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Palestinian Center for

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SURVEY RESEARCH

## A Palestinian Perspective on the Failure of the Permanent Status Negotiations

By  
**Khalil Shikaki**

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January 2004



Palestinian Center for POLICY and SURVEY RESEARCH

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*The views expressed here are those of the author and not necessarily the views of PSR.*

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## Strategic Analysis

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## About the Author

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Between 1998-99, jointly with Dr. Yezid Sayigh, Dr. Shikaki led a group of more than 25 Palestinian and foreign experts on Palestinian institution building. The findings of the group were published in a Council on Foreign Relations' report, *Strengthening Palestinian Public Institutions* (New York: Council on Foreign Relations, 1999). Shikaki and Sayigh were the principal authors of the report.

Dr. Shikaki has conducted more than 100 polls among Palestinians in the West Bank and the Gaza Strip since 1993. His most recent poll included three comprehensive surveys among Palestinian refugees in the West Bank-Gaza Strip, Jordan, and Lebanon. His recent publications include *Building a State, Building a Peace: How to Make a Roadmap That Works for Palestinians and Israelis* (Washington, DC: the Saban Center at the Brookings Institution, December 2003), *The Israeli-Palestinian Peace Process: Oslo and the Lessons of Failure* (East Sussex: Sussex Academic Press, 2002), co-editor with Robert Rothstein and Moshe Ma'oz; "Self-Serving Perception of Terrorism Among Israelis and Palestinians,," *Political Psychology* (September 2002), pp. 537-557, with Jacob Shamir; "Determinants of Reconciliation and Compromise among Israelis and Palestinians," *Journal of Peace Research* (March 2002), pp.185-202, with Jacob Shamir; "Palestinians Divided," *Foreign Affairs* (January-February 2002); and "How Palestinians View the Oslo Process," *Internationale Politik - Transatlantic Edition* (Winter 2001). He wrote op ed articles in Arab, American, and European newspapers including *al Sharq al Awsat*, *al Quds*, *al Ayyam*, *Daily Star*, the *New York Times*, the *Washington Post*, the *Wall Street Journal*, *Los Angeles Times*, the *Guardian*, *Le Stampa*, and *LaVanguardia*.

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## PREFACE

The following paper is part of a Palestinian-Israeli-American project that aimed at examining Palestinian-Israeli permanent status negotiations. The Palestinian Center for Policy and Survey Research (PSR) joined forces, in mid-2001, with the Israeli Economic Cooperation Foundation (ECF) and former American advisor to President Clinton, Rob Mally, to examine the causes of the failure of these negotiations and to draw lessons from that failure. Funded by the Ford Foundation, the project involved several activities including the building of a daily chronology of events covering the period between May 1999 and January 2001. The chronology was based on daily reports in local and international press, published and unpublished memoirs of participants, interviews with senior negotiators, and meetings and workshops involving experts, academics, and policy makers. Israelis and Palestinians wrote papers that examined from each side's perspective the reasons for failure in the negotiations, the implications of that failure, and the lessons learned. A final workshop was organized in September 2002 with the objective of examining the two perspectives. The two-day workshop was attended by negotiators and experts. A final product of the project is a report containing the basic findings of the two sides, based on the separate papers, the final workshop, and independent interviews conducted by Professor Everett Mendelsohn from Harvard University.

The objective of concluding a Framework Agreement on Permanent Status (FAPS) was agreed upon by Israel and the PLO in the Sharm El-Sheik Memorandum (September 4, 1999). It was agreed that the FAPS would facilitate the eventual conclusion of the Comprehensive Agreement on Permanent Status (CAPS). It was further agreed that these two documents, FAPS and CAPS, would constitute the Permanent Status Agreement.

Official FAPS negotiations between the respective formal delegations continued from November 1999 to January 2001. The process engaged additional governmental and non-governmental players from Israel, the PLO, as well as from the United States, the United Nations, Egypt, Jordan, Morocco, the European Union and various European countries, and others.

During these months of negotiations, front and back channels were established and abandoned, the Camp-David Summit and numerous other meetings took place, parties were introduced to the process or ignored, and the region experienced moments of great hope, as well as periods of tragic violence and instability. This was a period of exceptional intensity and drama, ending with no Permanent Status

Agreement between Israel and the PLO, with a disagreement over what has been accomplished, and with the eruption of the second Palestinian intifada.

Most analyses so far have focused on the substantive gaps between the two sides to explain the failure to reach an agreement. In contrast, the assumption of this tri-lateral project is that the methodology and the process of the negotiations have played and will continue to play a vital role in determining the outcome of the talks.

## **I. INTRODUCTION**

The myth of an Israeli Camp David generous offer, being met not only by Palestinian rejection and lack of counter offer but more importantly by a strategic decision to resort to violence, remains a potent threat to any attempt to bring to life the dormant peace process. Many Israeli and American officials have repeatedly asserted this claim throughout the last three years. The ultimate conclusion is that there is no Palestinian peace partner and there has never been one. Palestinian officials, while denying the US-Israeli assertion, have tended to remain silent on what positions they have taken at Camp David and beyond, and on what concessions they have made at the negotiating table. Their interpretation of the last nine months (May2000-January 2001) of permanent status negotiations however is drastically different from that of Israel: why, they ask, should the search for peace end in 2000 or in January 2001. Instead of failure, the Palestinians believe that the process of 2000-01 produced significant progress on most issues of negotiations. Failure to meet American and Israeli artificial deadlines did not constitute a strategic impasse; instead, it affirmed the need to revive negotiations at the earliest possible date while the continuous progress achieved over the period of negotiations in 2000-2001 dispelled the notion that failure was inevitable.

Nonetheless, the net effect of the myth of a generous offer has been to deprive Israelis and Palestinians of the mere hope that a historic compromise is possible. Left unchallenged, this myth could destroy the remnants of the Israeli and Palestinian peace camps and affirm in the minds of both publics the futility of diplomacy and the efficacy of violence.

