967 borders. Indeed, the Oslo Accords were based on U.N. Resolutions 242 and 338, whereas Resolution 194 was not mentioned. Yet the two sides did **not** set a final, agreed-upon political goal to

which they would aspire through the Oslo process and which could have shaped their practical policy in the interim. As a result, they were not required to agree upon a **source of authority** to guide them in the course of the final-agreement negotiations that were supposed to begin during the five-year interim period. The overall assumption was that during this time the two sides would build trust, which would enable them to solve the core issues when the time came to address them. Both parties agreed to this gradual, phased process while relying on "the framework for peace in the Middle East agreed upon at Camp David" between Israel and Egypt in 1979 (Haber et al., 1980: 413-417; Hirschfeld, 2000).

The Oslo process began with informal contacts between groups of academics from both sides. It was brought to the attention of Foreign Minister Shimon Peres by the director general of his office, Yossi Beilin, upon conclusion of the first meeting, which took place during 22-24 January 1993. Peres informed Prime Minister Yitzhak Rabin about these talks during the first week of February 1993. Although Rabin did not object to them, only in mid-August did he become convinced that they represented a serious initiative. What convinced him was the realization that the Palestinians were willing to accept a number of Israeli conditions during the interim period:

♦ All settlements would remain intact.

♦ Jerusalem would remain under full Israeli control.

♦ Israel would maintain responsibility for the security of Israelis in the territories.

♦ Israel would maintain responsibility for security within the framework of Palestinian autonomy.

♦ Finally, the determinative condition: the agreement signed would leave all options open for negotiation towards a permanent arrangement.

This avoidance of the need to agree on the final political goal and on an authoritative source for conducting future final status talks reflected indecision on the part of the leadership on both sides regarding the principal exchange that they must make in order to reach a permanent status agreement: on the Palestinian side, relinquishing the right of return, and on the Israeli side, conceding the 1967 territories.

Breaches of Agreement During the Negotiating Process

This indecision from the beginning of the Oslo process reflected, among other things, the weakness of the strategic decisions of both sides and was, in turn, reflected in the failings and actions of both sides during the interim period. These failings and actions undermined the basic trust and gradually decreased each side's motivation to "pay" the price required of them. Thus, for example, Israel continued constructing settlements in the West Bank on a scale that the Palestinians regarded as inappropriate or as indicative of Israel's inability to take a decision that would recognize these as Palestinian territories. Israel also did not implement the third phase of withdrawal required by the interim agreement – the phase that was intended to grant the Palestinians, as they saw it, significant portions of the territory (Sher, 2001; Rubinstein et al., 2003; Ben-Ami, 2004). The Palestinian Authority, for its part, did not fulfill the principal commitments that the PLO had taken upon itself, such as rejecting violence and terrorism and taking all steps necessary to prevent them, including legal action against the perpetrators. The Authority did not meet Israel's expectations on the matter of refraining from incitement and hostile propaganda, which continued. The spirit of the agreement did not permeate Palestinian networks in a way that would guarantee the relinquishment of the use of terrorism and other acts of violence (Bergman, 2002).

The lack of a decision about the final goal of permanent status negotiations, a goal that could serve as a point of reference, was based on the assumption that the gap between the parties would be hard to bridge, a perception that created dynamics that had the opposite effect to trust-building. Each side had an incentive to create facts on the ground so that, when the time came, would determine the final status. This pattern applied in particular to indicators of sovereignty on the ground, demonstrating a presence in East Jerusalem, claiming territories, and independent conduct by each side, as if there were no political process – or perhaps because of the political process and its nature as determined by each side.

The hidden and unspoken principle guiding each of the parties' conduct was along the lines of "grab what you can" or "actions as distinct from words." Such a peace-process dynamic is characteristic of situations of deteriorating trust between the parties (Fisher and Ury, 1991). In the case of the Oslo Accords, the mistrust resulted not only from the lack of agreement between the two sides

during their talks, but also from the decision that the truly important issues – those with strategic importance, which would later be termed the "core issues" – would not be discussed at all.

Indeed, one of the most intensive activities during this period was the activity on the part of the various committees tasked with recording breaches of the agreement by the two parties. From a certain point onwards, the negotiating process that was supposed to bring the two sides closer to resolving the conflict became a struggle of mutual accusations intended primarily to influence international public opinion and internal public opinion within each side.

