

# Assessing the Oslo Stalemate:

## Problems and Solutions

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### Brief Analysis

**T**wo Problems: "There are two main reasons why the peace process has stalemated. The first is obvious - Oslo has yet to produce very much peace. Here, one needs to go to basics. In absolute terms, more Israelis have died in the four years since Oslo than did during the six previous years, dating back to the start of the intifada (Palestinian uprising). And while it is true that Palestinians and Israelis both continue to suffer deaths at the hands of each other in rioting, terrorism and other clashes, the trend lines for the two communities are moving in opposite directions. According to the Israeli human rights organization B'Tselem, a group not known for its sympathies with the current Israeli government, the number of Palestinian deaths in conflict with Israelis dropped by two-thirds since Oslo; in contrast, the number of Israeli deaths at the hands of Palestinians increased by 40 percent...These trend lines highlight the fact that, with the incidence of horrific terrorist acts in the heart of Israel's major urban centers, most Israelis have not been—and certainly do not believe themselves to be—more secure as a result of Oslo. Indeed, Prime Minister Netanyahu's election victory in May 1996 reflected the fact that an absolute majority of Israelis thought something was wrong enough with the pace, content and direction of the peace process to choose him over Oslo's architect and champion, Labor's Shimon Peres. Given that the peace process remains, at its core, a process by which Israelis must be convinced of the wisdom of conceding tangible assets in exchange for promises of cooperation, goodwill and peace, than this sense of Israeli ambivalence about a process that has produced such insecurity is the 'crisis of confidence' that must be addressed if the peace process itself is to be saved.

"A second, less obvious, but no less accurate, reason for the peace process stalemate is 'not enough process.' ...Too little emphasis has been placed on the need for implementation of existing agreements as prerequisite for future progress. Sadly, this is a charge one can make against all three main parties in this process—Israel, the Palestinian Authority and the United States.

"This is not to say that the three parties are failing to live up to their responsibilities equally. I believe that any fair-minded observer who assesses the record of the past four years, spanning the Rabin, Peres and Netanyahu Governments, would reach the conclusion that Israel has, by and large, fulfilled its contractual obligations to the Palestinians (diplomatic recognition of the PLO, withdrawal from Gaza and significant chunks of the West Bank, establishment of an elected self-rule authority, and an invitation to 'permanent status talks'). Neither Israel's

construction at Har Homa in southern Jerusalem nor its opening of the Hasmonean Tunnel in the Old City is proscribed by Oslo; though those steps were perhaps politically unwise, the Oslo Accords specifically and deliberately omitted reference to Jerusalem in discussing those areas in which the two sides would avoid acts that may prejudice 'final status' negotiations. Similarly, Israel's expansion of settlements and other infrastructure development in the West Bank is not proscribed in the 314 pages of highly detailed text that comprise the Oslo II accords (the 1995 interim agreement). On other matters, such as the opening of a Gaza port, airport and the creation of safe passage between Gaza and the West Bank, Israel has not yet fulfilled its obligations but it does recognize them as such and is engaged in negotiations to resolve security aspects of these items. As for the issue of the first 'further redeployment,' it was not implemented in March 1997 because the Palestinians refused to cooperate with a withdrawal they deemed too meager, not because Israel failed to offer a redeployment according to agreed procedures. In contrast, one could not justifiably reach the conclusion that the Palestinians have, by and large, fulfilled their obligations to Israel. The list of outstanding obligations is long and includes promises to complete the process of the revision of the Palestinian National Charter; terminate all official Palestinian activities outside PA-controlled areas, especially Jerusalem; confiscate or license all weapons; incarcerate or transfer to Israel of all terrorist suspects; and impose agreed limitations on the size of the PA security forces and their weaponry. Moreover, many of these items are not even recognized by the Palestinians as obligations.

"But even more important than this list of unfulfilled obligations is the fact that the concept of compliance itself has never been given adequate emphasis by any of the parties, with the overall diplomacy of peacemaking suffering as a result. Here, the United States bears as much of the blame as do the principals.

"While the United States has been dogged and determined in seeking diplomatic solutions to defuse violent crises and overcome political obstacles in this process, it has not matched this effort with consistency in monitoring the two parties' commitments to each other and in fulfilling its own, independently-made commitments to them... The United States has issued virtually no statements calling specifically for Palestinians to fulfill their outstanding Oslo obligations, especially those outlined in the U.S.-authored and -initialed 'Note for the Record' appended to the Hebron Accord. Indeed, the United States has, at times and perhaps inadvertently, issued statements and adopted positions that seem to relieve Palestinians of some of their Oslo obligations. Similarly, despite the commitment to 'immediate' and 'parallel' fulfillment of obligations mentioned in the 'Note for the Record,' the United States has not accepted the idea that future steps to be taken by Israel, such as further redeployments in the West Bank, should be contingent on the fulfillment of the Palestinians' unfulfilled obligations or, at the very least, to the reconvening of the 'final status negotiations,' now one year overdue. In addition, by failing to insist upon the continued validity of an Israeli decision on the scope of its first redeployment last March and by offering its own proposals for the scope of a combined first and second redeployment now (the 13.1 percent proposal mentioned in numerous recent press reports), the United States has apparently changed its interpretation of understandings contained in correspondence between then-Secretary of State Christopher and Prime Minister Netanyahu following the signing of the Hebron protocol last year. (According to that letter, the U.S. view of 'further redeployments' was that the determination of their size was a solely Israeli responsibility and that there should be three redeployments, the last one to be completed by mid-1998.) These acts of omission and inconsistency have helped to relieve the political burden on the Palestinians to fulfill their own obligations and—inadvertently, to be sure—damaged the integrity of the negotiating process....

