

# **RISE OF THE PARTISANS**

## **AMERICA'S ESCALATING MEDIATION BIAS TOWARD THE ARAB-ISRAELI CONFLICT**

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Clayton E. Swisher

## ABSTRACT

This submission for PhD by Publication includes two studies I conducted during 8 years of dedicated field research examining the US role in mediating the Arab-Israeli conflict. These studies developed from my collection of in-depth oral testimonies and were buttressed by my recovery and examination of troves of original documents that had been previously denied any public, much less academic, scrutiny. The scope of this qualitative research and my political and historical analysis of it resulted in two published books that chronicle the unsuccessful American efforts to negotiate Arab-Israeli peace agreements during the presidencies of William Clinton, George W. Bush, and the first term of Barack Obama. In order of publication, they are *The Truth About Camp David* (New York: Nation Books, 2004) and *The Palestine Papers: The End of the Road?* (London: Hesperus Press, 2011).

The original academic contribution of both works was the presentation of new empirical evidence to advance understanding of how heavily biased American mediation severely damaged this diplomatic undertaking. Despite being a solidly pro-Israel country, the United States had previously been able to achieve some notable mediation successes when it made efforts to adopt an “even-handed” approach. Yet in the period covered by both my books, I demonstrated how top American mediators—comprised of mostly pro-Israel partisans—dismissed any pretext of impartiality, and in most instances even escalated their mediation bias. This behavior has exacerbated the Arab-Israeli conflict and made the stated aim of a comprehensive peace a very distant prospect.

*The Truth About Camp David* was intended as a first rough draft of history. The title references the famous summit convened by President Clinton in July 2000 that failed to forge peace between Israelis and Palestinians and the overarching US-led “peace process” around it which contributed to the outbreak of the Second Intifada. The book also details the effort to conclude an Israeli-Syrian peace agreement at Geneva just months before, which also failed. My research advanced the thesis that both the Geneva and Camp David summits were historic miscarriages of diplomacy by my presentation of granular insider

accounts revealing the intensity of American mediation bias. I also exposed the general disorganization of its negotiating team, a dysfunction that was largely unknown to the public prior to my book's release.

My primary purpose in writing *The Truth About Camp David* was thus to enable its reinterpretation by making public new evidence about this watershed moment and the period surrounding it. Relying primarily on oral history, I interviewed US, Arab, Israeli and European officials who were first-hand participants to collect their personal narratives. I sought to identify discrepancies in their accounts, and attempted to reconcile them through further interviews, document interrogation, and my own analysis. A key challenge of *The Truth About Camp David* was thus to weave a thread through the various testimonies and present, as best as I could, a coherent historical narrative. Following that, my aim was to have it reviewed and discussed among credible scholars and the foreign policy community. The testimonies within *The Truth About Camp David* directly challenged the official narrative and prevailing media orthodoxy at the time of Palestinian blame and Syrian intransigence. As a result, it helped reframe both political debate and academic scholarship concerning this crucial period of American diplomatic intervention.<sup>1</sup> In 2006, *The Truth About Camp David* was translated into Arabic, giving its contents even greater reach.

My 2011 book "*The Palestine Papers: The End of the Road?*" continued my earlier line of inquiry and was largely based on documents given to me the year prior, referred to as "The Palestine Papers," the largest leak of confidential negotiating records in the history of the Arab-Israeli conflict. Published in full by Al Jazeera Media Network, and in limited partnership with the UK's Guardian newspaper, the content of the files generated headlines around the world from January 24-27, 2011. My additional research for *The Palestine Papers* was released in May 2011 as an anthology of select papers with my accompanying qualitative analysis and interpretation rather than a stylistic mediation critique. My aim in writing "*The Palestine Papers: The End of the Road?*" publication was

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<sup>1</sup> A comprehensive list of reviews and citations of both books are included in the Appendix to this essay.

to reach beyond Al Jazeera and Guardian audiences and equip interested scholars, practitioners, and skeptics with essential highlights from the papers as well as an analytical framework to put them into context.

My research for *The Palestine Papers* sought to help reconcile the intervening gap of negotiating history from *Truth About Camp David*, following the trajectory of how Israelis and Palestinians alike had grown even more conditioned to expect if not rely upon biased American mediation that excessively tilts toward Israel. *The Palestine Papers* also catalogues for the first time the dynamics that enabled US negotiators to escalate its role from being the self-appointed judge of Palestinian negotiating behavior during the talks (in the Camp David 2000 era) to the unilateral “juror” of its final-status positions (evidenced by the presidencies of George W Bush and Barack Obama).

A supplemental essay included in this submission analyzes an earlier diplomatic era to advance my thesis of how far US mediation bias has traveled since America assumed the principal negotiator role of the Arab-Israeli conflict in the early 1970's. Indeed, based on the overarching narrative that evolve from both those publications and this essay, it is entirely predictable to see how America's mediation posture has matured into the era of extreme pro-Israel bias that now characterizes the approach of the Trump Administration.

I will interpret this collective diplomatic history using a range of multidisciplinary academic theories addressing biased mediation in international conflict resolution. Then, by drawing on the scholarship from my previous books, I will assess and critique the theoretical benefits of employing biased mediators in conflict resolution—as some prominent scholars have advocated for. By taking a fresh look at earlier Arab-Israeli negotiations led by Henry Kissinger under President's Richard Nixon and Gerald Ford, I am able to make even greater contrast to that very limited era when biased American mediation in the Arab-Israeli conflict appeared to yield limited success. The process of applying the scholarship of others against the knowledge created from my own published works enable me to demonstrate in this essay that the present day American negotiating bias toward Israel largely exceeds what the normative scholarship on mediation bias envisaged.

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## **LIST OF ACCOMPANYING MATERIAL**

Swisher, Clayton. *The Palestine Papers: The End of the Road?*. London: Hesperus Press, 2011. Introduction: Dr Ghada Karmi (Exeter University); pages: 319.

Swisher, Clayton. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. New York: Nation Books, 2004; pages: 455.

## **NOTE ON STYLE AND SPELLING**

One of the submitted books is published in the United States while the other in the United Kingdom.

In this essay I will be using Chicago-style citations. My spelling and punctuation are in the American style.

Original references in full titles and thereafter with abbreviated titles. “The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process” will be referenced as “The Truth About Camp David” while “The Palestine Papers: The End of the Road?” will simply be referenced as “The Palestine Papers”.