The Negotiating Environment – Lack of Public Support

The negotiating environment also deserves consideration and, specifically for our purposes, the manner in which the two sides conducted their talks against the background of internal public opinion warrants particular attention. As it happened, each of the parties chose – for similar reasons but without coordination between them – not to seek public support during the conciliatory process. Moreover, the leadership on each side relayed to its domestic public messages that conflicted with the essence of the political process. Thus, for example, even at a time when the Oslo Accords were a source of great hope for a historic reconciliation between the nations, Yasser Arafat made a speech in Johannesburg (10 May 1994) where he compared the Oslo Accords to the Hudeibiya Treaty, which the Prophet Mohamed sealed in a moment of weakness with the Quraish tribe and which he intended to breach after gaining strength.[89]

On the Israeli side, we point to the restrictive conditions under which Rabin agreed to the Oslo process, of which he was informed in February 1993. Later declarations, mainly by Rabin and later by governments formed after his assassination – both Labor and Likud governments – stated that no Palestinian state would be established and that Jerusalem would "forever" remain under

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[89] The reference to this historic event does not necessarily prove that Arafat did not plan to honor the agreement with Israel from the outset. Islam also offers an opposing interpretation of the Hudeibiya precedent, justifying the signing of a peace treaty with heretics under compelling circumstances. Thus president Sadat referred to the Hudeibiya Treaty, citing the Al-Azhar sages, in order to justify the peace treaty with Israel (see Emmanuel, 1996).

Israeli sovereignty. In addition to these declarations, there were actions: during the years of negotiations, settlements grew and their populations more than doubled. This was perhaps the greatest blow to the political process, at least from the Palestinian point of view.

This conduct on the part of both sides is evidence of what we define as the "weakness" of each side's strategic decision. Moreover, it reflects duplicity and each side's lack of internal conviction regarding the political process. It also indicates the breadth of the gap, the depth of suspicion, the hostility, and primarily, the inability to make the internal, national psychological change that seemingly requires the breaking of a taboo against conciliation with the other side. In addition, this conduct is an expression of the weakness of the leadership on both sides. Leaders on both sides feared loss of legitimacy within their own public following the start of a negotiating process, and thus they needed extreme rhetoric to "calm" public opinion. Worst of all, the leadership on each side accepted this conduct on the part of the other side's leaders as legitimately necessary and even forgivable. In contrast, neither side's leaders made any real effort to increase public support for the political process.

The leaders on each side did not, however, consider that their extreme rhetoric and actions against the spirit of the agreement had the effect of pulling the rug out from under their own feet when they later sought legitimacy for the process. Moreover, and most grievous, throughout the entire Oslo process (from the time of Rabin through the end of Barak's term in early 2001 and, for the Palestinians, throughout Arafat's rule and less so during the current era of Abu Mazen), the leaders on both sides used extreme rhetoric to engage the public as a player and public opinion to reinforce their positions at the negotiating table, typically whenever difficult decisions or "painful" concessions needed to be made.

The use of public opinion as a tactical tool for justifying unwillingness to make concessions during a negotiating process illustrates, above all, lack of strategic depth in the decisions of leaders during the political process, lack of confidence in the process itself, lack of trust with respect to the negotiating partner, and lack of honesty towards the other side.

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Symbols and Images in the Negotiating Process

One of the elements that enhance the success of a negotiating process is **the breaking of old images and creation of new supportive symbols** (Bar-Tal, 2007). These have a decisive influence on the creation of positive momentum in negotiating processes and a moderating effect when the process encounters obstacles. The Oslo process lacked such elements. Neither side made an effort to alter its image in the eyes of the other, and both maintained the stereotypes and prejudices that had taken root during decades of hostility, animosity, and occupier-occupied relations.

Paradoxically, the further the Oslo process progressed, the more the hostility between the parties increased, as did each side's negative image of the other. We can easily understand this in light of the breaches of the agreement in letter and spirit, which only increased the mutual mistrust.

The period of Binyamin Netanyahu's rule, from 1996 to 1999, was supposed to be the peak period of implementation of the interim agreement and of negotiations on a permanent arrangement. Instead, negotiations hit a standstill during this period, with Netanyahu consistently blaming the Palestinians for not upholding their part of the agreement. The slogan "give and receive" became firmly ingrained in Israeli consciousness, as if there was in fact no negotiating partner despite the apparent goodwill on the Israeli side. The negative image of the Palestinians that took shape within the Israeli public served to lessen support for the political process. The psychological image-related and media-based manipulation that took place served to conceal Netanyahu's opposition to the Oslo Accords and his apparent interest in derailing negotiations. His implementation of the "Hebron Agreement" (which had been agreed before his election as prime minister) and signing of the "Wye Plantation" agreement regarding further withdrawal from territories of the West Bank and their transfer to Palestinian rule should be seen as expressions of the price he was compelled to pay for the bloodshed that took place following his decision to open the Western Wall tunnel (September 1996) and his submission to the resulting American pressure to advance the agreement.

Among Palestinians, despair regarding the peace process spread. The number of those opposed to negotiations grew. Expectations that are not met generate frustration that in turn fuels processes that lead to a reality diametrically opposed

to initial expectations. Ron Pundak explained Netanyahu's policy towards the peace process in the following way: "Netanyahu sought to destroy the Oslo Accords in a way that would leave no trace, and in practice he truly decimated the process and did all he could to delegitimize his Palestinian partner" (Pundak, June 2001). At the same time, reality forced Netanyahu to continue implementing the process at the formal level, and the Americans compelled him to reach the "Wye Agreement," the significance of which was a reassessment – the second of three commitments entailed in the interim agreement. Nonetheless, the effects of his actions left the negotiating process damaged and almost irreparable in practice and in terms of the images formed by both nations.

