

Determinants of Failure in a Two-Level Negotiation Game

Panagiotis KALENIS

Abstract: The article examines the impact of the activity of the parties involved, as well as of third parties, on the effectiveness of strategic negotiations with non-state organizations. It affirms that third-party implication in the form of mediation has been a core part of peace formation initiatives in the deeply divided Israeli and Palestinian societies, beset by competing cultural and ethnoreligious grievances. At first, key aspects of negotiation regarding the demarcation of the Zone of Possible Agreement (ZOPA), the significance of concessions, power asymmetry, and the level of conflict are specified through theoretical integration. The aim is to facilitate the study of the Israel-Palestine conflict, upon which negotiation theory is applied. Further on, the analysis conducted herein proves that domestic politics and third parties' priorities have limited the necessary flexibility and undermined the respective processes. The article argues that third-party interference has been ineffective and has protracted the conflict's dynamics, thwarting peace formation, and thus contributing to a deterioration of the status of the parties involved. To partly verify the findings, an interview with a member of a Palestinian Diplomatic Representation was conducted. The conclusion entails the imperative that a substantial interest in resolving a conflict is required to be based upon the commitment and capability of each and every party involved while avoiding a self-serving bias, third-party partiality, and the augmentation of frustration due to arbitrary activity.

Keywords: Negotiation, ethno-political conflict, radicalism, third actors, international organizations, Israel, Palestine.

Introduction

After the end of a mandate, territorial sovereignty may be contested between groups. An incompatibility over territory surfaces, in which the actors involved strive to prevail, adopting an antagonistic *modus operandi* (Wallensteen, 2002). Then, the underlying dispute may gradually take on

Panagiotis KALENIS

LLB (DUTH), MSc in International Negotiations
Athens University of Economics and Business
E-mail: kalenisp@gmail.com

Conflict Studies Quarterly
Issue 44, July 2023, pp. 36–54

DOI: 10.24193/cs.44.3
Published First Online: July 05 / 2023

the dimensions of existential conflict. As long as human needs, including identity, participation, and cultural/ethnic security, are not met, violence becomes the conduit of communication of frustration and anger, expressing a high concern for the status quo (identity-based conflict) (Burton & Dukes, 1990). At this point, the parties resort to sub-optimal political options and convey narratives that function as the causal link between the exercise of the moral right to exist and violent retribution (Ellis, 2020). Furthermore, the Western perception of the conflict cannot lead to resolution as gains are not diffused in the societies involved, creating a situation that mirrors domestic politics trapped in demagoguery and the appeasement of radical forces.

As Arafat, the leader of the Palestine Liberation Organization (PLO), declared in 1974 (United Nations General Assembly – 29th Session, 2282nd Plenary Meeting) “... *Today I have come bearing an olive branch and a freedom fighter's gun. Do not let the olive branch fall from my hand. I repeat: do not let the olive branch fall from my hand*”. This message was perceived as a call upon all stakeholders, nominally devoted to peace, to act. Delivered in a very specific way, it clarified the existence of a negatively connoted sole alternative. The mundane, recurrent call upon the parties to cease hostilities, the withdrawal of foreign support or the lack of impartiality, and the aim of an ulterior ending of terrorism/threat of violence pestering all communities, are core elements characterizing the related procedures. On the other side, the international context in which this message was conveyed meant to suggest that, notwithstanding the well-intended interference of a third party, sometimes the *modus operandi* lacks a genuine intention to move towards a settlement, existing only to maintain the conduit of communication and the ‘*raison d'être*’ of the mediator.

This article begins with a well-needed conceptual integration of negotiation theory into conflict management and examines certain aspects of the pathway followed by the negotiating parties and mediating third actors, in a ‘causality-result’ scheme. Subsequently, it outlines the extent to which a two/three-level game approach sheds light on the derivative implications in the negotiation process. While evaluating the outreach of the actors involved, the article concludes with the key determinants of failure, with homage to peace formation theory, domestic politics, and third-party interference. At the same time, it is processed under two fundamental constraints: (a) a Western democratic perception (liberal bias – Mac Ginty, 2006) and (b) scarcity of credible intelligence. Finally, it concludes with a discussion of the implications of this study for scholarship and policy.

The case of Israel-Palestine is chosen because of three core elements:

1. The withdrawal of a foreign force (mandate) in the past;
2. The emergence of radical groups with a powerful ethno-religious base (sacred vs political/secular values); and
3. The existence of robust Western implications, whereas the populaces involved are Muslim/Jewish.

Methodology

Primary and secondary sources in the form of journal articles and academic books, as well as an interview with a member of the Palestinian Authority's diplomatic mission, were used as sources for specific aspects of the topic, mostly drawn from the realm of sociology, conflict management, diplomacy, and the studies of international negotiations.

Integration of sociopolitical concepts in the Negotiation Theory

Iklé (1964) introduces the concept of negotiation as a "continual threefold choice" leading to (a) the acceptance of available terms; (b) opting for no agreement, or (c) the continuation of bargaining. Negotiation is indeed a collective decision-making process. It is a matrix of sets of proposals, out of which the one satisfying both parties prevails. Effectively reducing the counterpart's alternatives constitutes a sign of power (resources – relative ability to impose one's will). On the other hand, failing in satisfying a basic need in existential conflict often constitutes the motivational basis of radical behavior and, if the desired need is not met, deviant methods to attain a goal will be employed in the absence of alternatives. Through this prism, it is useful to lay the conceptual foundation, a comprehensive theoretical framework, consisting of negotiation parameters in conflict management. This will facilitate the assessment of the Palestine-Israel case and the extraction of causal links between the interference of third actors and the results of the respective processes.