## GENESIS OF THE SUBMITTED PUBLICATIONS AND RESEARCH

When I set out to write *The Truth About Camp David*, much of the world's mind seemed made up on the subject. The prevailing view in the West was that Arabs were overwhelmingly to blame for the breakdown of diplomacy—whether it be Palestinians at Camp David in July 2000 or the Syrians at Geneva and Shepherdstown just a few months prior. An outspoken group of US and Israeli officials with a vested interest had seemed to emerge as the predominate narrators of “what really happened” in the early 2000's as the entire Oslo peace process went up in the flames of a bloody Second intifada (and later, subsumed by the September 11<sup>th</sup> attacks and the global response to it). However hard these ex-officials tried, immunity from rigorous inspection would not prove lasting. In defiance of the adage “history is written by the victors,” the ubiquitous “Arab blame” narrative would piecemeal fall apart. Eyewitnesses uncomfortable with that deceit were bound to go public—and ultimately did.

It was by strange circumstances my research would play a part in enabling that. I had been a U.S. special agent assigned to the protective detail of Secretary of State Madeleine Albright during the Camp David summit and other international venues shortly thereafter in support of this so-called peace process. In 2003, as a former bodyguard, I relied on my inferences and observations from that period to initiate a study on the subject, and later, an investigation, and finally, in 2004, publication of *The Truth About Camp David*, a heavily footnoted 405-page book. One line of inquiry I reflected on came partly from an observation I made late one evening while standing sentry at the summit. The American mediators were hosts to Israelis and Palestinians and presumably counted on to help reconcile the parties. But from what I could discern, it was the US negotiating team itself that often seemed to be at war—amongst itself. While it was far beyond my remit (and inappropriate) to try to understand the context then, I and many others could intuit that not all was right among the American diplomatic home team. My later return to examine that thread would prove consequential.

In fact, prior to *The Truth About Camp David*, there had been almost no insider American accounts of how badly mismanaged US diplomacy of the Arab-Israeli



conflict had been, especially as a result of excessive pro-Israel bias. Instead, the mantra of Arab blame for the absence of peace had been all pervasive, personified by America's longest serving US Middle East Envoy, Dennis Ross, whose memoir was published just a few months before my book.<sup>2</sup> Ross's nearly 900-page account was reliant on his notes, his memory, and offered little by way of internal critique on the effort he presided over.

Three published works existed in the English language at the time of my publication that were reliant on authoritative accounts by actual summit participants who were willing to challenge Ross's line. The first was produced by Akram Hanieh, a summit advisor to then-President Yasser Arafat, in the Winter 2001 edition of the *Journal of Palestinian Studies*. Hanieh memorably opened this essay by saying "The Americans never listened to advice" and particularly took aim at the pro-Israel bias of Ross.<sup>3</sup> The second, "Camp David: The Tragedy of Errors," shocked *New York Review of Books* readers in August 2001 as one of its authors, Robert Malley, a key aide to President Clinton, attacked the "Palestinians rejected a generous offer myth" by writing (along with his Palestinian co-author) how "strictly speaking, there never was an Israeli offer."<sup>4</sup> "*Shattered Dreams*," a 2003 book by veteran French journalist Charles Enderlin, blended narratives primarily from Israeli, Arab, and European sources to lay out how the Oslo process ended in failure.<sup>5</sup> In a review of Enderlin's book aside mine, scholar Charles Smith observed how:

"Swisher's book differs markedly...He has interviewed many more participants in the discussions and preparations for talks; he provides a "behind-the-scenes" narrative that greatly adds to, rather than merely supplements, Enderlin's present-tense point of view...[Swisher's] is a much more historical version of what occurred, along with the background to the talks as well as the atmosphere within each negotiating team, relying on oral history, a

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<sup>2</sup> Dennis Ross. *The Missing Peace*. (New York: Farrar, Straus, and Giroux, 2004).

<sup>3</sup> Akram Hanieh. "The Camp David Papers" *Journal of Palestine Studies*, vol. 30, no. 2 (Winter, 2001).

<sup>4</sup> Hussein Agha and Robert Malley. "Camp David: The Tragedy of Errors." *New York Review of Books*, August 9, 2001.

<sup>5</sup> Charles Enderlin. *Shattered Dreams: The Failure of the Peace Process in the Middle East 1995-2002*, trans. Susan Fairfield (New York: The Other Press, 2003).

warts-and-all approach that gives insight into personal tensions and disputes within the State Department and National Security Council groups and between them.”<sup>6</sup>

Shlomo Ben Ami, who was Israel’s foreign minister at Camp David in 2000, described *The Truth About Camp David* inside his own memoir as “a recent insider account” that “offers plenty of evidence about the erratic way the American mediator handled the summit.”<sup>7</sup>

Discovering that politically controversial information was no easy task. Declassification of State Department and White House records from this period was a very distant hope, and although I tried anyway through Freedom of Information Act requests, it was clear to me the only way to capture this period was to track down as many attendees as I could and convince them to speak.

My research thus became qualitative by necessity through the directed use of interviews and oral history to record and understand this mediation effort. As I learned more, my emphasis shifted to exploring US shortcomings, an evergreen topic at the time (and a focus that was anyhow unlikely to exist in classified after-action cables from the time period). I specifically sought out note takers, translators, and career diplomats with the least political axe to grind. As I wrote in my book, several of the American interviewees were genuinely eager to offer self-critical insights, even if it might anger the former US President they served.<sup>8</sup> Most interview participants were sent typed transcripts of our complete interview and given 30 days to amend or correct their remarks; only two subjects exercised this option. Very few requested I withhold their names. At least two who did were serving undercover CIA officers; one of them, Stanley Moscovitz, has since deceased, and had been the CIA Station Chief in Tel Aviv.

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<sup>6</sup> Smith, Charles D. "The Truth about Camp David: the Untold Story About the Collapse of the Middle East Peace Process." *Middle East Policy* 12, no. 1 (2005): 156-161.

<sup>7</sup> Shlomo Ben-Ami. *Scars of War, Wounds of Peace: The Israeli-Arab Tragedy*. (London, Weidenfeld & Nicolson, 2006), 264.

<sup>8</sup> Given Bill Clinton’s wife Hillary was expected by many to seek the presidency herself, getting others to open up on negative aspects of the Clinton administration and its handling of a high-profile failure presented obvious risks. Given the small pool of Middle East policy wonks working this issue (whether for Democratic or Republican administrations) this tended to inhibit self-criticism.

I additionally pursued my field research abroad during trips to Cairo, Gaza City, Tel Aviv, Jerusalem, Ramallah, Amman, and Damascus, interviewing non-American subjects away from Washington and mostly within their own comfort zones. The obvious benefit of this field research was that I was also able to bring forward new Israeli, Syrian, and Palestinian voices on the topic, many of whom had been narrated over by more senior and outspoken political figures, particularly from the West.