Hope for the renewal and revival of the political process, which was rekindled with Barak's administration beginning in 1999, was also dashed. Barak wasted precious time on failed efforts to renew talks with the Syrians at the expense of the existing Oslo Accords' format for historic conciliation with the Palestinians. For the Palestinians, the "fruits of peace" during the Barak era included a closure imposed on the territories, which was interpreted as collective punishment; restrictions on movement that primarily hurt innocent residents (the terrorists did not need permits); cruelty against residents at the many checkpoints and, in many cases, against elected representatives; drastic reduction in employment opportunities within Israel alongside rising poverty and increased unemployment; water crises in the summer, as opposed to abundance in the settlements; destruction of Palestinian homes, as opposed to daily construction in the neighboring settlements; non-release of prisoners who were sentenced for activities prior to Oslo; and Israeli restrictions on construction beyond the "residential limits" of Palestinians.

The Palestinians also contributed their share to increasing their negative image in the eyes of the Israeli public. Unlike President Sadat, whose historic visit to Israel won the hearts of Israelis and shattered his image as a harsh and bitter enemy, and unlike King Hussein, who in his noble conduct led the Israelis to admire him as a human being and interpret his behavior as honest and sincere, the image of Arafat in Israeli consciousness remained demonic. Even after the signing of the Oslo Accords, Arafat still retained a hostile and foreign image that was, primarily, an image that represented and embodied an enormous threat to Israel (Ben-Ami, 2004; Ross, 2009).

In practice, the Palestinian leadership also erred in its approach towards its own public. It maintained the categorical image of Israel as a cruel and destructive occupier and a bitter enemy. In so doing, the leadership actually contributed to preservation of the pre-existing relationship – that of occupier-occupied – when, perhaps unwittingly, it preserved the definition of Israelis as enemies. The Palestinians did not succeed in inspiring empathy amidst the Israeli public for their genuine plight, nor did it succeed in raising awareness of the Palestinian problem in all its humanitarian, national, and historical manifestations. Rather, the Israeli public only heard about declarations of war (*jihad*), terrorist attacks, and daily incitement that were often interpreted as anti-Semitic. Thus they contributed to "imprinting" the Israeli consciousness with the idea that the Palestinians do not and never will seek peace (Ben-Ami, 2004).

Asymmetry and the Spirit of Oslo

The inability of Israel and the Palestinians to rid themselves of their mutual negative images as they embarked on the Oslo process, alongside the parties' starting points – Israel as a strong state and the Palestinians as an occupied people – defined the nature of the asymmetric negotiations between the parties. Even during the negotiations, Israel continued to view the Palestinians as a problematic partner that had merely changed its arena of struggle from the battlefield to the negotiating table.

Israel did not succeed in using its powerful starting position to develop a negotiating framework that would address the interests of both sides (win-win) but, instead, tried to dictate its own terms (which were not always clear). This perspective rested not only on Israel's self-perceived power or on its power in practice in relation to the Palestinians' inferiority, but also on the overall balance between the parties: Israel was the "providing" party (territory, independence, recognition, authority, restrictions, and the like) and the Palestinian side was the "receiver" and, therefore, passive and limited in its capabilities.

This position of power in the negotiations intensified as the meetings between the parties made clear the balance of power between them. In accordance with this approach – power and control as well as maintaining the other side as an enemy rather than as a partner to negotiations – most of the process was relegated

to the military from the outset. This served to determine the overall character of the negotiations – including its civilian aspects, which are the central aspects in establishing peace between two nations – as militaristic.

Thus, for example, during preparatory talks within the military context, in advance of a later meeting of one of the negotiating teams, the idea was raised that some of the territories to be transferred to the Palestinians could be defined as "nature preserves," which, as per the agreements that would be signed, would prevent building on and populating them (Fishman, Steering Committee protocols, 1993-1995). Israel sought, in this way, to create a "sterile territory" surrounding West Bank settlements that would not be dismantled. Although this proposal was not adopted, there were many others like it. More than reflecting reality, they reflected an approach and perspective of power and control (Rabinovitch, 2004).

This approach of Israel's – besides being unfair and inappropriate in negotiating terms – did damage to the negotiating process and contributed significantly to its failure. Above all else, this was a trap for Israel itself, the trap of "**the weakness of power versus the power of weakness**." The more Israel exerted its bargaining power at the negotiating table, the more it projected an image of an entity on which pressure must be exerted in order to compel any concessions. Pressure was indeed applied to Israel, both directly by the Palestinians in the starkest terms through terrorism (for example, the Western Wall tunnel events of 1996, after which Netanyahu was "pressured" to accept the Hebron agreement), as well as indirectly by gaining international public support and the engagement of regional and international players in the negotiating process.