Repression, mutual reassurance, and recognition

In ethno-political conflict, an anachronistic up-to-bottom polity eventually features a social group's *repression*, as the status quo-defender adopts oppressive practices against the weaker party (demander), to maintain its advantages (negotiation power). Political violence erupts and, on the level of organizations and states, negotiation is instrumentalized to prevent its escalation (Della Porta, 2014). Starting from the pre-negotiation phase, *mutual reassurance* is crucial to convincing the parties upon a common table and, progressively, to concede to the necessary extent. The existing depth of the initial distrust demands that each party offers continuing evidence to establish trust in one another's general direction (Lewicki *et al.*, 1998). Acknowledgments, symbolic gestures, or confidence-building measures prove trustworthiness, especially before risks, which are yet *terra incognita*. Communication expresses positions, extracts information, and directs the interaction between the parties. The mere act of opening communication channels may carry a negative connotation, that of implying an underlying *recognition* of the opponent's national or religious identity, political rights, or the right of intervention as if the situation comprised zero-sum terms (Kelman, 1987, p. 357). In terms of legitimization, recognition brings another aspect of the functions of negotiation: the actors are apprehensive, fearing that being 'entrapped' in a series of progressively

costly concessions may jeopardize inalienable values (sacred values), such as security and ethnoreligious identity, which at a certain extent includes the negative image of the other (Kelman, 2007). This makes it even harder for third actors to effectively mediate or intervene, although reciprocal recognition stands as a sort of power equilibrium and a stipulation of negotiation. After all, negotiation is a delicate process that requires careful attention to the underlying power dynamics and the potential threats to each party's values and identity.

BATNA, ZOPA, and frustration

Parties engaged in a so-called existential conflict are afraid to make needed concessions, albeit the status quo may have become increasingly painful, to an extent that they recognize that a negotiated agreement better serves their interests (in the Best/Worst Alternative to a Negotiated Agreement [BATNA/WATNA] dipole: the party has already approached the Reservation Price-Red Line of existence). In the scheme presented below, the core demands of the parties in existential conflict are demarcated and taken into consideration. Mirroring the protection of democracy (in a Western liberal perception) by the status quo defender, the demander pursues participation in the government, representing an ethnic/religious minority. The prerequisite, in this case, is that both communities are tolerant enough to coexist in a unitary polity. If this is not met, the strife for control over territory emerges, as the communities prefer total autonomy and, progressively, indisputable sovereignty.

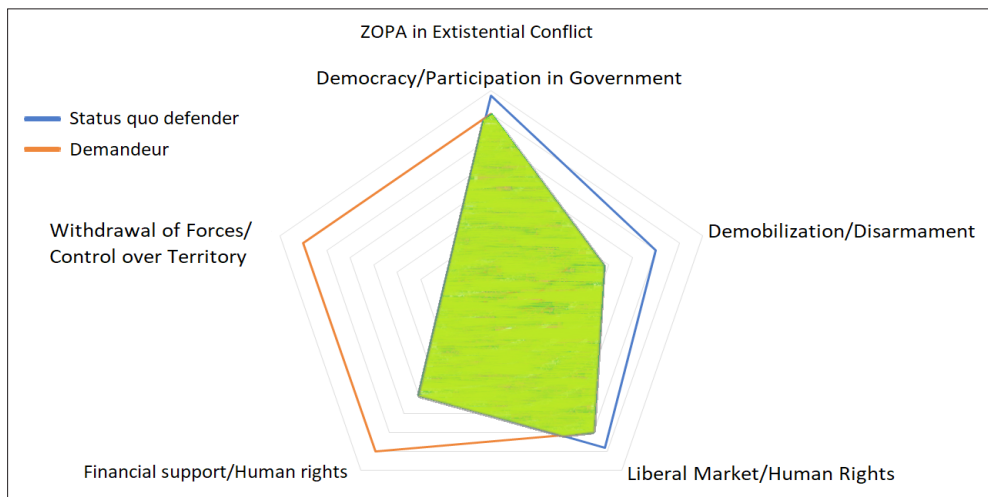


Figure 1: The delimitation of ZOPA in Existential Conflict

In the framework of negotiation, the constant demand for a withdrawal of foreign/oppressive forces can be linked to the settlement of the conflict as a whole. Such aspirations

are crucial for the demarcation of the parties' win-sets and the evaluation of settlement possibilities. Yet again, given that not all societal stakeholders in the local populace are satisfied, the lack in the *diffusion of gains* (e.g., political, financial) shall lead to a possibility that is to be reckoned with: highly frustrated groups will assume the role of the demander in the future, affecting main or derivative talks. *Frustration, anger, and exhaustion* arm the hand of the weaker party, bearing decisive importance in the delimitation of the Zone of Possible Agreement (ZOPA), formatted in the inaugural phases of negotiation. In a generalized implementation of the concept of the ZOPA in existential conflict, the scheme that represents the 'cost of delay' in reaching an agreement can be presented as follows:

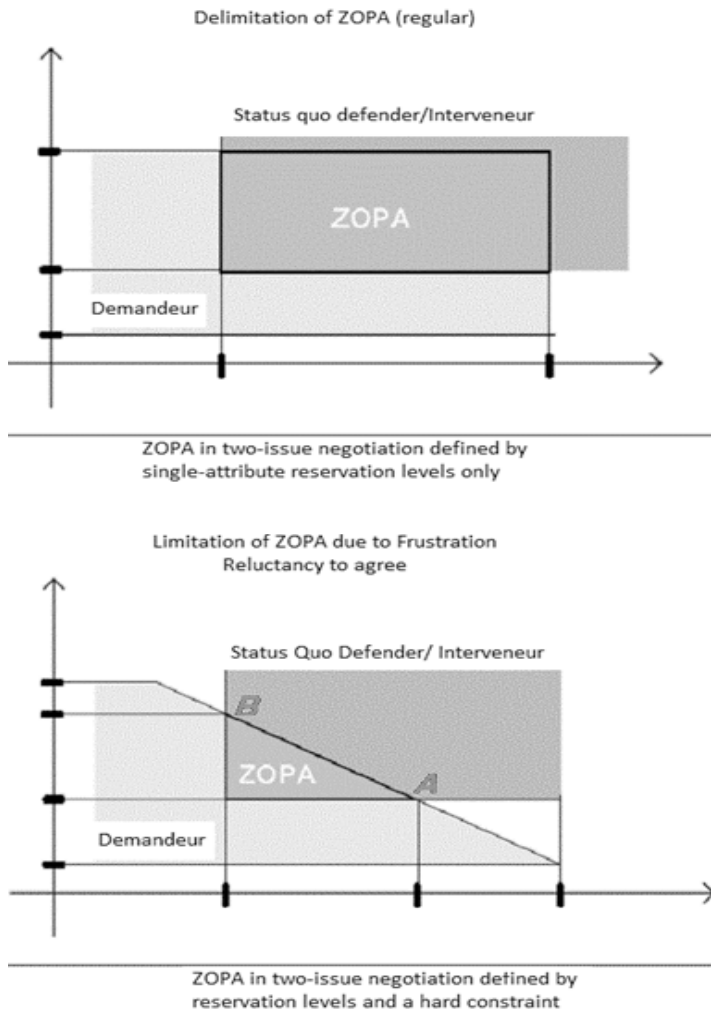


Figure 2: The shrinking of ZOPA due to Frustration in Existential Conflict

Frustration takes the place of the 'cost of delay' deriving from the protraction of the conflict (and the negotiation process), resulting in the shrinking of the ZOPA. And, naturally, as the ZOPA shrinks, so does the aspiration of avoiding the transformation of the conflict into war.

Balance of Power and the Importance of Flexibility

Zartman's (2000) 'ripeness theory' entails two perceptual prerequisites, which, albeit not always sufficient, are necessary for the transition of a severe conflict into a negotiation: (a) the parties are experiencing a *mutually hurting stalemate* that obstructs the implementation of their agenda, inflicting unacceptable costs. Regarding unacceptable costs, one can understand the impetus introduced on the premise of a recent or imminent catastrophe (terrorist/war threats); and (b) *optimism* about reaching a mutually acceptable settlement denotes the parties' perception of the situation, a distinctive hope of a 'negotiated way out', as Zartman (2000) suggests.

This approach persuasively lays the foundation for the inauguration of negotiation, although it does not mention the impact of the protraction of a conflict, the frustration pestering the populaces involved, and the irresolution connected to causal explanations – why continue investing in grinding processes that seldom bear fruits? Especially in cases of hardline politics directing negotiations, this perception is a non sequitur. Bercovitch (1992) suggests that more successful negotiations are the ones having results early on in the conflict. Thus, how can one remedy this matter? An essential component of successful negotiations is the *balance of power* between the parties to the conflict. In order to inaugurate negotiations, the parties' perception of asymmetry needs to be "*replaced by a realization of symmetry*" (Zartman, 1995, p. 148) – in another formulation, that happens when the parties "*see themselves as moving toward equality*" (Zartman, 2000, p. 228). Realizing they can neither unilaterally impose their will on nor eliminate the counterpart, they collaborate (from zero-sum to cooperative perception). Mutual recognition is a form of *power balancing* and a prerequisite of negotiation.

To better organize my thoughts, I must revert to a theoretical conception, explaining the parameters of *equality*. In order to engage in a negotiation, a party must be in a position to make demands and reduce the other's alternatives. Common experience shows that relative power is the key to being respected, recognized as an interlocutor, and making demands. Quite elaborately, Burton & Dukes (1990) suggest that gross asymmetry between contending groups denotes the possibility that the preponderant party is more possible to reap benefits, meaning that the concept of 'power' includes the "*capacity to coerce or defeat another party*" (Pruitt, 2009, p. 24). Pruitt (2009) suggests that a curvilinear relationship exists, where inequality and the possibility of conflict escalation are intertwined. Specifically in existential conflict, the term 'defeat' bears a unique connotation, that of annihilation. Thus, violence is what the parties resort to, in a

spiral of conflict characterized by progressively forceful tactics. In the face of inequality (a high degree of power asymmetry), the more disadvantaged group shall opt for ‘mala in se’ acts, to compensate for the deficit of power (presumably negotiation capital). The deployment of forceful tactics by both sides adds up to an intractable conflict. Also, predicting the negotiations’ collapse and because of the low level of the preferability of a solution, the negotiating personnel will have the tendency to follow a hard line, in disregard the negotiating partner, as the worst-case scenario is already a given.

Table 1: The Effect of Negotiation on Existential Conflict

The effect of Negotiation in existential conflict (A to B to C)

A. Communication	B. Recognition	C. Legitimization / power balance
- Positions	concessions	alteration of BATNA
- Information	<i>if</i> frustration	<i>then</i> shrinkage of ZOPA
- Interaction	repression	escalation of conflict

As communication is quintessential in conflict prevention, the dissemination of information and the discipline needed to avert arbitrary acts are ensured in Track One Diplomacy, at least on a theoretical basis. The latter possesses the capacities, both material and financial, to obtain much-needed leverage in negotiations (Bercovitch & Houston, 2000). Political power, steering the negotiations and outcomes, is its vantage point. But given that it is conducted at the formal, international level, with protocols and timetables, it limits the well-needed flexibility, that is the creative capacity to deviate and counter-propose (Mapendere, 2005).

Flexibility is the most prominent factor that *prima facie* influences the fate of negotiation and defines the ability to adopt new points without substantial divergence and loss of value. In this respect, demarcating the boundaries in negotiation restricts the options and the ability to circumvent stalemates. Seldom does it add impetus to the undertaken task, overcoming convulsions regarding the formulation of the agenda, bearing in mind that negotiation with a group regarded generally as terrorist is different during a generalized conflict than during the development of an incident/attack. The Intifada (1987–1993, 2000–2005) and the terrorist attacks heralded new strategies against the ‘oppressors’. The radicalization of religiously inclined groups and individuals was a fundamental indicator of a deep-rooted and severe conflict. According to Lederach (1999), confrontation brings the conflict to the surface and the dynamics of the conflict determine the range of options, from violent to non-violent. He further observes that the pursuit of peace involves some sort of confrontation. The variant implied, providing a catalytic effect on the transformation of confrontation into a negotiation (unbalanced

to balanced power) is the interference of a third actor. In the next step, confrontation moves toward negotiations. Within the broader progression of conflict, the multiplicity of peace-building and reconciliation activities attests to the creative nature of negotiation, barely effective when in its distributive form.