Although *The Truth About Camp David* is based on more than “40 such interviews, with 500 pages of transcripts from digitally recorded depositions and notes,”<sup>9</sup> the lasting impact of this research rests especially in the self-critical American interviews I obtained with relative proximity to the historical event (interviews done within two to four years from the event rather than decades later). I explored the depths of American bias among key US negotiators, demonstrating the practical effect it had on both Palestinians and Israelis, and recorded the losing Palestinians cause to try and mitigate that bias. I was also the first to demonstrate that US mediators abandoned America’s own recommended guidelines for conducting Arab-Israeli summitry, based on a thorough study prepared by veteran US diplomats for the quasi-government US Institute of Peace.<sup>10</sup>

My concluding chapter shows how the Israelis and American “Arab blame” influence campaign helped calcify global and domestic public opinion against Palestinians, even impacting the incoming presidential administration of George W Bush. My book concludes with Deputy Mideast Envoy Aaron David Miller recalling how he, along with Dennis Ross, misled the incoming Secretary of State, Colin Powell, during an initial meeting to understand what had really happened at Camp David: “Like any brief,” said Miller, “You don’t want to give

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<sup>9</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), xxi.

<sup>10</sup> *Ibid.*, 248-249.

centrality to how you fucked up. Dennis could have never brought himself to do it, and neither could I.”<sup>11</sup>

The positive reception to *The Truth About Camp David* helped open professional doors for me. From 2005-2007, I was the director of programs at the DC-based Middle East Institute, a think-tank where I was a frequent commentator in the international media on US policy toward the Arab-Israeli conflict. I became a term member with the Council on Foreign Relations, and in 2007, I joined the ranks of Al Jazeera English in Doha, Qatar. Although in 2010 I had become a field producer and reporter with Al Jazeera, it was in my earlier capacity recording Arab-Israeli diplomatic history that trusted Palestinian sources approached me with an amazing offer. I would be given exclusive access to more than 1,600 electronic files concerning the Israeli-Palestinian negotiations spanning the 1999-2010 period, many of which were closely guarded high-level diplomatic meeting minutes between US, Israeli, and Palestinian Authority officials. These sources expressed hope that I would find a way to best ensure the material received a fair hearing and as wide an audience as possible.

As the name implies, my research for *The Palestine Papers* was very much reliant on the official records from the vantage point of the Palestinian Authority, most of which were near-verbatim transcripts of confidential diplomatic encounters. The notetakers of these documents tended to be Western-educated lawyers who acted as quasi-stenographers during meetings attended by senior PA officials, whom these attorneys were employed to advise. Almost all the files were in the English language, which Israelis and Palestinians negotiators mostly use when dealing with each other.

Although my initial focus was on presentation of these records for television (requiring an inevitable watering down owing to the medium), my vetting of the information and records had to be just as rigorous as any of my previous research, if not more so, given the electronic provenance of the documents and

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<sup>11</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 405.

potential for manipulation. While research for *The Palestine Papers* required me to discern information primarily through the testimony of documents, and in particular meeting transcripts, I had to inevitably return to oral history. I conducted several taped interviews to verify the documents were authentic and to ascertain the context of specific discussions and statements. In some instances, I interviewed US, Israeli, and Palestinian officials while they were unaware that I had transcripts of their discussion in my possession. I did so to preserve the secrecy of the project but to also get a sense of how their own recall compared to the verbatim transcripts. Unsurprisingly, the two accounts did not always reconcile, which required me to interview other witnesses to see if the document was correct or if the subject was giving jaundiced testimony, for example, to conceal something.<sup>12</sup>

From the contents of the dialogue I extracted several revealing vignettes from *The Palestine Papers* concerning how Palestinians dealt with American pro-Israel bias, sometimes in unexpected ways. For example, I demonstrated how the lead Palestinian negotiator Dr Saeb Erekat had consigned the “refugee” file in final status negotiations to American mediators for decision, with full knowledge they were wholesale adopting the Israeli position to prevent a single refugee from returning. Succumbing to Israeli and American pressure, Erekat and others sought to have the US force this decision so they could save political face, according to his co-workers. I further analyzed how US mediation bias impacted discussions on Jerusalem and Borders, and how then-Secretary of State Condoleezza Rice threatened Palestinians that they would “not have a state” unless they allowed Israel to retain the illegal Ma’ale Adumim settlement.

Under President Obama, I show how the State Department threatened to cut funding of the Palestinian Authority unless it saw “the same faces” (Abu Mazen

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<sup>12</sup> Clayton E. Swisher. *The Palestine Papers: The End of the Road?* (London: Hesperus Press, 2011), 45-47. For example, Saeb Erekat told me in an interview that Palestinians in the diaspora would be allowed to vote in a referendum on any peace deal that might impact their right to return. The transcripts of his meeting with an EU Foreign Minister, however, recorded him boasting that such a vote was “never going to happen.” Others present in the meeting confirmed for me the contemporaneous transcript is the correct version rather than the one Erekat provided me after the fact in our interview.

and Salaam Fayyad) in office after elections were held.<sup>13</sup> US Secretary of State Hillary Clinton goes so far as to tell her Palestinian interlocuters how “Abu Mazen not running in the election is not an option—there is no alternative to him.”<sup>14</sup> In addition to undermining democracy, I show how the official American preference for Abbas never materialized into any negotiating advantage vis-à-vis Israel, which both Bush and Obama administrations overwhelmingly favored. If anything, the strings that came attached with being Washington’s preferred Arab peacemaker meant succumbing to its threats, as I demonstrated in my chapter addressing the PA’s decision to drop the Goldstone Investigation into whether war crimes were committed by Israel during the 2008/9 Operation Cast Lead assault on Gaza.<sup>15</sup>

There were no publications similar to *The Palestine Papers* close to the time of its release, further underscoring the “black swan” nature of the leak itself. The closest study examining US mediation bias came in a 2008 update of the US Institute of Peace study called “Negotiating Arab-Israeli Peace” by Messrs. Daniel Kurtzer and Scott Lasensky.<sup>16</sup> This book focused on improving American diplomatic procedure and confirmed some of the harm caused by Arab perceptions of pro-Israel bias based on reflective interviews. But these authors lacked the transcripts of actual negotiations that I possessed. And given how much of the volume of *The Palestine Papers* documents were from 2008-2010 (during the so-called Annapolis Process), my publication naturally went beyond theirs, offering transparency in what was then an ongoing process renowned for its opaqueness. In doing so *The Palestine Papers* equipped affected constituencies and critics of this entire process with hard evidence they could draw upon to reevaluate US mediation bias in a more informed way.

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<sup>13</sup> Clayton E. Swisher. *The Palestine Papers: The End of the Road?* (London: Hesperus Press, 2011), 60.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid., 63.