This paper seeks to address the issue of the failure of the permanent status negotiations by focusing on the Palestinian side. It seeks to examine how Palestinians approached permanent status negotiations by looking at three aspects of that process: the major turning points as perceived by the Palestinian actor, Palestinian methods of negotiations, and the internal Palestinian dynamics at the leadership and elite levels.<sup>1</sup>

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<sup>1</sup> The following analysis is based in part on workshops and briefings that were organized by PSR and attended by negotiators during the period between Camp David Summit in July 2000 and Taba talks in January 2001. Several other workshops and briefings were organized throughout 2001-02. Interviews were also conducted with senior Palestinian negotiators during the same period. A day-to-day chronology of events, covering the period between May 1999 and January 2001, was also developed by PSR researchers. The chronology was based on review of press coverage in Palestinian, Israeli and international newspapers. Interviews with, and review of published and unpublished memoirs of, participants in the talks were used to enrich the chronology.



Before doing that, the paper examines the implication of failure in the eyes of the Palestinian.

The assumption in this paper is that the methodology and the process of the negotiations have played and will continue to play an important role in determining the outcome of the talks. The understanding of the following six issues becomes critical for any attempt to learn from the mistakes of the past efforts. The paper concludes with thoughts on lessons learned regarding each one of them.

- Structure and management of back-channel negotiations.
- The management of fallback positions and political alternatives and its implications on the outcome of the negotiations.
- Form, substance and contribution of third party role.
- The structure of the summit; the preparation and management of the Summit and its outcomes.
- The creation and assurance of legitimacy for a Permanent Status understanding within the Israeli and Palestinian body politics.
- The identification and political management of special groups within the Israeli and Palestinian populations who have to pay a high ideological and/or material price for a Permanent Status.

## **II. IMPLICATIONS OF FAILURE**

For some Israelis, the implications of failure to in the permanent status negotiations, particularly the failure to meet Israeli Prime Minister Ehud Barak's January 2001 deadline were tremendous. Barak claimed that the permanent status negotiations failed because Arafat could not make peace with Israel, did not recognize Israel's right to exist, and instead wanted it to disappear. He further claimed that Arafat did not recognize the existence of the Jewish people and denied the bond between the Jewish people and the land of Israel. For Israeli Foreign Minister Shlomo Ben Ami, the Palestinian national movement was not a partner; it was simply not ready for peace with Israel. In placing the blame for failure on the Palestinians, Barak's shocking statement, claiming that the Palestinians are part of a civilization that is different from the Judio-Christian one in that it does not see a problem in lying, gave the failure to meet his own personal deadline implications far beyond any rational examination would conclude.

For the Palestinians, the study of failure and its implications has focused on three elements: the substance of negotiations, its timing, and the role of the third party. First, the substance of the Israeli offer was seen as inadequate but moving in the right direction and that progress was being achieved over time. Secondly, the timing of the

Camp David Summit was seen as problematic. More importantly the Israeli-American effort to equate success and failure with Palestinian willingness to meet the deadline of January 2001 was seen as an insistence on meeting arbitrary dates for Clinton's presidency and Barak's premiership thereby placing all the blame on the Palestinians. The Palestinians strongly rejected the notion that the opportunity to reach peace existed only in 2000. Thirdly, while the US role was welcomed, and in fact seen indispensable, Palestinian perception gradually shifted depicting certain US officials as being closely associated with the Israeli negotiating team and positions.

The consensus of the Palestinians is that the failure exposed Israel's unwillingness, at one time or another during the period of permanent status negotiations, to accept all or most of the following Palestinian red lines: to return to the 1967 borders, to accept equal land swaps, to allow Palestinian sovereignty over al Haram al Sharif and the Arab neighborhoods of Jerusalem, to accept a truly sovereign state with full control over its skies, land, water resources, and territorial waters, and to show willingness to accept the mere recognition of the right of return even when the Palestinians were willing to show flexibility in accepting modalities that would meet Israel's vital demographic needs.

For the Palestinians, therefore, negotiations failed because something went wrong with the substance of the Israeli position and offer. The implication is simple: while acknowledging, and indeed affirming, that significant progress was made throughout 2000 and in January 2001 in most issues, the Palestinians concluded that further negotiations, in which Israel needs to show more flexibility, were needed in order to reach closure on all issues of the conflict, thereby meeting Israel's demand for an end to the conflict.

Palestinians were also unhappy with some aspects of the process of negotiations. In particular, the timing issue was highly problematic. Despite their desire to end the negotiations as quickly as possible, Palestinian negotiators were unhappy with the timing of the Camp David Summit. They believed that the element of time was crucial to President Clinton and to Prime Minister Barak, but not to them. Clinton wanted the processes completed while he was still in office, i.e., by January 2001. Barak wanted it before the total collapse of his government and the holding of new elections, by February 2001 as it later turned out to be. The Palestinians believed that greater and more significant progress, much more than has been achieved by mid 2000, was needed before going to a final summit. For this reason, going to Camp David was not the Palestinian preferred option; the parties were not prepared for it as they have not yet made sufficient progress to warrant such a "final" push. In the absence of progress in the talks leading to agreement and closure, such deadlines were seen artificial by Palestinian leaders who came to believe that it was those deadlines that eventually doomed the process for a long time. For the Palestinians,

therefore, the implications of failure in reaching an agreement by the January 2001 deadline were not serious; given the continued progress between Camp David and Taba, what was needed was simply more time.

The role of the US, and particularly of some Jewish American officials deeply involved in the negotiations, came under attacks from Palestinian negotiators. Believing that Israel's dependence on the US for diplomatic, financial and military support means that the US is the only power with the ability to pressure the Jewish state, Palestinians viewed US direct involvement in the negotiation as a factor contributing to its success. Despite great domestic constraints, particularly during times of elections, the US, due to its international and regional interests and outlook, was seen by the Palestinians as a potential friend against Israeli extreme and right wing leaders. The experience of the Clinton administration with the Netanyahu government in 1998 demonstrated to Palestinians the efficacy of US pressure.

But once Barak's left wing government was established in 1999, US pressure vanished. Palestinians began to suspect the motivation and behavior of American officials accusing them of coordinating every step with Israeli negotiators. For example, Palestinians believe that American "bridging proposals" at Camp David were in fact Israeli initial offers, not only because they were much closer to the Israeli declared positions, but also because those "American" proposals were already informally presented to Palestinians by Israeli negotiators. The implications for the Palestinians were mixed: the Americans were useful witnesses to Israeli intransigence, but once Israel spoke of compromise, the US became an Israeli spokesman rather than an honest broker.