It appears that the Palestinians internalized their own role in the power-relations formula dictated by Israel: they turned their weakness into the power of the victim. Thus, they entrenched themselves in their stance, according to which "they have nothing to give" and, therefore, nothing over which to compromise. From their point of view, they already made the principal, historical, national concession by recognizing Israel and accepting Resolution 242 as a basis for negotiations, that is, by accepting an area smaller than Palestine (approximately 22%). According to this perspective, negotiations with Israel were not intended to achieve further compromise, but to receive compensation for the principal compromise, that is, implementation of the legitimate Palestinian rights of which they had been deprived by the occupation. This position, in fact, became their

primary negotiating strategy, as we shall see below in the analysis of the final status talks during the period of Barak's administration (Rubinstein et al., 2003; Ross, 2009).

As a strategy for conducting negotiations, Israel chose the less appropriate method because the approach based on power, which is intended to cause the other side to submit, is not suitable for a situation in which the two sides are to live side by side as neighbors. The negotiations with Palestinians should not have been regarded as a one-time deal on the part of an Israeli tourist passing through a remote Third World market (Galin, 1996, Fisher and Ury, 1991).

Thus, we find that each side to the negotiations entrenched itself in inflexible positions on all the issues. The Palestinians were drawn into stubborn stances because of Israel's power-based approach as well as their own basic perspective, grounded in U.N. resolutions, regarding their legitimate rights on the core issues and related matters: national self-determination, independent statehood, 1967 borders, resolution of the refugee problem, and the question of Jerusalem. Israel, on the other hand, because of its power-based approach, tended not to define interests – certainly not joint interests – but adopted a position of "as few concessions as possible" because it regarded every concession as a loss. The practical significance of this position was the drawing of "red lines," rather than developing negotiating stances,[90] as a way of blocking the other side's demands: "no" to statehood, "no" to 1967 borders, "no" to the refugees, and "no" to Jerusalem. This approach, which was based, as noted, on a perspective of power, is in fact a defensive and unyielding position, destined to collapse in the face of "legitimate demands" by the other side. It benefited neither the Israeli side nor the joint success of both sides. The conclusion is that Israel did not make proper use of its power in order to formulate a balanced and cooperative framework

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[90] The policy of "red lines" was adopted by Israel early in her history. This policy intensified "after the Yom Kippur War, as an important means of deterring the Arabs from making threatening changes to the status quo. It had two principal forms of expression: two-way arrangements with clear delineations of the permissible and forbidden; and unilateral determination by Israel of what changes to main aspects of the status would be seen as a threat and could lead to preventative or retributive action" (Yaniv, 303-318). This policy also determined the nature of agreements with Egypt, starting with the separation agreements of January 1972 and leading to the Peace Treaty in March 1979. This policy became a fixed pattern of thought among Israeli policymakers generally and all the more so on matters of security. It was also applied to the formulation of positions in the negotiating process with the Palestinians throughout the Oslo process from its beginning in 1993.

for the negotiating process. Such negotiations would have been based on the identification of joint interests that serve both sides and would have taken place in a "spirit of agreement" – a spirit of historic conciliation and pursuit of peace.

Another failing, most of which can also be attributed to Israel, was the erosion of the "spirit of agreement" already at the early stages of the final status talks. On this matter Israel could have developed a negotiating culture and environment along the lines of the "Oslo spirit" – a spirit of historic conciliation and pursuit of a peace agreement. In order to put the negotiations on a pragmatic track, it would have been enough to define the "spirit of agreement" as a standard by which each side assessed its positions, actions, and steps according to the ability to move them from potential to actual. Defining such a standard in itself would, in our estimation, have provided a positive spirit of mutual trust and an incentive to progress towards an agreement that would work for both sides.[91]

At the basis of the "Oslo spirit" was the understanding (Pundak, 2001) that negative impressions cumulatively formed by and between the two nations constituted an almost unsurpassable obstacle to negotiations if the latter rested on the equation of power and current relations between the parties, that is, occupier-occupied. The goal, therefore, was to strive for a conceptual, conscious, and critical change that would lead to a dialogue based as much as possible on decency, equality, and a consensually-defined goal that embodies the primary interests of the two sides because, for better or for worse, they would continue to live alongside one another. All of these insights were supposed to be reflected in the nature of the negotiations – including at the personal level among the interlocutors – and through the proposed solutions and the means of their interpretation and implementation on all matters.

This new approach to dialogue was also supposed to influence the type and nature of dynamics that would develop between the two sides, which in turn were supposed to create mutual trust and reinforce the will of the parties to advance the process. At a later stage, the positive approach and dynamics were supposed to permeate other spheres of cooperation – governmental, economic, social, and

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[91] This proposal was in fact raised by Henri Fishman, one of the authors of this chapter, while serving as an advisor to the preparatory team for negotiations on civil matters at the Judea and Samaria Civil Administration, and it did garner attention until it hit a wall in the form of an approach that viewed the negotiating process as "a continuation of the struggle against the Palestinians by other means," to paraphrase the famous quote of Carl von Clausewitz.

cultural – within the civilian sectors on both sides. These dynamics were also supposed to fuel a dialogue of historic conciliation between the two nations in a framework of coexistence and relations of peace and good neighborliness. This change, of a mostly cultural nature, would take the place of prolonged hostility and unilateral pursuit of achievements at the expense of the other side.