<sup>16</sup> Kurtzer, Daniel C., and Scott B. Lasensky. *Negotiating Arab-Israeli Peace: American Leadership in the Middle East*. Washington DC, 2008.

## INTRODUCTION

Although heavy pro-Israel bias among US mediators helped explain why diplomacy failed in *The Truth About Camp David* and *The Palestine Papers*, scholars of the Arab-Israeli conflict could be forgiven for believing that biased mediation can sometimes work.

In Part One of this essay, I will examine the intellectual architecture behind biased mediation, including arguments by some who hold forth that mediator bias can even be considered ideal. For that scenario to work, I will show, there are rules to follow and conditions necessary to keep that bias from going too far. My conceptual framework for this essay reexamines my own scholarship by applying the filters of negotiation and biased mediation theory. I begin by first reviewing the existing scholarship concerning third-party intervention (mediation) and a subset of ideas therein on the desired attributes (whether biased or unbiased) of a mediator, which I will later critique. Part One provides overview on the behavior, level of involvement, and intensity of efforts such a mediator might employ in its strategy (eg. whether merely “procedural” or “directive”). It also presents contrasting academic perspectives on biased mediation and summarizes the normative lessons they contain. Finally, I also include a coercive diplomacy theory known as “leadership selection intervention” which has aggravated the effect of American mediation bias in the contemporary Arab-Israeli negotiations, a dynamic present in both my submitted publications.

Part Two of this essay delves into the short-lived heyday where US mediators tempered their pro-Israel bias with evenhanded behavior. Zbigniew Brzezinski, the late National Security Advisor to President Carter who helped negotiate the historic Camp David Accords in 1978 between Egypt and Israel, lamented the departure from this approach, where US mediation bias went from “relative impartiality to increasing partiality in favor of Israel, to essentially the adoption of the Israeli perspective on the Israeli-Arab conflict” by 2006.<sup>17</sup> To examine what

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<sup>17</sup> Gati, Charles, ed. *Zbig: The Strategy and Statecraft of Zbigniew Brzezinski*. JHU Press, 2013. p. 189.

the first example of “relative impartiality” looked like, Part Two juxtaposes my conceptual framework against US diplomat Henry Kissinger’s biased but relatively evenhanded mediation following the October 1973 war, a considerable effort cited by some scholars who advocate biased mediation.

This enables me to next compare the intensifying degree of American mediation bias nearly two decades later among the central mediators of the so-called Oslo “peace process” during the 1990s and 2000s. My objective is to explain why earlier biased mediation theories fall short of capturing the collective efforts of Dennis Ross and others, as I take aim at the limitations to such theoretical modeling when it comes to eliciting practical historical understanding.

I conclude in Part Three that the escalating degree of American mediation bias in the Arab-Israeli conflict differs from and exceeds what was envisioned in the scholarly literature on biased mediation—as pioneered by Saadia Touval in the 1970s and whose research is based largely on that now distant era. Moreover, that the US, to the detriment of global peace and stability, has in far more recent instances embodied characteristics found on the fringes of scholarly concepts of bias like “more royalist than the king” or “agent provocateur.” Even some former US diplomats have self-critically derided their own role as becoming that of “Israel’s lawyer.”

Part Three offers my conclusion about how pro-Israel partisans acting as mediators defied these scholarly mediation bias models by critiquing their behavior as chronicled in *The Truth About Camp David* and *The Palestine Papers*. I discuss the continued lack of professional consequences facing biased American mediator who repeatedly fail in their mission. I instead record how recent US Presidents have even come to regard extreme pro-Israel zeal among their negotiators as a domestic political bonus. This phenomenon progressively brings us to the Trump Administration, whose envoys toward the Arab-Israeli conflict can more aptly be described as “extremist mediators.”



## **PART ONE: SCHOLARLY LITERATURE ON MEDIATION MODELS**

### **1.1 Research Background**

Historian Hilde Henriksen Waage has lamented the “striking neglect of history within the literature”<sup>18</sup> on conflict management while assessing Norway’s mediation of the Arab-Israeli conflict. In her 2007 study she noted how theories on third party intervention, mediation, facilitation, and the role of intermediaries had only recently developed owing to “great interest” by scholars and practitioners.<sup>19</sup> Jacob Bercovitch also found shortcomings in scholars of international mediation for making “minimal use of historical experience,”<sup>20</sup> and would also seek to correct that deficit with his 1986 “Case Study of Mediation as a Method of International Conflict Resolution: The Camp David Experience.”<sup>21</sup> Ignoring history is but one of the handicaps of the study of international mediation theory, according to Waage and Bercovitch. An oracular projection made by the latter more than 30 years prior foresaw the “growth in the number and intensity”<sup>22</sup> of global conflicts, as Bercovitch warned scholars in the field of third party mediation that, despite “being as old as conflict itself,” conflict management remained the “least understood.”<sup>23</sup>

### **1.2 Primer on International Mediation**

Bercovitch and Robert Powell view the cycle of war and conflict resolution as synonymous with a bargaining process.<sup>24</sup> Defined by Zartman as “the process of combining divergent viewpoints to produce a common agreement,” negotiation is a means of managing or (ideally) bringing war and conflict to a

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<sup>18</sup> Hilde Henriksen Waage. “The ‘Minnow’ and the ‘Whale’: Norway and the United States in the Peace Process in the Middle East” *British Journal of Middle Eastern Studies*, vol. 34, no. 2 (Aug, 2007), 160, footnote 11.

<sup>19</sup> Ibid.

<sup>20</sup> Jacob Bercovitch. “A Case Study of Mediation as a Method of International Conflict Resolution: The Camp David Experience.” *Review of International Studies*, vol. 12, no. 1 (Jan 1986), 43.

<sup>21</sup> Referring to the US-brokered 1979 agreement between Israel and Egypt.

<sup>22</sup> Jacob Bercovitch. “Third Parties in Conflict Management: The Structure and Conditions of Effective Mediation in International Relations.” *International Journal*, vol. 40, no. 4 (Autumn, 1985), 738.

<sup>23</sup> Ibid., 737.