### **III. CHRONOLOGY AND TURNING POINTS:**

As they engaged in permanent status talk with the Barak government, the Palestinians sought answers to three questions: (1) What were Barak's intentions and bottom line? (2) Would more of the same be the outcome of negotiations with the new Israeli leader, after three years of stagnation in the negotiations with Netanyahu, or would it lead to real progress this time around? (3) What room for maneuver does the Palestinian leadership have as it finally sits to negotiate the hard issues of final borders, Jerusalem and refugees? The unfolding events provided many answers. Some of those, such as the announcement of the Clinton parameters and the outcome of the Taba talks, affirmed the inevitability of success while others, such as the gradual dismantlement and ultimate fall of the Barak government and the intensification of Palestinian-Israeli violence in the aftermath of the Sharon visit to al Haram al Sharif and the eruption of the Palestinian intifada, doomed the process.

We will first review the unfolding of those events, focusing specially on the Palestinian perception of turning points. We will then briefly show how these events and turning points affected Palestinian conclusions regarding the three questions mentioned above.

### **(1) May 1999: end of the interim period**

While few outside the Palestinian areas noticed the passing of the deadline for the end of the interim period in May 1999 --as most people were watching the unfolding of the Israeli elections campaign--, Palestinians were confronting three rising issues. In response to the end of the Oslo deadline, some Palestinians demanded a unilateral declaration of statehood in the West Bank and the Gaza Strip. As the deadline draw closer, the Palestinian leadership decided not to make a unilateral declaration. While some viewed the declaration as a useful tool in providing legitimacy to the PA and in giving some credibility to the peace process, others in the Palestinian leadership feared that such a declaration might harm the chances for a Labor victory at the polls. Indeed, many members of the PA elite hoped that a Labor victory might usher in a new era in Palestinian-Israeli relations leading to a quick agreement on permanent status.

The second rising issue was the concern that with the most important Oslo deadline passing without any progress whatsoever on permanent status, disillusionment with diplomacy and negotiations might set in leading to widespread public support for violence. The third issue revolved around the end of the election term for the Palestinian Legislative Council and the president of the Palestinian Authority. Without electoral legitimacy, it was feared that other sources of legitimacy, such as Islamist or the pre-Oslo PLO revolutionary legitimacies, might re-assert themselves. Without a state, a PA legitimacy, or public support for diplomacy, it was feared that time was running out for the peace process.

### **(2) July 1999-August 1999: No Wye River, no Interim Agreement**

Barak's first demand from the Palestinian side was to modify the 1998 Wye River agreement signed with his predecessor right wing leader Benjamin Netanyahu. In doing so Barak essentially wanted to forgo the implementation of Israel's interim agreement commitments, particularly army redeployments and territorial and jurisdictional transfers. Barak claimed that he wanted to go directly to permanent status negotiations. While willing to accept some delays in the implementation of Israel's commitments, the Palestinians rejected the essence of Barak's demand and insisted on the implementation of both interim and permanent status commitments. Despite the fact that Barak did eventually carry out a second army redeployment in

the West Bank, other commitments remained unfulfilled, most importantly the third redeployment called for in the Wye agreement.

The process involved in the Wye re-negotiation created a Palestinian mistrust in Barak. It was astonishing how Barak simply failed to appreciate the need to restore confidence after three years of deadlock under Netanyahu's right wing government. This mistrust intensified as Barak continued to encourage the enlargement of the settlement enterprise in the West Bank, authorizing the expansion of existing settlements and the building of new outposts, while turning his eyes toward Syria in search for a way out of Lebanon via a deal on the Golan Heights.

### **(3) January-April 2000: Syria first**

While seeking to convince the Palestinians of the usefulness of forgoing the implementation of the Wye agreement, Barak was engaged in promising contacts with the Syrians. Barak hoped to reach an agreement before June 2000, his election campaign promise and publicly stated deadline for withdrawal from Lebanon. But if successful, such contacts could have left the Palestinians with nothing: no Wye redeployments and no permanent agreement. The Palestinians were fearful that Israel could not make concessions on two fronts. They also feared that Syria was more important strategically for Israel. The Palestinians concluded that Israel wanted to avoid implementing all its interim commitments while at the same time avoiding, if the Syrian channel proved successful, serious permanent status negotiations. The outcome of Barak's failed Syria first strategy was not only to create mistrust in Palestinian-Israeli relationship, but also to weaken Barak's own coalition support, the same thing he wanted to avoid by freezing his interim commitments to the Palestinians.

### **(4) March 2000: official talks**

The convening of official Palestinian-Israeli talks in March 2000 created little excitement among the Palestinians. In fact, the presentation of the initial Israeli negotiating position elicited a negative Palestinian reaction. The first Israeli maps showed that areas that would come under Palestinian sovereignty did not exceed 65% of the occupied territories. As the size was later enlarged to about 80% -- even though no change in the Palestinian position was made in the meanwhile-- Palestinians concluded that Barak was playing a game and that all they needed was to wait for him to make a serious and real territorial offer. Barak, who was by then deeply occupied with the Syrian track may have indeed sought to buy time. Palestinian concern was heightened however as it became apparent that Barak

forbade his official negotiators from discussing with their Palestinian counterparts the issue of Jerusalem, a Palestinian red line issue. It seemed like the official Palestinian-Israeli channel was going nowhere while Barak was awaiting the outcome of the Syrian track.

### **(5) May-June 2000: Stockholm's secret channel**

Impressed by the success of the Oslo secret negotiations, some Palestinian officials sought to repeat the story with the permanent status negotiations. Mahmud Abbas (Abu Mazin), the number two man in the PLO hierarchy, suggested doing that via a Swedish channel back in December 1999, but nothing came out of that. Things changed however after the collapse of the Syrian-Israeli negotiations. Starting in May 2000, Abu Ala, the number two man in the PA hierarchy (due to his position as the PLC Speaker) began secret negotiations with Israeli counterparts in Stockholm. The Americans were not directly involved in all the meetings, but they were briefed by the participants and senior American diplomats attended the second round of the negotiations. Abu Mazin and the official Palestinian negotiators were kept in the dark.