Symbolism: Negotiating sacred values

Two of the core elements of the Israel-Palestine conflict are religion and ethnic origin (identity-based, in contrast to interest-based conflict). Whereas there is no need to emphasize the 'peaceful' or 'polemic' nature of each religious belief, one can easily observe a radicality intrinsic in the names of organizations through which the communities express and protect their identity. Inalienable, sacred values (in contrast to secular/political values) of each side are projected like banners. And symbolism, without doubt, affects the communication and the effectiveness of any rapprochement initiatives. To be more precise, I remind the names of organizations engaged in the domain of security on each side:

- Harakat almuqawama al-Islamiyya (Hamas acronym, 'Islamic Resistance Movement') denotes the Islamic character of the movement (Sunni); Harakat al-Jihad al-Islami Filastin (PIJ acronym, 'Palestinian Islamic Jihad');
- Tsva ha-Hagana le-Yisra'el (The Army of Defense for Israel; IDF) beyond bearing a quite emotional word mark (in contrast to, e.g., 'US Army', 'Bundeswehr'), was established by key figures of paramilitary Jewish organizations (Haganah, Irgun, Lehi), while the official internet site of the Israeli Armed Forces reads, regarding its goals, as follows: 'respecting the values of Israel as a Jewish and democratic state (even the word 'Jewish' comes before 'democratic' (Lüders, 2015).

By mid-1949, the independent state of Israel was established. It occupied almost 80% of mandate Palestine, including a part of Jerusalem. The Arab-originating Palestinian population was dispersed, calculated at more than 700,000. Violence in the form of armed fighting and expulsion (offensive and passive aspect) during the Disaster (al-nakba) has since constituted a great part of the Palestinian ethnoreligious identity. Gradually, what had begun as a conflict between the Zionist and Palestinian movements claiming possession of one land, transformed into a zero-sum game hosting a Pan-Arabic struggle against Israel, which to this day is perceived as a Western imperialistic proxy (Litvak, 1998). The religious conceptualization of the conflict offered the ground for causal explanations engulfing a victim approach and a justified code of conduct (just war, vindictive motivation). In such situations, as if there is no other alternative, *indivisibility* plays a crucial role.

At this point, it is essential to attempt a historical reference to better locate key sources of the conflict as well as determinants of failure in the peace-building process. Even when the risk-prone Palestinian and the risk-averse Israeli negotiators reached some

common ground on fundamental issues, such as security, the fate of Palestinian refugees, the Israeli occupation of Palestinian areas, and the status of Jerusalem, they ultimately reached an impasse on the issue of sovereignty over the sacred site of the Haram El Sharif in the old city. Hassner (2003) suggests the element of *non-fungibility* is quite problem-creating in this matter. In this context, the parties' perception is limited to the non-substitution and the lack of reciprocity. Thus, there are no conditions under which the wills could coincide or dove-tailing (the creation of value through exchange) could be possible. Also, as far as the role of leadership in negotiations is concerned, Palestinian Authority president Yasser Arafat encouraged his delegation to demonstrate flexibility *but not budge on this one thing: the Haram [El-Sharif] is more precious to me than everything else.* (Hassner, 2003).

Regarding the mirroring of Israeli sacred values in the negotiation modus operandi, the main internal political conflict is not between conservative, liberal, and social democratic, nor between peace- and settlement-supporting political movements, but between three major right-wing/ultra-nationalist parties that engage in governance, one led by Benjamin Netanyahu ('Likud' – Consolidation), the second ('HaBayit HaYehudi' – The Jewish Home / Yamina political alliance) led by past Prime Minister Naftali Bennett, the third ('Yisrael Beiteinu' – Our House of Israel) led by former Foreign Minister Avigdor Lieberman (Lüders, 2015). All these names imply the need to establish a safe space for the Jewish people and accentuate the historical bond with the territory. In the elections that have taken place, it seems as if the Palestinian grievances were barely taken into account in the internal Israeli struggle over identity and sovereignty, serving merely as a subject in the domestic political parties' security agendas (the recurrent threat of violence). Israel's creation of facts (Fakten zu schaffen), in the sense of an *acquis* (precendent), e.g., through the building of a Wall ('Apartheid') and settlements in occupied areas, is indicative of an assertive strategy in which there is hardly any flexibility for future concessions, while the negotiation style remains competitive.

The Impact of International and domestic politics

Kelman (2011) focuses on the principle of '*attainable justice*' and the conformation with '*international law and the international consensus*' (p. 33). He suggests that partial support devalues concepts such as democracy and human rights, strengthening marginal movements that strive to be mainstreamed into politics, contributing to the "radicalization on the street". Because of the mundane repetitiveness of UNSC Resolutions, the international community is criticized for viewing the Palestinians more as a humanitarian problem than as an autonomous political actor.

When ethnopolitical groups with strong religious facets collide, it is usual that they experience negotiation myopia, which can be roughly described as not realizing the existence of an opportunity to settle the dispute because of biases. Military power, political

infrastructure, and external funding may rekindle the party's self-serving bias, which is a concept of overestimating one's relative power while adopting a coercive stance. Also, in every round of terrorist phenomena and reprisal raids, the emotional barrier of anger and demand for retribution is offered for domestic political manipulation (demagogy). As inner tendencies needed to be satisfied (Likud vs Labor Party, Fatah vs Hamas), shifts in domestic politics can be observed, a development leading to hardline negotiation tactics. Thus, violent acts not only promote insecurity and distrust (until recently, the ruling coalition in Israel never hosted an Arab party) but also influence core elements, such as mutual recognition and legitimacy.