<sup>24</sup> Jacob Bercovitch. “A Case Study of Mediation as a Method of International Conflict Resolution: The Camp David Experience.” *Review of International Studies*, vol. 12, no. 1 (Jan 1986), 45; and Robert Powell. “Bargaining Theory and International Conflict.” *Annual Review of Political Science*. (2002), 1.

bargained conclusion.<sup>25</sup> According to Bercovitch, the relationship between mediator and disputants should be “perceived by all as temporary only.”<sup>26</sup> Bercovitch adds that a mediator cannot be described as “neutral,” as it often is, because the very presence of one “alters the structure of a dispute.”<sup>27</sup> In other words, the mediator may be *impartial*, but it is not accurate to say it is entirely disinterested, which “neutral” suggests.<sup>28</sup>

Bercovitch classifies mediator methods according to the strategy it employs. The lowest form of intervention, which Bercovitch classifies as “communication” or “facilitation”, is a passive one in which the mediator “channels information”, “facilitates cooperation” but has “little control over the more formal process.” Following that is “procedural” mediation where the mediator exerts “more formal control over the mediation process,” controlling “where mediation takes place, how often the parties meet, how the agenda is structured and information about progress is distributed.” Finally, the most “powerful form of intervention” with the “highest level of mediator involvement” is mediation based on “directive strategies”, which shapes the “content and substance of the bargaining process by providing incentives for the parties or issuing ultimatums. Directive strategies deal with, and aim to change, the motivation and behavior of the parties in dispute.” Tactics of directive strategies include controlling the flow of information between parties, offering substantial guidance in resolving issues, encouraging concessions, flexibility and compliance, and proposing rewards and punishments on either party.<sup>29</sup>

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<sup>25</sup> William I Zartman. *Negotiation and Conflict Management: Essays on Theory and Practice*. (New York, Routledge, 2008), 14.

<sup>26</sup> Jacob Bercovitch. “Third Parties in Conflict Management: The Structure and Conditions of Effective Mediation in International Relations.” *International Journal*, vol. 40, no. 4 (Autumn, 1985), 739.

<sup>27</sup> *Ibid.*, 739, footnote 5.

<sup>28</sup> *Ibid.* See also Oran R. Young. *The Intermediaries: Third Parties in International Crisis*. (Princeton, NJ: Princeton University Press, 1967), 81. “Neutrality, on the other hand, refers to a situation which the effects of the actions of a third party can be said to have no influence toward terminating a crisis more in favor of one side than the other.”

<sup>29</sup> Jacob Bercovitch and Lee Su-Mi. “Mediating International Conflicts: Examining the Effectiveness of Directive Strategies.” *International Journal of Peace Studies*, vol. 8, no. 1 (Spring/Summer 2003), 3-4.

In a similar vein, Ronald J. Fisher articulated a comparable taxonomy of international mediation methods.<sup>30</sup> “Conciliation” mediation provides for an informal communications link, like Bercovitch’s “communication”. “Consultation” provides creative problem solving through communications and analysis, a focus on the formalities of negotiations shared with Bercovitch’s “procedural” mediation. Finally, “pure mediation” facilitates a negotiated settlement on substantive issues through the use of reasoning, persuasion, effective control of information, and the suggestion of alternatives, which mirrors Bercovitch’s “directive strategies” in his mediation paradigm. Fisher notably goes beyond Bercovitch’s continuum, suggesting three further mediation strategies noted for their escalating “involuntary” attributes. As such, “power mediation” “encompasses pure mediation *but also moves beyond to include the use of leverage or coercion on the part of the mediator in the form of promised rewards or threatened punishments, and may also involve the third party as monitor and guarantor of the agreement*”<sup>31</sup>. “Arbitration” can render a “binding judgement” and then “[impose] a settlement”. Finally, a “peacekeeping” mediation role sees a mediator sending military forces to enforce a cease-fire or provide humanitarian aid.

Most if not all of the characteristics of American mediation of the Arab-Israeli conflict oscillate between what Bercovitch terms “procedural” and “directive” strategies and what Fisher calls “pure mediation” or “power mediation.” Both schemes dance the fine line between voluntary and involuntary. And in the contemporary Arab-Israeli conflict, which sees the American mediator vowing to never “impose a solution”<sup>32</sup> much less commit its military forces to prevent hostilities, the latter categories of binding arbitration or peacekeeping described by Fisher are beyond the remit of this essay.<sup>33</sup>

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<sup>30</sup> R. J. Fisher. “Methods of third-party intervention”. *In Advancing Conflict Transformation: The Berghof Handbook II*, edited by B. Austin, M. Fischer & H. J. Geissmann, 157-182. Opladen, Germany: Barbara Budrich Publishers, 165-166.

<sup>31</sup> *Ibid*, 166. Emphasis added.

<sup>32</sup> William B Quandt. “The Israeli-Palestinian Conflict Now”, *The Cairo Review of Global Affairs*, Published in Spring 2011, Last Accessed on October 18, 2017, <https://www.thecaireview.com/essays/the-israeli-palestinian-conflict-now-2/>.

<sup>33</sup> R. J. Fisher. “Methods of third-party intervention”. *In Advancing Conflict Transformation: The Berghof Handbook II*, edited by B. Austin, M. Fischer & H.

Of particular relevance, evidence from the literature suggests the sticks and carrots of “directive” and “power mediation” strategies can and do work. Drawing on data sets of 295 conflicts from 1945 to 1995, Bercovitch concludes that the most successful mediator strategies have been *directive* in nature; that is, when the mediator is most aggressively engaged—using pressure, rewards, and punishment—and with the highest level of engagement.<sup>34</sup> Thus the mediator employing “directive” (Bercovitch) or “power mediator” (Fisher) methods—which are inherently *involuntary*—are ideal for conflict resolution, even though resorting to pressure tactics would be at odds with conventional US policy toward the Arab-Israeli conflict.<sup>35</sup> This means that, despite the dictates of policy and the parties of the conflict, a mediator seeking success should be prepared to forge ahead and aggressively pressure one or both of the parties to do something it does not want to do, using some manner of incentives and punishments.

### 1.3 Unbiased/Impartial and Biased/Partial Mediators

Broadly speaking, there are two scholarly paradigms that characterize mediator alignment: whether unbiased/impartial or biased/partial. Andrew Kydd categorizes a mediator as “biased in favor of one state if it prefers territorial

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J. Geissmann, 157-182. Opladen, Germany: Barbara Budrich Publishers, 166. Fisher describes conflicts where “segregation” exists, that is, the “use of threats, high levels of distrust, categorization of ‘good vs. evil’” as worthy of not just power mediation but *also* binding arbitration. Similarly, according to Fisher, where parties attempt to “annihilate” or pursue “genocide” or view the other as “subhuman” with their survival at stake, Fisher prescribes “peacekeeping.” While both of these attributes exist at varying points in the Arab-Israeli conflict, it speaks volumes that arbitration or peacekeeping—particularly in the context of the Israeli-Palestinian conflict—has yet to be seriously entertained by the American mediator.

<sup>34</sup> Jacob Bercovitch and Lee Su-Mi. “Mediating International Conflicts: Examining the Effectiveness of Directive Strategies.” *International Journal of Peace Studies*, vol. 8, no. 1 (Spring/Summer 2003), 15.