Leaked to the press by a Palestinian source in the official negotiating team, the secret channel became public knowledge in June, bringing it to a quick halt before it was able to produce a closure on any of the issues; indeed, wide gaps remained in all the issues. Nonetheless, some progress was made in territorial and refugee issues. The internal consequences of the revelation regarding the secret talks may have been serious, negatively affecting the relationship between Abu Mazin and Abu Ala as well as the relationship between Arafat and two men. For the short term, Arafat's ability to manage the negotiating process was harmed as he lost the confidence of his two most senior advisors on the peace process.

### **(6) May 2000: three Jerusalem towns**

One way of compensating for the failure of the Barak government to implement its interim commitments was the promise made by Barak to Arafat to transfer to the PA the security control over three Palestinian towns located on the outskirts of Jerusalem. The three towns, Swahreh, Abu Dis, and al Ezariyyeh were already under Palestinian territorial, law and order, and civil jurisdiction. In the negotiations over Barak's demand to postpone the date for Israeli Second redeployment, Arafat requested compensation in the form of changing the designation of the three towns from "B," civil and territorial control, to "A," full territorial and security control. Arafat needed to be close to Palestinian holy places in East Jerusalem as a way to bolster his and PA fading legitimacy. Indeed, construction was underway in one of

the three towns, Abu Dis, to put up a parliament building with an office for Arafat overlooking al Haram al Sharif.

Barak was never able to deliver as promised, as his own room for maneuver in the government and parliament was being constrained due to internal conflicts over secular-religious issues, his offer to the Syrians of almost total withdrawal from the Golan, and over the level of violence directed against Israelis in the West Bank over the issue of Palestinian prisoners' release. Barak's inability to deliver according to promises dealt another blow to Arafat's confidence in his intentions. Combined with Arafat's record of bad governance and his inability to release more Palestinian prisoner, this Barak failure helped to accelerate the loss of PA legitimacy and the credibility of its leaders.

### **(7) June 2000: Israeli withdrawal from South Lebanon**

Israel's decision in June 2000 to unilaterally withdraw from South Lebanon, under military pressure from Hezbollah and without a peace agreement with Syria or Lebanon, contributed to a change in the discourse among Palestinians. The decision encouraged many Islamists and young guard national leaders to conclude that Israel can be forced out of the West Bank and the Gaza Strip through the use of force in the same way it was forced out of South Lebanon. A Palestinian poll at the time<sup>2</sup> showed 63% agreeing with that assessment. Indeed, in a meeting with Israeli minister, Dalia Itzik, Arafat told her that the Israeli withdrawal decision increased pressure of young Fateh leaders on him thereby constraining his room for maneuver. Arafat had already seen his authority challenged by Fateh young guards in March 2000 when the French Prime Minister, Lionel Jospin, was attacked at Birzeit University and later in May when the same young guards organized violent protests in the West Bank against the Israelis over the issue of Palestinian prisoners. Arafat's statement to minister Itzik was meant to be a warning to Israel that without a quick and substantive progress in the peace process he would soon lose internal control. Barak's decision to unilaterally withdraw from Lebanon, at a time when he was refusing to implement Israel's existing commitments with the Palestinians, commitments that were mutually agreed to, was inexplicable. It created great suspicion of his intentions at the time when Palestinians were being invited to the Camp David Summit.

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<sup>2</sup> The poll was conducted in July 2000 by the Palestinian Center for Policy and Survey Research in Ramallah (posted at: [www.pcpsr.org](http://www.pcpsr.org)).

## **(8) July 2000: Camp David Summit**

Reluctantly, Arafat agreed to go to Camp David Summit. Barak insisted on it and Clinton bowed to the pressure. Arafat's reservation were made clear to senior American officials: he did not believe that the amount of progress at the on-going negotiations warranted a summit so soon, more talks were needed before taking the risk of a summit failure. Some Palestinians suspected that the summit would be an Israeli-American trap designed to force concessions from the Palestinian leader or blame him for the failure if it ended without agreement. Palestinians also feared Barak's intentions from the summit. From the outset, they felt that he planned to use its likely failure as the means to avoid further implementation of Israel's interim commitments, particularly regarding territorial and jurisdictional transfers. They insisted on receiving guarantees that Israel would implement its interim commitments regardless of the outcome of the planned Camp David Summit. They received no such guarantees.

The Palestinian leadership gave low chances for success at Camp David. Major gaps existed in all the issues. The Jerusalem issue, including sovereignty over Muslim holy places, was almost untouched by official negotiators prior to Camp David. The territorial issue was still problematic with Israeli offers not reaching the 90% mark yet. Equal territorial swap was unacceptable to the Barak government. The principle of the right of return, while critical for the Palestinians, was a non-starter for the Israelis.

The US, under Israeli pressure made the decision to go to Camp David despite its awareness of the substantive gaps in positions and despite its knowledge that the issue of Jerusalem was un-opened. The US administration did not consider the cost of failure leaving unaffected Barak's clear determination, in case of failure, to abandon Israel's interim commitments. It was the implementation of such commitments that would have provided a cushion allowing the Palestinians to adjust to a possible blow of failure.

US strategy of isolating the negotiators, while expecting closure on the core negotiating issues, was not realistic. Already weakened due to loss of legitimacy at home, the Palestinian leadership was deprived of all possible support systems and therefore of the opportunity to give legitimacy to any possible agreement through a comprehensive process of consultation with Palestinian factions and Arab leaders.

Although the Camp David meetings were labeled a "summit," meetings of leaders were the exception, not the rule. One would wonder why there was a need for the summit then.



Given the leadership crises involving Arafat, Abu Mazin and Abu Ala, following the revelation of the Stockholm channel, it was inconceivable that Arafat would be able to reach a point of decision. Arafat would have been able to reach such a point only when his two most senior deputies find consensus on the core issues. Lack of proper cooperative relationship between Abu Mazin and Abu Ala precluded that possibility. Junior Palestinian leaders at Camp David were unable to fill the void. Therefore, the US-Israeli attempt to force Arafat to reach a point of decision at Camp David was ill advised.

While the Palestinians did indeed reject the US and Israeli ideas presented at Camp David and saw them as inadequate, it would be utterly absurd to conclude that the Palestinians made no counter offer whatsoever during ten days of negotiations. While the Palestinian leadership avoided at all costs to publicize its concession, particularly to the Palestinian public, American and Israeli officials at Camp David knew fully well what these were: equal territorial exchange allowing Israel to annex major West Bank settlements were presented to Americans with Israeli knowledge, along with a map showing the specific territorial concession; Jewish settlements inside the Israeli-defined municipal boundaries of Jerusalem and the Wailing Wall were to be annexed to Israel; ideas were presented with the aim of reconciling Palestinian demand for the right of return with Israel's demographic concerns; and several proposed security arrangements, very close to what the Israeli side demanded, were accepted. More importantly, in contrast to how Barak viewed his ideas, the Palestinians did not view their ideas as a one package deal that the Israelis could accept or reject.