It is quite surprising that, despite the defeat of the First Intifada by 1991, a sense of a significantly reduced military power dominated the Israeli public (Oren, 2009). Predicting the recurrence of violence in a second Intifada, the Israelis elected, in 1992, a more negotiation-prone government that promised to settle with the Palestinians (Savir, 1998). The 1992 coming of Yitzhak Rabin into power was a pivotal point. Substantial negotiations began, conducted in the obscurity of a 'moderate' façade of the Palestinian delegation, covertly controlled by the PLO. The Organization refused to allow any concessions, albeit Israel was willing to negotiate with those 'moderate' representatives (Pruitt *et al.*, 1997). Seven years later, the majority of the Israeli public believed that the Palestinians wanted peace (Ben-Eliezer, 2012). Yet again, the failure to reach an agreement on the status of the Haram [el-Sharif] was decisive for the failure of Camp David negotiations in July 2000 and led to the Al Aksa Intifada (2000–2005) (Hassner, 2003). The number of people believing in the settlement of the dispute declined. To appease the domestic audience (Ben-Eliezer, 2012) before the new wave of violence, Prime Minister Barak tried to have it both ways: on one hand, he communicated Israel's willingness to deliver generous concessions; on the other, he blamed Arafat for hostilities, implying the possibility of a war against the Palestinians.

In the course of time, the agenda set by all parties (as clarified in the Oslo process/ 'End Status Negotiations') (Asseburg & Busse, 2016) included the crucial issues to be attended to: the status of a future Palestinian State, the fate of the Israeli Settlements in West Jordan, in the Gaza Strip and East Jerusalem, access to the Old City of Jerusalem and the Holy Lands, the allocation and management of resources (especially the water). The variety of the issues above could have been an enabler/facilitator regarding the process (in terms of negotiation, as an opportunity for package deals, 'horse-trading', tit-for-tat), but reality came to contradict the expectations, as the 'win sets' of the parties (namely the total of quantitatively and qualitatively acceptable solutions, demarcating the ZOPA) were immensely narrow. More precisely, there could not be any terms of trade that a Palestinian entity would undergo. On the other hand, Israeli security was of fundamental importance to the government, not to be 'exchanged' with land (West Bank – land for peace).

Another drawback was the lack of a sincere and developing *credible commitment* even during each pre-negotiation period, perceived by theory as a functional need (Saunders, 1985). The strategic ease of a void of meaning ‘arrangement of the negotiations’ (strategic protraction by Palestinians) regarding the Clinton Parameters in the Sharm el-Sheikh summit, attests to the lack of commitment.

Often, a two-level game approach eloquently explains the effect of a negotiator’s interest-driven prioritization on the procedure. An example of the effect of domestic politics is that of the Israeli elections of 2001. Back then, it was incumbent on Prime Minister Barak to not concentrate his attention on the national elections, abandoning the negotiations that were ‘ripe’ enough and Arafat endorsed (Shamir & Shikaki, 2005). In this case, it is worth mentioning that the winning right-wing party Likud, as was expected, shifted the Israeli strategy to a less cooperative one (Barak’s communique of 8th February 2001 – Track One Diplomacy is affected by electoral cycles in a two-level game). On the other hand, as it is often asserted in the theory of negotiations, repetitiveness in bargaining procedures may pave the road for the parties, having made the necessary concessions, to adopt a cooperative style (e.g., 2005 Israel’s disengagement plan, ‘Sharon-Plan’, providing a unilateral, voluntary withdrawal from the Gaza Strip – dismantling Israeli settlements). However, as the examples provided show, the choice of a negotiating strategy is also related to the level of incompatibility, especially in existential conflict, as well as the parties’ inner discrepancies.

Palestinian politics were, at some point, characterized by a sharp division (2007 Hamas–Fatah civil war). The US-led and EU-supported ‘West Bank first’ approach may have fuelled the inner rivalry between Fatah (headquarters in Ramallah, West Bank) and Hamas (Gaza Strip), regarding which group should be perceived as the main interlocutor (or which territory/population should come first in the respective negotiation agenda). This may be the reason that the Arab attempt to mediate a power-sharing agreement between the mentioned groups failed in late 2008 (Asseburg, 2009). This gap inflicted a great blow on Palestinian institutions, which seemed to lose their legitimacy. Regarding this matter, the diplomat commented that “... a *major obstacle is that Israel refuses elections in Jerusalem as in 1996, 2005, 2006. This bears a political significance as if Jerusalem is driven out of the equation...*”. After all, reverting to the decisive role of the self-serving bias in intractable conflict, I would like to accentuate the fact, that before the British mandate ended, the Arabs rejected the UN General Assembly 1947 Plan for the Partition of Palestine into Jewish and Arab states.

Barriers and Power Asymmetry

Hamas expressed Palestinian frustration. It vented it into an asymmetric “power to hurt’, to compensate for the existing imbalance (Thomas 2014). Territorial control was a prerequisite, as it added to the ability to coerce concessions after entering negotiations,

Table 2: Timeline of key incidents/procedures

<p>Suez Crisis of 1956</p> <p>Israel, France and the UK occupy the Canal, whereas the USA as world power obliges them to abandon their plan. The Arab world perceives the actions as an offensive led by the old colonialists, resulting in the creation of the PLO (Palestine Liberation Organization)</p>	<p>1967 to 1974</p> <p>Fatah (the largest faction of the PLO) multiparty confederation, also engulfing the military wing of PLO - al-'Asifah / al-Aqsa Martyrs) engages in terrorist actions</p>	<p>1979</p> <p>The Yom Kippur War led to negotiations and the 1979 Peace Agreement (Egypt-Israel) with the mediation of the USA)</p>	<p>1987-1992</p> <p>1st Intifada: The Palestinian Stone war based on inequality, lack of fundamental resources (emergence of Hamas)</p>
<p>1992</p> <p>Secret talks began resulting in the Oslo I Accord (1993) and the Israeli-Jordanian Peace Agreement (1994), again with the involvement of the USA</p>	<p>1995</p> <p>Oslo II Accord (1995) – Rabin's Assassination and Camp David II (2000)</p>	<p>2000-2005</p> <p>2nd Intifada</p>	<p>2001</p> <p>Taba Summit (US mediated) in January 2001, the internal political timetable prevented reaching an agreement on all the issues (Israel elections)</p>
<p>2006 PNA (Palestinian National Authority) elections won by</p>			
<p>2006/2007</p> <p>2015 UN General Assembly</p> <p>Abbas gives the coup de grace to the moribund peace process</p>			

whereas, from Israel's point of view, this struggle would be interpreted as an indicator of 'an imminent victory rather than a stalemate' (Asal, Gustafson & Krause, 2019). This self-serving bias was articulated through *disregard* for the counterpart's identity or even its dehumanization. After all, negotiation, if perceived as a zero-sum situation, is a tug-of-war where each player tests the opponent's resilience.