From its beginning the Oslo process was, perhaps naively, a tireless effort to leave the zero-sum game behind and, despite Israel's superiority, to pursue as many win-win situations as possible, in which both sides would gain something but not at the expense of the other side. An example of this can be found in the early stages of contact between Israeli and Palestinian representatives, as Yair Hirschfeld attested:

"At Oslo we succeeded in bridging between the Israeli and Palestinian positions through two winning formulas. First, we 'set the clock' and made clear that we do not dismiss the formation of a Palestinian state as a possible outcome, on the condition, of course, that Israel agrees. Then we established the rule of incrementalism, which enabled us to solve problems that had appeared insoluble in Washington, such as the question of an authoritative source and other authorities…. Moreover, in contrast to the Camp David Accords, the Oslo perspective insisted on the need to advance the economic development of Palestinians in the West Bank and Gaza Strip, as well as the need to encourage economic cooperation with Israel…. Above all, we established a sense of mutual trust and invented the 'Oslo spirit,' which was rooted in the understanding that progress in negotiations generates a situation where 'everyone wins,' as far as Israel, the Palestinians, and the entire region are concerned" (Hirschfeld, 1999: 117).

The Quality of the Strategic Decision in Negotiations on a Permanent Agreement

The interim period left impressions of mutual mistrust. In the absence of an agreement about the final political goal of Oslo, the conflicting perspectives and approaches of the parties were exposed. This reduced their willingness during final status talks to accept creative or vague compromises and solutions, which – as part of the interim agreement – had turned out to be disappointing to each

side for its own reasons. Thus, when final status talks began, in November 1999, the parties agreed that these talks would address a full and comprehensive agreement, to be formulated in clear and explicit detail and to lead towards solution of all the problems in the conflict: Jerusalem, the territories, refugees, security arrangements, distribution of natural resources, distribution of air space, and all walks of life.

Barak's assumption of the role of prime minister on 6 July 1999 generated renewed hope for the advancement of the Oslo Accords to their final and most important stage – a "final status agreement" between Israel and the Palestinians. This hope was quickly dashed, though. Already in the Sharm Al-Sheikh Memorandum of 4 September 1999 (the Third Phase of the Further Redeployment Process – the "amended Wye Agreement"), the first Israeli-Palestinian meeting to take place during Barak's rule as prime minister, Israel did not live up to its commitment to the Palestinians. It did not transfer control to the Palestinians over the three villages adjacent to Jerusalem (Abu-Dis, 'Azariya, and East Sawahra), which Barak had promised to transfer as a "deposit" on the "redeployment" of the third phase.

The Israeli side operated under Prime Minister Ehud Barak's guidelines, according to which there would be no more extended interim periods during which Israel would be required to transfer more assets to the Palestinians (as in the Third Phase, or "the salami practice"), and the negotiations should lead to the "end of the conflict." Similarly, the Palestinian side emphasized that it would object to negotiations on additional interim agreements and declared that, "whatever we agree now will remain forever, and whatever we concede will be a concession forever." Both sides praised the mutually positive and serious approach and willingness to agree to "seal" all the problems, not leaving a single important issue to be covered by a vague formula.

The idea of a final and complete solution, and not only to the 1967 problems, was agreed upon at the start of the final status talks. This caused the leaders on both sides to see themselves as responsible for the image of their state for generations to come. Very quickly, however, the absence of an agreed-upon source of authority for the conduct of negotiations, which were to lead to a full and comprehensive solution of all the problems between the nations since 1948, became felt. The Palestinians insisted that the authoritative source be the U.N.

resolutions adopted over the years regarding the Israel-Palestinian conflict. This meant that the negotiations should have led to the implementation of rights that were objectively derived from "international legitimacy" (Al-Shara'iya Al-Dawliya) rather than from the asymmetry vis-à-vis Israel. From this it followed that there was no room for compromise on rights and they should have been recognized and implemented. The Israeli side demanded that the basis for negotiations be the principle of fair compromise, taking into account the reality established since 1967 as well as Israel's security and settlement-related interests. This perspective was based on the creation of a balance of interests that would make the agreement worthwhile for both sides. For this reason, Israel sought to set aside the issue of international legitimacy, although it did accept Resolution 242 as a basis for negotiations (Lavie 2003).

These two opposing approaches led to a communication breakdown and to substantive difficulties in conducting final status negotiations in all stages. They also denied the parties any practical possibility of bridging the remaining gaps in the permanent-agreement issues, even when progress had been made on these issues. Thus, for example, the Israeli side did not understand why the Palestinians were not willing to accept proposals that it considered "fair" or "generous," and reciprocally, why they were not presenting their own proposals. The explanation for this was that the Palestinians did not believe there was room for any proposals that would replace the implementation of rights as defined in the U.N. resolutions. In their view a proposal could be "fair" or "generous" only if it accorded with those rights. The Palestinians therefore opposed the Israeli idea of formulating a "framework agreement" from the very beginning because they saw the U.N. resolutions themselves as constituting a framework agreement by which negotiations towards the implementation of the rights therein should be conducted.