"Israel has [also] made its own share of tactical mistakes in this regard. First, it has failed to link its own compliance with a consistent and earnest demand for parallel Palestinian compliance on key issues. Though 'reciprocity' has been a catchword of the Netanyahu Government, it has rarely insisted upon the principle in practice. Second, as noted above, Israel took measures that were undoubtedly legal but were also politically unwise, in the sense that they provided fodder for critics of this Israeli government and gave the Palestinians a political excuse to shrug off

compliance with their own obligations. Third, to an extent far greater than was the case under the previous Labor government, Israel sought to overcome obstacles in its own relationship with the Palestinians by inviting the United States to take a deeper, more thorough-going role than ever before in all aspects of the Israeli-Palestinian relationship. In the beginning, this created a new dynamic whereby a bilateral diplomatic process was turned into a trilateral process; over time, this trilateral process itself evolved into a new form of bilateral process—between Washington and Jerusalem. This is the situation today, with Israel and the United States effectively negotiating over the next stage of the peace process and with the United States playing a central role even in the tactical aspects of Israeli-Palestinian security cooperation. Even with good will and the best of intentions on all sides, this is not a healthy situation. For years, the United States wrestled with the contradictions of being both Israel's strategic ally and the 'honest broker' of the process itself, sometimes finding the proper balance and sometimes not; trying to fulfill a third role as well—'advocate for the Palestinians'—is virtually impossible.

Two Recommendations: "In the first instance, the United States should re-focus its diplomatic efforts on a simple and straightforward emphasis on compliance with all contractual obligations, to the letter of the Oslo Accords and its ancillary agreements, such as the Hebron 'Note for the Record.' On the issue of redeployments, for example, the United States should refrain from offering its own idea of 'percentages' that would constitute a workable Israeli withdrawal because that automatically becomes the new Palestinian bottom-line figure and forces Washington into a distracting and unproductive negotiation with Jerusalem on an issue that should be solely an Israeli responsibility. At the same time, the United States should keep to the letter of the Christopher correspondence and remain faithful to the concept of three redeployments, ending up with Israel retaining self-defined 'specified military locations,' settlements and Jerusalem for discussion in 'final status talks' that should themselves convene immediately well in advance of the execution of that third redeployment. To the Palestinians, the United States should, in its public and private diplomacy, be consistent and unwavering in calling for full, immediate and unconditional fulfillment of outstanding Oslo obligations. The force of the Administration's contention that 'security is the sine qua non of the peace process' is undermined when the Administration does not take a clear stand against conditioning improvement on Palestinian security efforts on Israel's own actions, such as further redeployments...

"My second suggestion goes to the heart of the matter. With the implementation of the Hebron accord last year by a Likud-led government, Israeli politics passed an historic watershed: Today, both Labor and Likud, Israel's two leading political parties, have accepted the idea of territorial compromise. If the goal of the Oslo process is to determine the final disposition of the West Bank and Gaza, define secure and recognized borders for Israel, and thereby settle the Israeli-Palestinian conflict, then the two main parties in Israel for the first time agree that territorial compromise is the way to achieve a just, fair, lasting and equitable peace. They both agree on a re-partition of mandatory Palestine in which Israel would withdraw from virtually all of Gaza and large chunks of the West Bank. The main difference today between Labor and Likud is how much territory each would cede, not whether to withdraw at all. And even on the question of percentages of territory from which Israel should consider withdrawing, Labor and Likud are not too far apart; indeed, they are much closer to each other than either is to the official position of the PLO. With each passing day, Israeli leaders also edge closer to making another historic concession—accepting the idea that the political entity that will emerge from the Palestinian self-rule areas will be a state, though one lacking certain attributes of sovereignty. Even celebrated 'hawks' like Ariel Sharon have associated themselves with this view. Though not yet formalized, this development would mark another watershed...

"However, both these concessions—the affirmation of territorial compromise and the still-emerging consensus on some form of Palestinian statehood—are unrequited by any comparable Palestinian concession. Here, I do not mean just the time-worn, re-hashed commitment to security cooperation; that is 'old wine in new bottles.' What is needed, I believe, is a comparable concession of historic importance from the Palestinian side. So far, all Palestinian concessions in the process have been concessions of time—a willingness to postpone demands until later

negotiations and to accept portions of territory and political authority in piecemeal fashion. So far, however, the Palestinians have yet to make a concession in substance, a concession regarding the irrevocable withdrawal of a claim that will have to be made eventually if there is to be peace.

"There are three possible Palestinian concessions that are of such historic importance that any of them could transform the process overnight—a concession regarding Palestinian claims to Jerusalem as capital of a future state; a concession regarding refugees and their claim to a 'right of return,' and a concession regarding territorial claims in the West Bank. All would be appropriate; all would be welcome; all will eventually have to happen for peace to have a chance. Of these, I believe that an early declaration of Palestinian commitment to territorial compromise—to the idea that peace may be possible without the Palestinians attaining 100 percent of what they are asking for—would mirror the Israeli affirmation of the legitimacy of territorial compromise, convince a skeptical Israeli public that this process makes sense, and, in so doing, energize the peace process. After all, we are left with the fact that there is only one party to these negotiations that opposes territorial compromise—the PLO. The PLO call for a Palestinian state in all the West Bank and Gaza is unattainable. Holding fast to a dream is one thing; maintaining a political platform that mirrors that dream is quite another. If there is to be peace, there will be territorial compromise, with Israel retaining significantly less territory than currently under its control but with the Palestinians forever relinquishing some significant part of the territory they claim, too. Public recognition of that fact would be a major step forward in this process. Such a declaration would parallel the historic Zionist concession regarding a re-partition of Mandatory Palestine and provide a hopeful and equitable basis on which the parties can proceed with 'final status negotiations.'"

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