Israeli prime minister Barak (1999–2001), at some point, announced a new initiative to renew the peace process with the Arabs, but he ignored the Palestinians' request to deal with them first, at a time when he should also negotiate with the Syrians. His tacit refusal simply confirmed that he did not respect the Palestinians as equals (Ben-Elezier, 2012). Under Netanyahu, Israel did not implement the three stages of the second redeployment stipulated in the Oslo agreements. Another indicator of disregard/power is that, on September 28, 2000, inner politics led the then-Israeli opposition leader Ariel Sharon to visit Jerusalem in order to assert Israeli sovereignty over the sacred site, a move regarded by Palestinians as a callous provocation. But where does this 'arrogance' derive from?

Israel's negotiation power sources can be divided into three categories:

- **Financial:** US aid for Israel is by far larger than the aid of the USA to any other country (around \$ 3 billion each year in direct foreign military financing (FMF), and about \$ 2 billion in forms such as Migration and Refugee Assistance account (MRA), sum constituting 1% of Israel's GDP) (Congressional Research Service Report – February 2022);
- **Military:** Israel is in 17th place among all states of the world (absolute military and defense expenditures) and among the top group in regard to their relative size (military expenditures constituted over 5% of the GDP since 2012 (Stockholm International Peace Research Institute – SIPRI). Israel, a country with advanced military and nuclear capabilities, has not signed the NPT (Nuclear Non-Proliferation Treaty) (Haller, 2015);
- **Political:** Regarding UNSC Resolutions, the U.S vetoes in favor of Israel amount to 45 in a total of 82. Also, the EU is Israel's biggest trade partner (29.3% of its trade in goods in 2020) and has signed an Association Agreement (entered into force in June 2000).

Israel has adopted a defensive narrative against terrorism, essentially endorsed by powerful third actors. In the Palestinian diplomat's words, *"USA doesn't worry about Israel's security, they support Israel for strategic reasons and the EU "also refrains from taking measures forcing Israel to accept a two-state solution, given that, in relation to their bilateral agreements, there is no reference to conditionality regarding the respect of Palestinian rights, although it possesses the necessary instruments to force Israel. On the contrary, the EU even imports products made in settlements in occupied areas, just placing an origin label on them"*.

The Oslo Accords (1993) accentuates the interrelation between every subject of the main negotiation agenda, especially as sub-negotiations need to commence (fragmentation). Furthermore, they may have failed because of this asymmetry. They included no agreement on Arbitration, or the interpretation of the corpus (e.g., stipulating that “*neither party should refrain from actions jeopardizing the implementation*”, the Ambassador pointed), disregarding the possibility of occupational activities and confiscations. Other than that, “*the Madrid Conference was process-oriented, not end-result oriented, a fact that led to the implementation of a sort of a macro-engineering of the populace. Despite the momentum created by the participation of a third-party facilitator, Arafat’s recognition of Israel (in Rabin-Arafat correspondence in letters, which became corpus of the accords), a ‘five-star’ recognition (recognition of the counterpart, its right to peace and its right to security), was not answered with a reciprocal level of recognition*”. Also, regarding self-determination, the intent of the correspondence was only limited to recognition of the counterpart as a representative/interlocutor, speaking of self-rule but no sovereignty (addressed only functional issues, e.g., municipal, health, education), raising questions about Zionism and its *modus vivendi*.

Asymmetry of power did not function according to Pruitt’s theory (an impetus being introduced towards negotiation); it was rather an obstacle to reaching a permanent solution. Simultaneously, third-party interference aiming at policing the negotiation/conflict management process and introducing an equilibrium can be negatively assessed. As Ambassador Salah Abdel Shafi put it “*our hope for a balance through the engagement of the US, EU, Russia, as guarantors for a two-state solution [...] was eventually not materialized and was essential ‘morally reinforced’ and thwarted by, at a maximum level, mere verbalisms condemning Israel’s acts*” (personal communication, January 10, 2022). He emphasized the need for a more engaged EU (“*don’t just be a payer, be a player*”), also holding the Israeli government accountable for not allowing the Palestinian people to conduct national elections, given that the respective process is not allowed in the city of Jerusalem because of the city’s status implications. Furthermore, this vast asymmetry of power between Palestine and Israel was not a deterrent factor in the recent example of the 2014 war, as well as recent violent incidents. The prolonged detrimental nature of this antagonism is obvious in the following chart:

On the Palestinian side, the efforts towards a two-state solution have been paralyzed by the absence of a unified leadership and coherent strategy (centrifugal forces: intra-Palestinian violence in 2007 between the nationalist Fatah in the West Bank and its Islamist rival Hamas in the Gaza Strip). Hamas is excluded from negotiations by the United States and Israel and is considered a terrorist organization, thus legitimacy and representativeness remain under doubt. On the other hand, the settler population has exceeded the number of 500,000, growing at a faster rate than the rest of the Israeli population (Bunton, 2013). Those settlers perceive Jewish sovereignty over all of the territory as a Biblical right.