It appears that the hidden significance behind each side's strategic choice of a starting point for final status talks (U.N. resolutions as opposed to "fair compromise") was that the parties ignored the source of authority declared at the Camp David Summit in 1978 during negotiations between Egypt and Israel. This summit determined that negotiations on the resolution of conflicts between Israel and the Arabs and Palestinians would be based on U.N. Resolutions 242 and 338 and the principle of "land for peace." Their mutually ignoring this authoritative

source reflected the quality of both sides' strategic decisions during the political process, regardless of whether the reasons for doing so were political, ideological, or other: clear indecision on the part of Israeli leadership regarding withdrawal from parts of the West Bank and Gaza Strip and clear indecision on the part of the Palestinian leadership regarding relinquishing the right of return to Israel of the 1948 refugees.

The parties' avoidance of these decisions, as well as the lack of an agreed-upon source of authority for conducing final status talks, prevented any possibility of a positive outcome from the discussions of the core issues, including the territories, the refugees, and Jerusalem, as described below (Hania, 2000; Sher, 2001; Rubinstein et al., 2003: Rabinovitch, 2004; Clinton, 2005; Ross, 2005; Steinberg, 2008):

1. **On the territorial issue,** the Palestinians demanded recognition of their right to 100% of the 1967 territories as well as territorial continuity as a condition for their agreement on border adjustments and exchanges of territories for the purposes of Israeli annexation of settlement blocs. Israel praised Palestinian willingness to adjust borders and exchange territories but did not agree to their demand to recognize their right to all territories of the West Bank and Gaza Strip. Rather, as noted, Israel sought an agreement on the basis of "fair compromise." Moreover, on the eve of departure for the Camp David Summit, the state attorney general published a legal opinion according to which Resolution 242 would not be implemented in any agreement with the Palestinians as it had been implemented with Arab countries, from which it followed that Israel was entitled to set the borders according to its security and settlement-related needs. The legal rationale was that Resolution 242 applies to states that had a border between them (and in 1967 there was no Palestinian state).

2. **On the refugee issue,** the Palestinian leadership demanded that Israel announce that it was responsible for the creation of the refugee problem and recognize their right to return to their lands and homes in accordance with Resolution 194. In the Palestinian view, the right of return is a personal right granted to each and every refugee, and the Palestinian representatives therefore did not see themselves as authorized to relinquish this right categorically. The Palestinian leadership did see itself as authorized to discuss the nature

of implementation of this right with Israel and even to place limits on it regarding the return to Israel. During negotiations, proposals were raised along the lines of granting compensation or returning refugees to within the territory of the Palestinian state that would be established, returning them to lands that would be exchanged, or settling them in host countries or in a third country. It was also decided that a small and agreed-upon number of refugees would return to Israel under a certain classification. Nonetheless, Israel was not willing to acknowledge its role in the creation of the refugee problem or to recognize the right of return.

3. **On the issue of Jerusalem,** the Palestinian leadership demanded that Israel recognize full Palestinian rights to sovereignty over East Jerusalem, including the Temple Mount as an inseparable part of the territories of 1967 and Resolution 242. Until the Camp David Summit, Israel had held onto its fixed position, according to which Jerusalem would remain united under its sovereignty, and had prevented any in-depth discussion of this issue. At the Camp David Summit, Israel announced that it was willing to divide Jerusalem. The Palestinians accepted the idea of dividing the city on a demographic basis rather than on the basis of the 1967 borders. They were willing to accept Israel's annexation of the Jewish neighborhoods that had been built after 1967 in East Jerusalem, such as Pisgat Ze'ev, Givat Ze'ev, and Neve Ya'acov, but they objected to the annexation of Har Homa and Ras El-Amud. They also agreed to Israeli sovereignty over the Jewish Quarter, part of the Armenian Quarter, and the Western Wall. They showed pragmatic willingness to consider Jewish religious-historical interests in East Jerusalem, such as the City of David and Mount of Olives, but not under Israeli sovereignty. Israel demanded division of sovereignty over the Temple Mount and the establishment of a Jewish house of prayer on the site as well as full sovereignty over all of the Western Wall, not only its exposed section as the Palestinians proposed. These two issues remained in dispute.

Israel, for its part, saw the Camp David Summit as a **decisive summit**. According to the political clock of Israel and the United States, there were only a few months left during the summer of 2000 for achieving an agreement, and the message to the Palestinian leadership was, "now or never" (Sher, 2001). Israel pressed

Arafat to accept the "end of the conflict" and, in practical terms, demanded that he relinquish the right of return explicitly, agree to division of sovereignty on the Temple Mount, and abandon the demand that the right of Palestinians to 100% of the 1967 territories be recognized in advance. Prime Minister Ehud Barak needed the "end of the conflict" in order to guarantee Israeli public support for the agreement, which included breaking "protected values" that had been part of the Israeli consensus for years, such as the division of Jerusalem and relinquishing the Jordan Valley as the eastern security border of Israel (Ross, 2005).