Finally, while upon the insistence of the Palestinians the sides agreed before going to Camp David that if the summit failed no blame would be placed on the Palestinians, this is exactly what the US and Israel did putting the blame directly on Arafat and praising Barak for his courage and vision. Camp David was presented a one shot deal, a one time opportunity that the Palestinians missed. To complicate matters further for future negotiations, no attempt was made during the summit to identify areas of agreement and disagreement and no effort was made to present the summit as a one impressive step toward an ultimate deal. The Palestinians on the other hand wanted amore meetings and summits and viewed Camp David as one major station toward an ultimate destination of permanent agreement and end of conflict.

### **(9) August-September 2000: secret Sher/Erikat meetings**

What the parties failed to do at the summit in Camp David, documenting their agreements and identifying their disagreements, was a task left to senior Palestinian negotiator Sa'eb Erikat and Israeli negotiator and advisor to Barak Gilad Sher. Both men worked in August and September 2000 during more than three dozen sessions

to outline the contents of a permanent status deal and to draft some of its chapters, all based on the Camp David talks. While the product was impressive, it was not complete, leaving significant gaps for further negotiations. Furthermore, the eruption of the intifada by the end of September brought the noble efforts to a temporary halt.

### **(10) September 2000: the Intifada starts**

By the end of September 2000, domestic challenges to Barak's government were growing stronger and stronger. It was in this environment that the leader of the Israeli parliamentary opposition, Ariel Sharon, decided to visit al Haram al Sharif. His stated objective was to assert Israeli control over the holy place in response to Barak's willingness to compromise that control. But Sharon's visit to al Haram al Sharif came also at a time when Palestinian frustration with the lack of achievements in the interim issues or the permanent status talks was growing stronger by the day.

The eruption of the intifada in the aftermath of the visit was exploited by young guard activists demanding a shift in Palestinian strategy. Many young guard leaders viewed diplomacy as a failure and looked with admiration at Hezbollah methods and tactics in South Lebanon. Israeli use of excessive force against civilian demonstrators only constrained PA's its ability to confront the young guard and put an end to the ensuing violence. Furthermore, by targeting PA security installations and offices for destruction, Israel gradually reduced the capacity of the PA to act against the Palestinian militants. Indeed, this Israeli policy led many in the PA security services to join the militant groups. Weak and impotent, the Palestinian leadership sought to appease the militants in order to avoid direct confrontation with them. The net outcome of the violence was to reduce Arafat's room for maneuver making it more difficult for him to agree to further Palestinian concessions at the negotiating table.

### **(11) November-December 2000: the Bowling meetings and the Clinton Parameters**

Despite the continued violence, the parties returned to official negotiations in November and December 2000. With the two sides too weak to take bold steps at the Bowling meetings, a consensus developed on the need to turn to the Americans to present their own ideas. The Clinton Parameters, announced around the end of December, built on the progress achieved so far. The parameters were accepted by both sides with reservations. While the Palestinians took ten days to respond and while their reservations were more significant than the Israeli ones, the willingness to agree in principle with the parameters was historic. For the first time there was an agreed framework more detailed and comprehensive than UN resolution 224.

American and Israeli officials were quick to characterize the Palestinian response as negative, contributing more to building the myth of Palestinian rejectionism.

### **(12) January 2002: The Taba Talks**

The decision by the two sides to go to Taba must have been taken with the full knowledge that the chances for a breakthrough in the remaining few weeks before the Israeli elections were slim. The Palestinians had doubts about Barak's chances to win against the candidate of the right, Ariel Sharon. Most Israelis, as the polls showed, viewed the talks with suspicion believing that it was not legitimate for Barak to engage in last minute diplomacy of this nature. The talks ended without closure on any of the issues.

Yet, surprisingly, the Taba talks produced unexpected progress with the views of the two sides coming closer in most issues including territory, security, and refugees. Progress on the Jerusalem issues remained relatively limited.

### **(13) January-February 2002: End of the Clinton presidency and the holding of Israeli elections**

The victory of Sharon in the Israeli elections brought to an abrupt end a process that has started nine months before. It was this event that killed the ability of the two sides to capitalize on the achievements produced so far.

For the Palestinians, some of those events were turning points that tested Barak's intentions; others indicated direction of the negotiations; while few pointed to the limitations in the room for maneuver for themselves and for the Israeli side. Barak's decision to freeze Israel's implementation of its interim commitments was seen as a devastating blow to the gradualist logic of Oslo. If taken to its fullest implications, it meant the end of the Oslo bargain: end of violence in return to end of occupation. Barak informed the Palestinians that he intended to go directly to permanent status negotiations and that the implementation of Israel's interim commitments could have the potential of weakening his coalition as he sat for the permanent negotiations. Soon, however, the Palestinians were to discover that Barak, in fact, sought quite as he negotiated the details of the Syrian, rather than the Palestinian, agreement. Palestinian fears that Barak was after a separate Syrian deal deepened as the Palestinian-Israeli official channel was opened. The Israeli opening negotiating tactics, offering the return of some 65% of Palestinian territories, created the perception that Barak was not serious in his claim that he was after quick progress in the permanent status negotiations. It was not until after the collapse of the Syrian track in that Barak

turned to the Palestinian track authorizing the Stockholm secret channel in May 2000. Finally, Palestinians suspected foul play when they witnessed Barak abandoning concessions made by some of his negotiators. They became worried that concessions made by one Israeli negotiator can be taken back by Barak or other negotiators. In particular, they believed that Israeli foreign minister, Shlomo Ben Ami, played the role of the good cop while negotiator Gilad Sher played the opposite role, abandoning concessions made by the former.

The secret talks in Stockholm produced the first signs of progress in the core issues since May 1996 when the permanent status negotiations were officially opened. The fact that three years of negotiations with the Netanyahu government led nowhere and that one year of Barak's government has already been wasted had already created doubts about the direction of these negotiations. For this reason, the limited progress in Stockholm was seen as a small breakthrough as the two issues of borders and refugees received the greatest attention.