Israel: Palestine

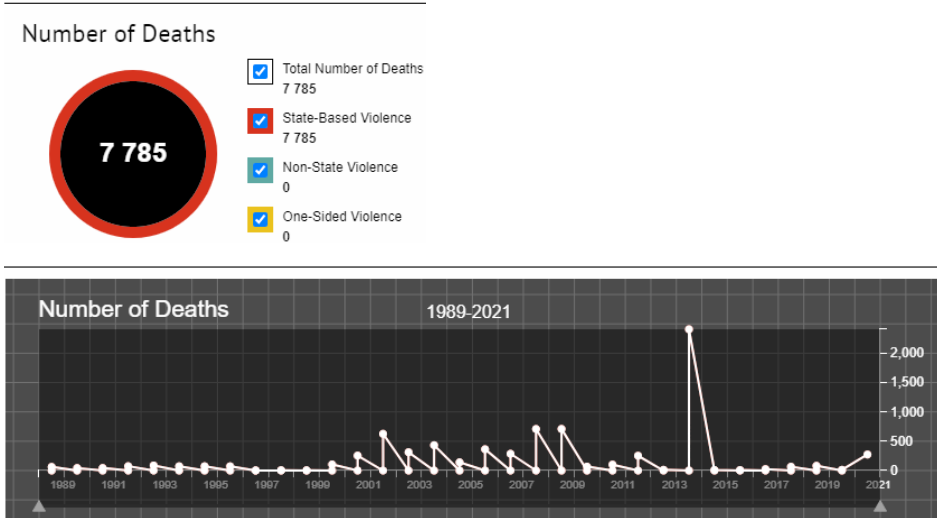


Figure 3. The death toll of conflict (Uppsala Conflict Data Program – UCDP)

After more than 60 years of conflict management, the acquis is supplemented by the November 2012 United Nations resolution (A/RES/67/19) that raised the status of Palestine to that of a non-member observer state, reaffirming Israel’s right to peace and security within its pre-1967 borders, also undermining the legitimacy of the Israeli settlements. The implications of the current situation, maintained (in fact it deteriorated) for decades, can be summarized in a 2010 quote by former Prime Minister Barak *“If there is only one political entity, named Israel, it will end up being either non-Jewish or non-democratic ... If the Palestinians vote in elections, it is a binational state, and if they don’t, it is an apartheid state.”* Recent events fuelled by attempted reforms in the Israeli judicial system partly confirm this citation. It goes without saying that the prolongation of the conflict was reinforced by this disequilibrium and the lack of a coherent approach by similar (on the criterion of identity, religion, traditions) actors, which were also interested in the outcome or had invested in the procedure. In this respect, one should observe the dynamics of the conflict, which may lead to stagnation or even deterioration in the position of a party. For instance, as the diplomat evoked, the Arab League Peace summit in Beirut (2002) emphasized the conditionality entailing Israel’s withdrawal from occupied territories and the normalization of its relations with Arab countries. The latter was achieved without any amelioration in the Israel-Palestine relations, thus negatively affecting Palestine’s position (see Abraham Accords of 2020). Third-party interference changed its orientation to facilitate self-interests, ignoring the significance of timing and protraction.

Conclusions

This article provides a solid conceptualization of socio-political parameters in negotiation, adding to the scholarship that has addressed the preconditions of existential conflict management. It draws examples from the Israeli-Palestinian conflict, arguing that the conflict is characterized by fluctuating political circumstances and changing preferences, making it difficult to reach a negotiated settlement. The diffusion of external positivity has led Palestine, whereas not constituting a state (declarative vs constitutive theory), to be **recognized** as an interlocutor by Israel, shedding light on the role of external actors (facilitation by the third parties, SC-Res. 1397). On the other hand, either the **autonomous activity of a party** (e.g. territory occupation, terrorist strikes) or **the stalling of the common effort** eventually led to the collapse of the negotiations and more radical actors emerging (intifada, Islamic radicals). This is linked to preferences changing over time and the stakeholders' emphasis on losses. The political circumstances in the course of these serious conflicts fluctuated, fundamentally related to the **level of the incompatibility**, so that mediation by powerful intermediaries did not eventually impose a settlement. Constant ambivalence led to failure.

The existence of a third party may have helped the groups approach **symmetry** in perceived power, which offered the ground to explore the possibility to reach a negotiated settlement, but in a hesitant and distorted manner. What is quite striking is that Hamas and Israeli settlers (as well as NGOs and civil society representatives) were frustrated because of their **exclusion** from the negotiation, soon assuming an undermining stance. The parties' proneness to protracting the conflict indicates that they avoided showing vulnerability by not yielding to terrorist/assertive activities. On the contrary, negotiation and peace formation demand mutually beneficial **concessions**, both by the status quo defenders and the demands. Yet again, the protraction led to increasingly more **frustration, anger, and exhaustion** which further opened the window to unilateral, illicit acts.

Key determinants of failure were identified in the examined case: managing the domestic audiences (endogenous factor) or appeasing the mediator (exogenous factor) were prioritized in the parties' agendas, correlated to **political costs**, given that the strategy previously followed had been non-tolerant of the counterpart. Furthermore, the **reputational costs** of not adhering to what was already agreed upon in an international framework did not necessarily obstruct the counterpart in maintaining its *modus vivendi*, meaning that measures such as **sanctions** were even obstructed because of the **mediator's partiality**, destabilizing the balance of power. Regarding the **lack of credible commitment/lack of operational coherence**, asymmetrical levels of risk exposure (e.g., the land-for-peace formula in Israeli-Palestinian negotiations) had aggravated the conflict. In the face of the possibility that the agreement would not be respected, the replacement costs were perceived to be unacceptably high by the parties relinquishing a non-returnable asset (e.g. land plus sovereignty, government).

Thus, the parties hesitated to commit themselves to the negotiation, as the exposure to loss deriving from improper or deceptive actions had been considerable, perceiving the situation as sequestration.

In contrast to being celebrated by the international community proponents, the mentioned results seem to disregard the needs of the local stakeholders and former antagonists. Despite the participation, in a protagonist role, of International and Regional Organizations as well as powerful Third party-states and NGOs, technocratic notions shaped the procedures (multi-round negotiations, promise for financial support, fragmentation of the agenda), reaffirming a Western understanding of conflict management. The usefulness of the findings lies in the perception of the need to reconfigure the facilitators' priorities in future or existing conflicts, devoid of self-interest and oriented in a positive outreach. If the aforementioned prerequisites are not effectively met, any peace initiative is doomed to be moribund.