Arafat was driven by the weight of responsibility of reaching a permanent status agreement, not by the constraints of the political clock of the leaders of Israel and the United States. Therefore, he was in no hurry to accept the offers extended to him in exchange for his signature on the "end of the conflict." His principal claims were: (1) the negotiations have not yet been exhausted and the parties should continue them with a view to reducing the gaps as much as possible; (2) the right of return is the personal right of every refugee; and (3) the Palestinian leadership is not authorized to take decisions on the matter of refugees and the Temple Mount without convening the PLO bodies and involving the Arab states, which are also an important party to the discussion of this issues (Hania, 2000).

Israel interpreted Arafat's opposition to its proposals and to signing on to the "end of the conflict" as unwillingness on his part to take a historic decision relinquishing the right of return or to agree to divide sovereignty over the Temple Mount. From a public relations perspective, Israel succeeded in portraying Arafat as someone intent on rejecting its existence and avoiding the solution of "two states for two peoples." In practical terms, however, the leaders of Israel and the United States deliberately created a political void when they withdrew their proposals and, in so doing, hammered the final nail in the coffin of the negotiating process. This was essentially a punitive move, which had a destructive effect on relations between Israel and the Palestinians.

These developments regarding the right of return and an end to the conflict, which took place during a decisive stage of the negotiating process, reflected the conflicting approaches of the two sides regarding the strategic, substantive decision to resolve the conflict, the negotiating strategy, and the source of authority for its conduct. The two sides reached a dead end that reflected a closed loop linking the announced "**end of the conflict**," which Israel demanded of the Palestinian side,

with the **start of the conflict**, which the Palestinians associate with the injustice of 1948 and implementation of the right of return, something that Israel regards as contradicting its existence as a Jewish state. In the Palestinian narrative, 1948 represents a historic injustice, exile, and loss of homeland, which can be remedied only with the return of the refugees to their homes and sovereignty over East Jerusalem. In the Zionist narrative, 1948 represents the revival of the Jewish people in its homeland and reinforces its Jewish identity. These conflicting narratives define the formula for each side – "us or them" – and turn the conflict into a "zero sum game."

The attempts of each side to disclaim responsibility towards the end of the negotiations and to place the blame for failure on the other side are the result of their not having decided at the outset that they were going to solve the problems created following the 1967 war on the basis of an agreed-upon source of authority and to "pay the price" involved. At the 2000 Camp David Summit, the parties were trapped in a discussion of the 1948 issues, to which they could not find a formula to bridge the gaps. Rather than conducting negotiations at the political and practical level – based on the understanding that they could reach a historic decision regarding agreement on a solution to the 1967 problems – the two sides began negotiating at the national-narrative level. This is the principal argument of this chapter: *in the absence of a substantive, strategic decision regarding a solution to the problem, the parties reached a dead end.*

The 2000 Camp David Summit, besides being the starkest expression of the gaps between the parties' positions, also illustrated the cultural gaps between them, particularly in relation to the conduct of political negotiations between leaders. Nonetheless, in the context of our central argument, the cultural gaps should be seen as secondary barriers during negotiations. The Camp David Summit brought together and demonstrated the gaps between the (Palestinian) collectivist perspective and the (Israeli) individualistic perspective in conducting negotiations.

Collectivist negotiators consider the relationship that will develop following agreement to be the most important. The emphasis is not only on solving the conflict but also on the relationship to be created as a result of the solution. According to the collectivist perspective, a conflict is not created within a void. The entire relationship must be assessed in the context in which the conflict arose

as well as the context in which it will be resolved. Against this background we can see why the Palestinians found it difficult to disconnect their positions from the overall context of the substance of the Israeli-Palestinian conflict at the cultural level as well. Despite the initial steps of familiarity and friendship between the interlocutors at the early stages of the Oslo process,[92] the negative impressions formed later affected the nature of inter-personal communication between the parties, leading to the unsuccessful conclusion of negotiations at Camp David in 2000 and at the meetings that followed.

Moreover, an agreement sealed and signed at a public ceremony is likely to embarrass negotiators who come from a collectivist culture because it publicly and tangibly exposes the concessions they were compelled to make. They prefer an informal agreement because the latter is not public and does not commit them on behalf of their own constituency to the same extent. If they cannot reach a formal agreement without making concessions, then negotiators with a collectivist orientation tend to prefer an agreement of principles or an agreement with terms that may be interpreted in a variety of ways.

Barak's attempt to compel Arafat to reach an agreement and sign it publicly while compromising on the most essential foundation of the Palestinian narrative was a mistake not only at the substantive level but primarily at the cultural level. Arafat, given his psychological-cultural makeup, could not allow himself to take part in such a humiliating ceremony while exposed to the eyes of his people and the Arab world.