<sup>35</sup> A recent book by analyst Nathan Thrall titled *The Only Language They Understand: Forcing Compromise in Israel and Palestine* convincingly argues that throughout its short history, Arabs and Israelis have only compromised on issues where forceful intervention and diplomacy was carried out, including with sticks rather than carrots. This would suggest support for Bercovitch’s theory that aggressive mediation stands a better chance than lesser, “procedural” approach with negotiations. See Nathan Thrall. *The Only Language They Understand: Forcing Compromise in Israel and Palestine*. (New York: Metropolitan Books, 2017).

distributions that favor that state”<sup>36</sup> and “unbiased if it is indifferent” to that outcome.<sup>37</sup> There is no definitive verdict from the scholarship over which form of mediator alignment proves more successful, only persuasive arguments for and against both approaches and recognition that more scholarship on the subject should be undertaken.

Oran Young makes the case for the unbiased mediator in his 1967 book *The Intermediaries*, writing “it is reasonable to expect substantial impartiality from a third party.”<sup>38</sup> Young defines impartiality as “a situation in which the third party favors neither side to a conflict and remains indifferent to the gains and losses of each side;” the “intangible” qualities of an impartial mediator as “having nothing to gain from aiding either protagonist and in the sense of being able to control any feelings of favoritism.”<sup>39</sup> Ideas proposed by an unbiased party “embody greater elements of fairness and are thus more compelling.”<sup>40</sup> Fisher writes that “impartial mediators who operate in a fair and even-handed fashion are more acceptable to the parties and more effective.”<sup>41</sup>

The intuitive conclusion to avoid biased mediators was evidently confirmed by a series of human experiments in the 1980s designed to test the effects of mediator bias. Gary Welton and Dean Pruitt observed how “suggestions from biased mediators are viewed with suspicion.”<sup>42</sup> A separate 1991 experiment on biased mediation corroborates that claim. Testing mediation bias on volunteer groups, psychologists Jerry Wittmer, Peter Carnevale and Michael Walker

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<sup>36</sup> Robert Powell. “Bargaining Theory and International Conflict.” *Annual Review of Political Science*. (2002), 16.

<sup>37</sup> Andrew Kydd. “Where Can Mediators Build Trust?” *The American Political Science Review*, vol. 100, no. 3 (Aug, 2006), 451.

<sup>38</sup> Oran R. Young. *The Intermediaries: Third Parties in International Crisis*. (Princeton, NJ: Princeton University Press, 1967), 82, footnote 2 citing Wilder Foote.

<sup>39</sup> *Ibid.*, 81.

<sup>40</sup> Jerry Wittmer et al. “General Alignment and Overt Support in Biased Mediation” *The Journal of Conflict Resolution*, vol. 35, no. 4 (Dec, 1991), 595.

<sup>41</sup> R. J. Fisher. “Methods of third-party intervention”. In *Advancing Conflict Transformation: The Berghof Handbook II*, edited by B. Austin, M. Fischer & H. J. Geissmann, 157-182. Opladen, Germany: Barbara Budrich Publishers, 173.

<sup>42</sup> Dean G Pruitt and Gary L Welton. “The Mediation Process: The Effects of Mediator Bias and Disputant Power.” *Personality and Social Psychology Bulletin*, vol. 13, no. 1 (March, 1987), 130.

noticed how those condemned to the mediator's disfavored side would "question the candor and truthfulness" of biased mediators, even when "favorable recommendations" were tabled. The disfavored side were cautious against a "perceived appearance of a Trojan horse in the form of a favorable recommendation."<sup>43</sup>

Disfavored parties demonstrated paranoia that a biased mediator's even-handed ideas would inevitably come with undisclosed "strings attached," as some in the experiment went so far as to praise the biased mediator with over-credit when "even-handed" proposals were tabled.<sup>44</sup> Wittmer et al. hypothesize "it is plausible that disputants view a mediator who is biased against them, but who acts in an even-handed manner, as especially laudable."<sup>45</sup> More broadly, Wittmer et al. noted how "favored parties make fewer concessions than disfavored parties because the former are strengthened by having the mediator aligned with them."<sup>46</sup> Conversely, in order to correct that imbalance and curry the favor of the mediator, the disfavored party needs to make more concessions.

In situations where there is a weak disfavored party up against a strong opponent with a biased mediator in its corner, the weak party would *ipso facto* be situated with a major disadvantage. Young cautions that, should a mediator appear in the biased/partial category to either side, "it loses its status as a true third party and becomes more assimilated to one or the other of the antagonists."<sup>47</sup>

Saadia Touval's *The Peace Brokers* advocates for a re-examination of Young's thesis that unbiased mediators are ideal, arguing that mediator bias is not a handicap *but in some instances an asset*. Touval posits that specific examples drawn from the Arab-Israeli conflict demonstrate that "impartiality is neither an

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<sup>43</sup> Jerry Wittmer et al. "General Alignment and Overt Support in Biased Mediation" *The Journal of Conflict Resolution*, vol. 35, no. 4 (Dec, 1991), 607.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*, 597.

<sup>46</sup> *Ibid.*, 596.

<sup>47</sup> Oran R. Young. *The Intermediaries: Third Parties in International Crisis*. (Princeton, NJ: Princeton University Press, 1967), 81.

indispensable condition for the acceptability of mediators, nor for their success.”<sup>48</sup>

To summarize Touval: when a third-party intervenes in a 2-way conflict, the very presence of the mediator makes it a 3-way relationship.<sup>49</sup> If the mediator is impartial they cannot become part of a coalition, whereas if the mediator is biased a coalition becomes possible. Indeed, the very threat of having the mediator join a coalition or stay in a pre-existing one (threatening to leave the other party ‘high and dry’) arms the mediator with an important bargaining leverage. But because all participate in a mediation voluntarily and can withdraw at any time, the mediator’s biased behavior is kept in check by the need to safeguard their continued acceptability to both sides. In this dynamic, knowing the mediator might join a coalition or defect from one produces a continual desire by both parties to influence the mediator’s behavior and win them over. The favored party will try and preserve its favored position. The disfavored party will respond with countermeasures to drive a wedge between the two by persuading it with forthcoming ideas and actions.

For Touval, the US is the archetypal biased mediator insofar as the ideal mediator should hail from a single, powerful state. The “more powerful the state,” he writes, “the more able it is to influence the parties to alter their positions.”<sup>50</sup> The strong state as biased mediator supplies political coverage for a deal and can make any proposal more appealing with generous amounts of financial aid or other benefits to “compensate parties for the disadvantages that they incur because of the concessions they make.”<sup>51</sup> Once agreement is reached they can also “monitor implementation” and “guarantee their observance.”<sup>52</sup> The spectrum of these activities suggests Touval would have the biased mediator operate under what Bercovitch would later classify as “directive strategy” (Fisher: “power mediation”), where the biased mediator

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<sup>48</sup> Saadia Touval. *The Peace Brokers: Mediators in the Arab-Israeli conflict, 1948-1979*. (Princeton, New Jersey: Princeton University Press, 1982), 12.