References

1. Asal, V., Gustafson, D., & Krause, P. (2019). It comes with the territory: Why states negotiate with ethno-political organizations. *Studies in Conflict & Terrorism*, 42(4), 363–382. DOI: 10.1080/1057610X.2017.1373428.
2. Asseburg, M. (2009). *European conflict management in the Middle East: Toward a more effective approach*. Carnegie Endowment for International Peace.
3. Asseburg, M., & Busse, J. (2016). *The end of a two-state settlement? Alternatives and priorities for settling the Israeli–Palestinian conflict*. Stiftung Wissenschaft und Politik – SWP – Deutsches Institut für Internationale Politik und Sicherheit.
4. Ben-Eliezer, U. (2012). *Old conflict, new war – Israel's politics toward the Palestinians*. Palgrave Macmillan.
5. Bercovitch, J. (1992). *The structure and diversity of mediation in international relations*. In J. Bercovitch and J. Z. Rubin (Eds.), *Mediation in International Relations* (pp. 1–29). Palgrave Macmillan.
6. Bercovitch, J., & Houston, A. (2000). Why do they do it like this? An analysis of the factors influencing mediation behavior in international conflicts. *Journal of Conflict Resolution*, 44(2), 170–202.
7. Bunton, M. (2013). *The Palestinian–Israeli conflict: A very short introduction*. Oxford University Press
8. Burton, J., & Dukes, F. (Ed.) (1990). *Conflict: Readings in management and resolution*. Palgrave Macmillan.
9. Della Porta, D. (2014). On violence and repression: A relational approach (The government and opposition/Leonard Schapiro memorial lecture, 2013). *Government and Opposition*, 49(2), 159–187.
10. Ellis, D., (2020). Talking to the enemy: Difficult conversations and ethnopolitical conflict. *Negotiation and Conflict Management Research*, 13(3), 183–196. DOI: <https://doi.org/10.34891/1ftn-g083>.

11. Haller, M. (2015). *Ethnic stratification and socioeconomic inequality around the world. The end of exclusion and exploitation?* Ashgate.
12. Hassner, R. E. (2003). To halve and to hold: Conflicts over sacred space and the problem of indivisibility. *Security Studies*, 12(4), 1–33. DOI: 10.1080/09636410390447617.
13. Iklé, F. C. (1964). *How nations negotiate*. Harper and Row.
14. Kelman H. C. (2007). Israeli–Palestinian peace: Inching toward and looking beyond negotiations. *Middle East Policy*, 14(3), 29–40.
15. Kelman, H. C. (1987). The political psychology of the Israeli-Palestinian conflict. *Political Psychology*, 8(3), 347–363. DOI: <https://doi.org/10.2307/3791039>.
16. Kelman, H. C. (2011). A one-country / two-state solution to the Israeli-Palestinian conflict. *Middle East Policy Journal*, 18(1), 27–41.
17. Lederach, J. P. (1999). *Building peace: Sustainable reconciliation in divided societies*. United States Institute of Peace.
18. Lewicki, R. J., McAllister, D. J., & Bies, R. J. (1998). Trust and distrust: New relationships and realities. *The Academy of Management Review*, 23(3), 438–458. DOI: <https://doi.org/10.2307/259288>.
19. Litvak, M. (1998). The Islamization of the Palestinian-Israeli conflict: The case of Hamas. *Middle Eastern Studies*, 34(1), 148–163.
20. Lüders, M. (2015). *Wer den Wind sät – Was westliche Politik im Orient anrichtet*. C.H. Beck.
21. Mac Ginty, R. (2006). *No war, no peace – The rejuvenation of stalled peace processes and peace accords*. Palgrave Macmillan.
22. Mapendere, J. (2005). Track One and a half diplomacy and the complementarity of tracks. *Culture of Peace Online Journal*, 2(1), 66–81.
23. Oren, N. (2009). *The Israeli Ethos of conflict 1967–2005. Working Paper 27*. Fairfax, Institute for Conflict Analysis and Resolution, George Mason University.
24. Pruitt, D. G. (2009). Escalation and de-escalation in asymmetric conflict. *Dynamics of Asymmetric Conflict*, 2(1), 23–31. DOI: <https://doi.org/10.1080/17467580903214501>.
25. Pruitt, D. G., Zartman & Bercovitch, (1997). A brief history of the Oslo Talks. *International Negotiation*, 2(2), 177–182. DOI: <https://doi.org/10.1163/15718069720847924>.
26. Saunders Harold H. (1985). We need a larger Theory of Negotiation: The importance of pre-negotiating phases. *Negotiation Journal*, 1(3), 249–262. DOI: <https://doi.org/10.1111/j.1571-9979.1985.tb00313.x>.
27. Savir, U. (1998). *The process: 1,100 days that changed the Middle East*. Knopf Doubleday Publishing Group.
28. Shamir, J., & Shikaki, K. (2005). Public opinion in the Israeli-Palestinian two-level game. *Journal of Peace Research*, 42(3), pp. 311–328.
29. Stockholm International Peace Research Institute (SIPRI). (January 13, 2022). *Israel Military expenditure*. Retrieved from <https://milex.sipri.org/sipri>.
30. Thomas, J. (2014). Rewarding bad behavior: How governments respond to terrorism in civil war. *American Journal of Political Science*, 58(4), 804–818.

31. Uppsala Conflict Data Program (UCDP). (2022, February 20). *Number of deaths (Israel:Palestine)*. Retrieved from <https://ucdp.uu.se/>.
32. Wallensteen, P. (2002). *Understanding conflict resolution: War, peace, and the global system*. SAGE.
33. Zartman, I. W. (1995). *Elusive peace: Negotiating an end to civil wars*. Brookings Institution Press.
34. Zartman, I. W. (2000). *Ripeness: The hurting stalemate and beyond*. In P. C. Stern and D. Druckman (Eds.), *International conflict resolution after the Cold War* (pp. 225–250). National Academy Press.