For individualistic negotiators it is important that the agreement solve a specific problem and that this happen as quickly as possible. They undertake negotiations in order to reach an agreement in writing, which they view as a set of guidelines for conduct – rights and obligations – that commit the parties for as long as it is valid. Therefore, the agreement must be as clear and detailed as possible. It follows that for Barak – beyond his political and circumstantial considerations at that time – the achievement on the matter of the "end of the conflict" was a substantive achievement.

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[92] In this context it is enough to recall the photographs from the opening of the talks at El-Arish, when the deputy chief of staff at the time, General Amnon Lipkin-Shahak embraced the head of the Palestinian delegation against the background of the sunset at El-Arish.

In contrast, one of the principal objectives of negotiators who come from collectivist cultures is not the achievement of a written agreement but the initiation of a relationship between the parties. For them, the primary outcome of negotiations is the relationship, and this relationship can, of course, change over time. It follows that while individualistic negotiators see the signing of an agreement as a sealing of the "deal" and the end of negotiations, collectivist negotiators see it as the start of a relationship that could undergo many changes over time. For this reason they will also seek to make the agreement "adjustable" to future changes. In order to make the agreement adjustable to change, collectivist negotiators will often prefer binding but informal agreements (Galin, 1998).

As prime minister, Barak stressed the principle of "eyes on the prize" – that is, an approach directed at solving the problems – on more than one occasion. This approach was also characteristic of his conduct in preparation for the Camp David Summit of 2000. He saw himself as someone capable of resolving the Israeli-Palestinian conflict in one stroke, as though it were the Gordian knot. In this perspective, Arafat was only a means to achieving the end.

This context exposes the vast psychological-cultural rift between the leaders, Barak's lack of understanding of interpersonal and inter-cultural communication, and his lack of awareness regarding his own limitations. In the individualistic culture that Barak represented, communication is instrumental and primarily intended to impart information or to influence. In the traditional collectivist culture, communication is particular and its primary goal is to maintain the integrity of the group or community. For this reason, any mistake in communication could be critical, not only towards the other side but primarily in relation to the group on whose behalf the negotiations are being conducted.

Barak did not understand that Arafat – independent of his personal view of him – was the leader of the Palestinians. Given this standing, it was inappropriate to use him as though he were simply another negotiator. Araft had representatives for those purposes, thus allowing him to remain the decisive leader. Had Arafat acted differently, he would have lost standing and prestige within the Palestinian public.

Barak also made a mistake by not preparing in advance for the Camp David Summit. He regarded the summit as a bargaining arena wherein he could apply his strength and ability to overpower his rival, Arafat, and force an agreement on

him. His closest advisors testified that even they, on the flight to the summit, did not know what positions he intended to present.

In an individualistic society, the restrictions of the law (particularly good faith) and of ethics are the only restrictions when it comes to bargaining. Within the context of the law and the rules of ethics, one can bargain over any issue in dispute. In the context of bargaining, negotiators expect concessions from the other side, just as they themselves are willing to make concessions. This perspective of "give and take" is seen in an individualistic society as the basis for the solution of every conflict. The only question is what to give and what to take. Barak, being an individualist, did not see any flaw in the basic approach he developed, as though it were legitimate to approach the summit meeting in this manner.

In a collectivist society, on the other hand, there are various restrictions on the bargaining process. First, not everyone can bargain during negotiations; it depends on social standing. Those with high social standing in a collectivist society will endeavor not to bargain, even when they can expect to pay a high price for not doing so. Bargaining does not accord with their honor. Second, not every subject is given to bargaining. Thus, for example, it is permissible to bargain in the context of business deals involving sales and purchases, but not on matters that touch upon honor and especially not on matters that touch upon group honor or principles that are important to the group. For this reason, the Palestinian narrative will never be the subject matter of negotiations.

Conclusions – Summary of Principles

The success of the political process between Israel and the Palestinians depends on the existence and implementation of the following principles:

♦ The commitment by each side to reach a political agreement on peace and on historic conciliation between the two peoples will be based on a strategic decision supported by the public on each side.

♦ The source of authority for a political agreement between Israel and the Palestinians will be U.N. Resolutions 242 and 338, which are based on the principle of "land for peace."

♦ The starting point for negotiations will be defined in an agreement between the two sides regarding the final goal of negotiations – two states for two peoples living alongside one another in peace and security.

♦ The political process being conducted through negotiations will focus on solution of the 1967 problems and not the 1948 issues.

♦ During the negotiation process, all issues will be placed on the negotiating table, but its conclusion will be based on the principle that "nothing is agreed until everything is agreed."

♦ Trust between the parties during the negotiating process will be established by granting priority to discussion of and agreement on the "core issues," on the basis of the principle of negotiating "from the difficult to the easy."

♦ The parties will define and agree upon the timeframe for conducting and concluding negotiations in advance.

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