<sup>49</sup> *Ibid.*, 15-16.

<sup>50</sup> *Ibid.*, 17.

<sup>51</sup> *Ibid.*, 7.

<sup>52</sup> *Ibid.*

would be highly engaged in shaping the contours of an agreement through carrots (such as providing money) and sticks (later withholding it).

William Zartman further developed Touval's ideas on biased mediation and joined him in a series of collaborations, concluding: "the mediator has its own motivating interests and need not be impartial but it is expected to deliver the side toward which it is biased".<sup>53</sup> The prospect of "delivery," argues Zartman, will even "stimulat[e]... cooperation" by the least favored party.<sup>54</sup> Wittmer et al. found through experimentation that "what a mediator does (or recommends) is more important to disputants than with whom the mediator is aligned," a conclusion that seemingly comports with the scholarship of Touval and Zartman.<sup>55</sup>

Kydd argues that a biased mediator reduces conflict by eliminating "uncertainty about the resolve of the other party."<sup>56</sup> If you are the mediator's disfavored party, Kydd suggests, you will take biased advice because it comes from a position of deep insider access which gives the mediator a greater understanding of its preferred party. Similarly, when the biased mediator "counsels restraint" to its favored ally it would heed that advice as it comes from a place of affinity and is unlikely to lead its friend astray.

Biased mediation can only work, according to Kydd, when both sides firmly believe that the information the mediator supplies is truthful and accurate. In fulfilling the information-sharing role Kydd also sees unbiased mediators as handicapped by their pacifism: "If she cannot be trusted to send messages that increase the likelihood of war," Kydd notes, then "she cannot be trusted when she sends messages that decrease it, either."<sup>57</sup> To succeed, Kydd notes the

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<sup>53</sup> William I Zartman. *Negotiation and Conflict Management: Essays on Theory and Practice*. (New York, Routledge, 2008), 7. Underlined and italicized for my own emphasis. See also Chapter 10 "International Mediation".

<sup>54</sup> *Ibid.*, 162.

<sup>55</sup> Jerry Wittmer et al. "General Alignment and Overt Support in Biased Mediation" *The Journal of Conflict Resolution*, vol. 35, no. 4 (Dec, 1991), 597.

<sup>56</sup> Andrew Kydd. "Which Side Are You On? Bias, Credibility and Mediation.", January 2, 2012. [http://wcfia.harvard.edu/files/wcfia/files/468\\_janmed.pdf](http://wcfia.harvard.edu/files/wcfia/files/468_janmed.pdf), 2.

<sup>57</sup> *Ibid.*, 32.



biased mediator must filter “cheap talk” from the parties,<sup>58</sup> as each will be prone to bluffing and insist it has “high resolve” to fight on a matter.

#### 1.4 “More Royal Than the King” and Bias Countermeasures:

The literature addresses extreme mediator bias and mechanisms for disputants to guard against it. For example, Kydd describes a “more royalist than the King” scenario where the mediator becomes so excessively biased that it actually prefers to invoke bigger demands than its favored party is willing to make.<sup>59</sup> The biased mediator would then have the intent to foment conflict—a position so biased, says Kydd, that not only would the mediator not care if it leads to war, it would in fact prefer it. Powell describes a similar phenomenon where the mediator is so biased toward a particular territorial outcome that it becomes an *agent provocateur*. Powell notes that for decades the United States sought to keep the Soviet Union away from a mediating role so the former would not “stir up trouble” as an *agent provocateur* without addressing whether the US and its excessive mediation bias could be construed as obstructionist.<sup>60</sup>

Kydd states that the way to diminish mediator bias lies in the “importance of a continuing relationship” between all parties that may extend “into the future.”<sup>61</sup> In a peace process, Kydd explains that repetitive interactions between mediator and disputants acts to incentivize mediator honesty, even where there is bias, as a reputational “credit rating” forms. One countermeasure to regulate credibility of biased mediators, Kydd notes, arises when:

“Mediators that are biased, but not too biased, can still be honest brokers *if they could lose their position by being caught vouching for players who subsequently betray the other side.*”<sup>62</sup>

#### 1.5 Beware the Biased Mediator

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<sup>58</sup> Ibid., 7.

<sup>59</sup> Andrew Kydd. “Which Side Are You On? Bias, Credibility and Mediation.”, January 2, 2012. [http://wcfia.harvard.edu/files/wcfia/files/468\\_janmed.pdf](http://wcfia.harvard.edu/files/wcfia/files/468_janmed.pdf), 21.

<sup>60</sup> Robert Powell. “Bargaining Theory and International Conflict.” *Annual Review of Political Science*. (2002), 17.

<sup>61</sup> Andrew Kydd. “Where Can Mediators Build Trust?” *The American Political Science Review*, vol. 100, no. 3 (Aug, 2006), 459.

<sup>62</sup> Ibid. (Author’s emphasis)

More recent scholarship by Fisher (2011) along with a 2012 study by Bernd Beber further challenge biased mediation theory. Beber attributes “favorable or indifferent views”<sup>63</sup> toward biased mediation as lacking statistical evidence to support it, suggesting its utility is “theoretical” or reliant on analysis of the same historical conflicts which may ignore alternative explanations for why those negotiations succeeded.<sup>64</sup>

Challenging Touval and Zartman’s assertions that favored disputants are more likely to agree to a concession by the biased mediator than the unbiased one, Beber asks: “What happens if the mediator believes that not his ally, but the other disputant needs to make a concession in order for a settlement to be feasible?”<sup>65</sup> In such circumstances, he answers, the biased mediator would *always* ask the disfavored party for a concession—its aim, after all, is to “design an agreement that allocates as much as possible to his preferred disputant.”<sup>66</sup> It is for these reasons, Beber believes, the disfavored party would be unlikely to accept such an arrangement.

Utilizing data sets of conflicts even more recent than Bercovitch, from 1990-2005, Beber argues biased mediation has proven itself, in fact, relatively ineffective.<sup>67</sup> Citing case material from African civil wars, Fisher also concludes that biased mediators “who are typically powerful, have been largely unsuccessful in brokering agreements between conflicting parties.”<sup>68</sup> Fisher comments on the power dynamics between warring parties, noting that a mediator can generally prove useful *when it advocates on behalf of weaker*

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<sup>63</sup> Bernd Beber. “International Mediation, Selection Effects, and the Question of Bias.” *Conflict Management and Peace Science* 29 (4), 399.