Four more events moved the process forward and indicated progress: Camp David opened the issue of Jerusalem for the first time. Progress was also achieved on territorial and security matters. Eriqat-Sher meetings documented areas of agreement and disagreement in writing for the first time since the start of permanent status negotiations. The Bowling negotiations culminating in the Clinton parameters advanced the process in significant ways addressing all the most difficult and sensitive issues including the right of return and sovereignty over Jerusalem's holy places. Building on all that, the Taba negotiations was perhaps the most impressive in terms of the ability of the two sides to find solutions to most remaining problems even if it failed to reach closure on any of the issues. Therefore, for the Palestinians, the overall picture is one of progress over time starting with the Stockholm talks in May 2000 and ending in Taba in January 2001.

Yet, a parallel dynamic was also underway: as progress was being made over time, the room for maneuver for both Arafat and Barak was being constrained. This negative dynamic started immediately at the beginning of the period under investigation: May 1999. This date witness the end of the interim period, without an agreement, thus leading to PA's loss of legitimacy. Four more events and turning points contributed further to this outcome. Lack of progress in the interim issues deprived the Palestinian leadership of the ability to buy time and legitimacy while waiting for conclusion of the permanent status negotiations. The consequence of the failure of the Camp David summit to reach a permanent agreement could have been mitigated by progress in the implementation of Israel's interim commitments. Barak's failure to transfer the three Jerusalem towns to full Palestinian control deprived Arafat and the whole PA leadership of a potent symbol of legitimacy thus further reducing their credibility and moral authority. The Israeli willingness to unilaterally withdrawal from

Lebanon, under Hizbollah's fire, while refusing to withdraw from three tiny Palestinian towns, at a time when the PA was still negotiating with Israel and indeed cooperating with its security forces, was viewed as bizarre. Once the Palestinian public drew the obvious conclusion – that Israel understands violence better than it understands diplomacy and cooperation—pressure began to mount on the PA leadership to allow others to seek to achieve by other means what it failed to achieve by diplomatic negotiations. The eruption of violence in the aftermath of the Sharon visit to al Haram al Sharif presented the dissatisfied young guard nationalists with the opportunity lead and sustain a second intifada that aimed at forcing the Israelis to withdraw while weakening and gradually displacing the old guard leadership. By the time the greatest progress in negotiations was made, at Taba, Israeli and Palestinian leaderships were already too weak to be able to embrace that progress.<sup>3</sup>

#### IV. PALESTINIAN NEGOTIATING STRATEGY

Palestinian strategy of negotiations evolved over time, mostly in response to Israeli tactics. At times, domestic constraints contributed also to the development of that strategy. Examination of the period under discussion reveals the following features of the Palestinian strategy:

- *Oslo's legacy of gradualism*. Implementation of interim measures was more important to the Palestinians than promises of a quick agreement on permanent status. The Palestinians insisted on the full implement of Israel's interim commitments according to schedule regardless of what happens in the permanent status negotiations. Confronting Barak's strategy which sought to undo the Oslo legacy of gradualism, the Palestinians won the initial battle -- leading to the implementation of a second Israeli redeployment in the West Bank -- only to lose the war after the failure at Camp David. Since then, no new Israeli interim commitment has been implemented. The Palestinian leadership was eager not lose the chance for a quick agreement on permanent status and for this reason was interested in secret and back channel negotiations.
- *Palestinian prerequisites to concessions*: While recognizing the need to compromise on some issues, such as security arrangements, practical refugee

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<sup>3</sup> Barak's weakness was evident in the fact that by the time he went to Taba, he had already lost his parliamentary majority. Barak's willingness to return the Golan Heights to the Syrians, his failure to implement the promised secular revolution, the fight with a coalition partner, Shas, over financial support for religious institutions, and finally his willingness to negotiate with the Palestinians under fire, all contributed to weaken him.

return modalities, and Jewish settlements and holy places, Palestinians saw such concessions occurring only within a defined context of linkage and thus progress in other issues. They were reluctant to negotiate security arrangements before the border issue was clarified. They were unwilling to negotiate practical modalities for refugee absorption before Israel was willing to accept the principle of refugee rights. Palestinian concession on Jerusalem settlements and Jewish holy places in the old city was possible only in return for Palestinians sovereignty over Arab East Jerusalem and Muslim and Christian holy places in the city. Palestinian willingness to concede to the Israeli demand for an agreement on the end of conflict was not feasible except within a context of a comprehensive, rather than a partial or a framework, agreement, i.e., until all other issues were closed.

- *Waiting for an Israeli offer:* Having developed an internal consensus on the parameters of the permanent status, the Palestinian leadership preferred to wait for a serious Israeli proposal before making any counter offer. Israel started with minimum concessions: first maps to be presented to the Palestinians gave back only 65% of the occupied Palestinian land. Yet, soon after, Barak gave up to 88% even though the Palestinian position in the meanwhile did not change. This Israeli strategy, starting with a minimum (and highly unrealistic), rather than a maximum, offer, convinced Palestinians that over time Barak would give more; all they needed to do was to sit and wait.
- *No fallback positions:* No serious debate took place among the Palestinians prior to, or after, the Camp David summit on fallback position. The basic position has been to seek a comprehensive and final status settlement. Alternatives, such as a second interim agreement, a permanent-minus agreement, or a one-state solution were deemed unacceptable. Any thing less than a comprehensive and final agreement were suspect as Palestinians feared it would become permanent. Palestinians therefore were determined to oppose any formal discussion of fallback. Academic and informal discussion of an interim agreement leading to the establishment of a state with attributes of sovereignty and provisional borders took place in the last months of the period under discussion but the Palestinian leadership refused at that time to officially endorse the idea.
- *Third party role:* The Palestinians believed that a successful permanent status negotiation required the full participation of the US administration in the leadership and management of the peace process. They also believed that the support of Egypt was critical and preferred to have a cover from Jordan and Saudi Arabia for any deal involving concessions involving concession on refugees and Jerusalem. Indeed, Egypt was involved in almost all the negotiations since Oslo. While the Palestinians believed the US role was meant to bring about pressure on Israel, the role of the Arab parties was to

give legitimacy to Palestinian concession in the Arab World. But the Palestinians did not see the US as an honest broker. At times, they in fact believed that some members of the US negotiating team were coordinating their positions with Israel. At Camp David, positions presented as US positions were in fact believed, by some Palestinians, to be Israeli positions presented as American to soften possible Palestinian opposition. In fact, some Palestinian believed that Israel and the US were coordinating a joint negotiating strategy aiming at trapping them. Yet, all this did nothing to change Palestinian assessment that the US role was critically needed.

There is no doubt that the objective of the Palestinian negotiating strategy was to bring the permanent status negotiations to a quick and successful end. But in doing so, it confronted two questions. Should the interim steps, not yet implemented such as the second and third Israeli army redeployments, be sacrificed if necessary in order to bring these negotiations to a quick and successful conclusion? The answer to this first question was a definite no. It took Barak and his government more than six months to reach this conclusion. The second question was no less important: if it seemed that permanent status negotiations were going no where, should the Palestinians opt for fall back positions, alternatives such as another interim agreement or a “permanent-minus” that addresses all issues except those found impossible to resolve such as the right of return or holy places? The answer here too was a definite no. Israeli and American belated realization of this fact by the end of the Camp David summit may have contributed to the building of the myth of Palestinian inability to make a peace agreement with Israel. But by creating the false impression that the collapse of the Camp David summit was in fact a collapse for the whole permanent status negotiations, a serious damage to was inflicted on the whole peace process.

Given Barak’s vital objective of putting an end to Israeli implementation of its interim commitments and Palestinian unwillingness to discuss fall back positions, it was inevitable that a breakdown in permanent status negotiations would lead to a strategic impasse. Since the status quo was simply untenable, a strategic impasse threatened to bring to an end the whole Oslo experiment including its basic grand bargain: an end to violence in return for an end to occupation. Given the role played by the interim measures, such as extending Palestinian jurisdiction over more occupied territories, in endowing the Palestinian leadership and political system with political legitimacy, it was inevitable that the end to the Oslo grand bargain would bring to question the legitimacy of all the structures created since Oslo. In this context, the eruption of the second Palestinian intifada in September 2000 should not have come as a surprise.

## V. THE TRIUMPH OF DOMESTIC CONSTRAINTS

While in way responsible for the failure of the permanent status negotiations, Palestinian domestic conditions contributed to that failure. Arafat's personal qualities, divisions in the Palestinian national movement among the old guard and between members of the old and young guards, and lack of serious interest at the highest level of leadership in educating and reaching out to Palestinian public opinion led to the triumph of domestic constraints in a manner that negatively, albeit indirectly, affected the fortunes of permanent status negotiations.

- *Aversion to Responsibility*: Historically, Arafat rarely took the initiative in the peace process. Even when others negotiated on his behalf, he found ways to avoid taking responsibility for the positions presented during negotiations until the deal was concluded. He had a declared position to which he remained loyal. He relied on his senior advisors, particularly Abu Mazin and Abu Ala, to propose deals and to investigate the extent to which Israel was willing to compromise. This dynamic gave these two men a great deal of power over the process of negotiations. There is nothing surprising or damaging in all of this except that it also gave Arafat the opportunity to avoid and, if necessary, to deny responsibility. In the example of the 1995 Abu Mazin-Bilien negotiations, Arafat publicly denied the mere existence of these negotiations. In 2000, the Abu Ala'-Ben Ami secret Stockholm negotiations narrowly escaped a similar fate when they were publicly exposed. The deniability of the secret negotiations meant loss of credibility and legitimacy to their outcome allowing forces opposed to them to discredit not only the negotiators but more importantly the concessions made during the negotiations.
- *Rivalry within the Ranks*: With the issue of Arafat's succession unresolved during the period under investigation, rivalry within the old guard, essentially between the two likely potential successors, Abu Mazin and Abu Ala', contributed negatively to the outcome of permanent status negotiations. Occasional tension between Abu Mazin and Abu Ala on one hand and Arafat on the other also played a similar role. Arafat's unwillingness to back the two men and take the blame when unpopular secret negotiations were made public (for example, the Abu Mazin-Bilien and the Stockholm negotiations) led both of them to be less than cooperative from time to time, particularly during the Camp David summit. Tension between Abu Mazin and Abu Ala, resulting from the secret negotiations that Abu Ala conducted in Stockholm, and that Abu Mazin was unaware of, exasperated the relations between the two men, a relationship that witnessed ups and downs since their successful collaboration in Oslo in 1993. This rivalry had serious



negative consequences at the Camp David summit reducing the ability of the Palestinian team to act and speak with one voice.

Moreover, tension between senior old guard leaders, such as Abu Mazin and Abu Ala', on the one hand, and junior leaders such as Dahlan, Mohammad Rashid, and Hasan Asfour, on the other, emerged at Camp David as another complicating factor. Some of the junior leaders were competing with the more senior ones in gaining Arafat's attention and confidence and in forging a deal with Israeli counterparts behind the back of the more senior leaders. While senior leaders viewed such attempts as creating a false impression of progress, the junior leaders interpreted the negative attitude of the senior figures as a reflection of the opposition these figures had for the a deal they did not forge themselves.

The ensuing dynamic was unhealthy for the peace process. While Arafat relied almost entirely on his senior advisors among the old guard, conciliatory counter offers made by junior officials could be easily over ruled by the Palestinian president. Israel was worried that Palestinian negotiators do not inform Arafat of the developments at the negotiating table and was worried about the ability of senior and junior negotiators to make credible concessions that were sustainable. This Israeli concern led Barak to draw the wrong conclusion: that it was critical to force Arafat, with the help of the US president, to reach a point of decision as quickly as possible.

- *Refusing to Engage the Palestinian Public:* The Palestinian leadership made little effort to educate the Palestinian public on the nature of concessions needed for successful negotiations. Indeed, even when the leadership made such concession, it refused to publicly acknowledge it. The public was kept in the dark in order not to alarm potential opposition groups and forces in the Palestinian society. But public ignorance of these concessions, and of the need to make them, created very high, and indeed unrealistic, expectations leading to strong public opposition to these concessions. This opposition may have in fact been responsible for the occasional Palestinian retraction of compromising offers already presented to Israeli negotiators thus fueling Israeli suspicion of intentions of the Palestinian leadership and indeed of its ability to make compromises.

## **VI. CONCLUSIONS AND POLICY RECOMMENDATIONS**

From a Palestinian perspective, permanent status negotiations failed because Barak wasted a full 12 months of his 20-month premiership before engaging in serious negotiations and because in the meanwhile he sought to abandon Israeli interim

commitments. By the time Barak got serious about peace making, it was already too late. By then he had lost his parliamentary majority and the Palestinian leadership had lost most of its maneuvering room. But the story of the failure of the permanent status negotiations is not that simple. The Palestinians too contributed to the failure.

Examination of Palestinian negotiating strategy and behavior during the period under discussion reveals interesting insights regarding concepts and methods of negotiations. Often, the strategy yielded tactics that seemed logical but contradictory. For example, while strongly guarding the achievements of the Oslo interim agreement and insisting on the full implementation of Israeli interim commitments, the Palestinian leadership refused to entertain ideas of new interim agreements, not as an alternative to a permanent status agreement, but as a fall back position. The logic was simple: if Israel wanted interim agreements, they must be bad for the Palestinians. Moreover, if the Palestinians entertained ideas of interim nature, they would be encouraging the Israelis to lose the motivation to negotiate a permanent agreement. The contradiction was clear: failing to reach a permanent agreement, the absence of further interim agreements would bring the peace process to a strategic impasse. If implementation of interim measures was vital for the Palestinians, why reject more of it while waiting for a permanent one.

Other tactics led to a centralization of decision making, but also to reluctance to engage in summit negotiations. Belief in the absolute need for US intervention and leadership of the peace process was coupled with doubts about the ability of the US administration to be an honest broker and, more importantly, with reluctance to go to the Camp David summit in July 2000, a summit that represented the highest level of US involvement in and leadership of the process. At all stages of the permanent status negotiations, the Palestinian leadership favored secret and back channel negotiations. Yet, in many cases, that same leadership was willing to easily ignore progress made in these forums or even deny the fact that they took place. Recognizing the inevitable necessity to compromise on highly sensitive issues, such as the case with the practical refugee return modalities, and indeed doing so privately, the Palestinian leadership did little to educate its public on the need to compromise or mobilize domestic legitimacy to such a step. While recognizing the fact that the refugees would be asked to pay a high price in a permanent agreement, the Palestinian leadership did not seek to find ways to bring that group into its own consensus, neutralize its opposition, or propose ways of compensating it.

The history of the permanent status negotiations reveals problems in all the issues we set out to examine. Back channel negotiations created progress; but they also exposed serious problems of authority, deniability and legitimacy. The parties never knew for certain that the other side had the authority to make the concessions it was making at the table of negotiations. Leaders at home had the luxury of denying involvement and retracting concessions. Secrecy meant a limited consultation process offering little

room for legitimacy building. The decision to jump directly from back channel meetings in Stockholm to summit diplomacy at Camp David was ill advised denying the parties the opportunity to address the problems of authority, deniability and legitimacy before proceeding to a “last resort” mechanism.

The parties were not yet ready for a “point of decision.” Substantively, there was no “ripeness,” as some final status issues, such as Jerusalem, that had not been explored. And procedurally, little was done in preparation. For example, there was no prior identification of points of disagreement, possible means of addressing them, or potential trade-offs. No thinking went on what to do with the outcome, particularly of failure, and how to address public expectations. When the summit was underway, leaders were isolated from the outside world including from those whose advice and support were critical for a successful outcome.

It was clear to some Palestinians that the third party, the Americans, were dragged to the summit at Camp David, just as the Palestinians were, by the Israeli prime minister. The Palestinians reluctantly agreed to go in the hope of improving their relationship with the US, but with little expectations of success. They felt that the US was being driven by Barak, not only in calling for the summit, but also in its adoption of the entire Barak’s negotiating strategy, a strategy the Palestinians believed was wrong and potentially disastrous. Despite their understanding of this US position, the Palestinians continued to view American leadership of the process as critical. As it turned out, the Americans, by buying into Barak’s logic, contributed to the failure of the negotiations. Continued Palestinian insistence on American leadership of the permanent status negotiations was baffling as such leadership only strengthened Barak’s hand.

In formulating its negotiating positions, the Palestinian side focused more on the rights, and less on the needs, of the Palestinians. This made it difficult for it to deal with strategic impasse. It worried about the impact of any fall back position it may entertain on the legitimacy of its demands and on its bargaining position. It feared that a fall back position that addresses Palestinian needs might undermine Palestinian rights. For example, a deal on territory that did not assert the principle of the return to the 1967 borders was unthinkable as it might have indicated willingness to accept something less than a full Israeli withdrawal. A deal on the practical modalities for a refugee solution was not possible before reaching an agreement on the right of return for fear that Israel may be tempted to ignore Palestinian demands to recognize that right. Barak, on the other hand, justified his concessions to the Palestinians by telling the Israelis that he will get them an end to the conflict. But an end to the conflict contradicted the need to search for solutions that were short of a permanent agreement. And if solutions were conceivable, why was it so vital for Barak to renege on Israel’s interim commitments? There is no doubt that the two sides failed

miserably in examining their fall back positions and in doing so invited strategic impasse and the resulting undoing of the Oslo grand bargain.

This paper is part of a Palestinian-Israeli-American project that aimed at examining Palestinian-Israeli permanent status negotiations. The Palestinian Center for Policy and Survey Research (PSR) joined forces, in mid-2001, with the Israeli Economic Cooperation Foundation (ECF) and former American advisor to President Clinton, Rob Mally, to examine the causes of the failure of these negotiations and to draw lessons from that failure. Funded by the Ford Foundation, the project involved several activities including the building of a daily chronology of events covering the period between May 1999 and January 2001. The chronology was based on daily reports in local and international press, published and unpublished memoirs of participants, interviews with senior negotiators, and meetings and workshops involving experts, academics, and policy makers. Israelis and Palestinians wrote papers that examined from each side's perspective the reasons for failure in the negotiations, the implications of that failure, and the lessons learned. A final workshop was organized in September 2002 with the objective of examining the two perspectives. The two-day workshop was attended by negotiators and experts. A final product of the project is a report containing the basic findings of the two sides, based on the separate papers, the final workshop, and independent interviews conducted by Professor Everett Mendelsohn from Harvard University.

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