<sup>64</sup> Ibid. Insofar as US biased mediation on the Arab-Israeli conflict was concerned, the focus of Touval and Zartman’s scholarship on American mediation bias came from analysis of that performance pre-1980’s.

<sup>65</sup> Ibid., 404.

<sup>66</sup> Ibid.

<sup>67</sup> Beber broadened his more recent data set conflicts as those resulting in more than 1000 deaths, whereas Bercovitch’s data sets from 1945-1995 included conflicts generating fewer than 1000 deaths. See Bernd Beber. “International Mediation, Selection Effects, and the Question of Bias.” *Conflict Management and Peace Science* 29 (4), 407.

<sup>68</sup> R. J. Fisher. “Methods of third-party intervention”. *In Advancing Conflict Transformation: The Berghof Handbook II*, edited by B. Austin, M. Fischer & H. J. Geissmann, 157-182. Opladen, Germany: Barbara Budrich Publishers, 173.

*parties rather than strong ones.* “Without some degree of power parity, however,

...the intervention process can easily become a sham, in which the stronger party influences the interaction for its own benefit, while the fundamental issues remain unaddressed.”<sup>69</sup>

This would be especially problematic where one of the parties has what Fisher describes as “devious objectives,” that is, where there is not a “real commitment to compromise” and where parties may use the mediation to “stall for time” and improve its bargaining position.<sup>70</sup>

Beber also explains the motivating factors behind why a biased mediator would offer itself up in a conflict. Mediation is expensive—financially and politically—and can otherwise divert what are presumably scarce resources of the sending state. According to Beber, an unbiased mediator “who does not care... about the size or allocation of what is at stake... will intervene... if [it] is sufficiently cheap to provide.”<sup>71</sup> This may be owing to the prestige associated with facilitating a diplomatic outcome or based on altruistic reasons like lessening global conflict and war. Conversely, the agenda behind a biased mediator suggests it will dismiss the attendant costs and

“be tempted to intervene even if mediation is costly to provide in order to shape the outcome of the dispute. The more is at stake in a dispute, the more willing is a biased third party to step into the fray...”<sup>72</sup>

Beber also forebodes how “third parties that are relatively ineffective at bringing about settlements should be relatively likely to select into mediation.”<sup>73</sup> For the disadvantaged party, the lesson is clear: beware the most eager volunteer seeking to become mediator.

## **1.6 Leadership Selection Intervention**

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<sup>69</sup> Ibid., 172.

<sup>70</sup> Ibid., 162.

<sup>71</sup> Bernd Beber. “International Mediation, Selection Effects, and the Question of Bias.” *Conflict Management and Peace Science* 29 (4), 406.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid., 404.

Negotiating an end of conflict “takes place in an impressively diverse array of settings ranging from the interpersonal to the international,” writes Bercovitch, adding “it is therefore surprising to note the absence of a single model that can be used to describe what it is exactly that mediators or third parties do.”<sup>74</sup>

Indeed, neither broad conflict resolution models, nor biased mediation literature alone can explain the nature of American behavior in the context of the Arab-Israeli peace negotiations as documented in my two submitted works.

One recurring activity I noticed in research for this essay—Washington’s picking of “winners” within Middle East politics—is a valid political science theory studied by David Weinberg and termed “Leadership Selection Intervention” (or “LSI”). Weinberg defines LSI as “one government’s efforts to bolster or change the character of another government’s ruling coalition using methods short of force.”<sup>75</sup> A form of diplomacy targeting another state’s government, Weinberg categorizes LSI as being more aggressive than “coercive diplomacy” and less aggressive than “regime change by pressure.”

In a mediation context, one where the parties participate voluntarily (as described by Bercovitch and Touval) one cannot discount the impact LSI would have by a party to the conflict on the receiving end of this subversion. This is especially true given the power dynamic between the US and Israel and the US and the Arab states. That the US would engage in LSI whilst concurrently serving as the Arab-Israeli conflict principal mediator necessitates some inclusion into this essay. LSI is a seldom acknowledged form of duress that exceeds the usual sticks and carrots approach employed by most third parties. With increased frequency in the Arab-Israeli conflict, it seems that LSI manifests itself in sometimes covert US-led ploys to set the agenda and define *who the*

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<sup>74</sup> Jacob Bercovitch. “A Case Study of Mediation as a Method of International Conflict Resolution: The Camp David Experience.” *Review of International Studies*, vol. 12, no. 1 (Jan 1986), 44.

<sup>75</sup> David Andrew Weinberg. “Playing Favorites: Washington’s Meddling for Peace in the Politics of Israel and the Palestinian Authority.” MIT Thesis Dissertation submitted September 4, 2012. <https://dspace.mit.edu/handle/1721.1/77643>, 16.

*actual parties seated around the table are allowed to be* (including influencing the voting process in that country to try and see favored candidates win).

## **PART TWO: FROM “BIASED BUT EVENHANDED” TO “ISRAEL’S LAWYER”**

### **2.1 Kissinger As Biased But Evenhanded**

This section reassesses the dynamics of Henry Kissinger’s mediation bias in the aftermath of the October 1973 war. As US Secretary of State and National Security Advisor, Kissinger had embarked on a series of “shuttle diplomacy” trips to disentangle Arab and Israeli troops, draw Arab states away from the Soviet orb of influence, and create an overall de-escalation to allow permanent peace talks to take place. From October 1973 until May 1974, William Quandt estimates that Kissinger devoted between “one half to two-thirds” of his total time—and by extension, the full weight of the US national security and foreign policy apparatus—toward brokering Israeli-Egyptian (Jan 1974) and Israeli-Syrian (May/June 1974) military disengagements.<sup>76</sup> Kissinger would seal a second Egyptian-Israeli disengagement agreement in September 1975, a deal that would auger positively for President Carter’s later efforts at Camp David in 1978.

At this point in history, the Arab parties would only deal with the US rather than directly with Israel.<sup>77</sup> Owing to its special relationship, the Israelis preferred American mediation to a multilateral setting involving the Soviet Union, which had been proposed at a conference in Geneva. Israel distrusted the Soviets for selling weapons to its Arab adversaries while doubting they had sufficient political leverage over the Soviet’s future welfare to equalize any pro-Arab bias during negotiations (Welton & Pruitt, Kydd). The Israelis also clearly preferred the US as a guarantor to any agreement with the Arabs, or as then-Minister of Defense Moshe Dayan said at the time “it was essential that the United States

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<sup>76</sup> William B Quandt. “Kissinger and the Arab-Israeli Disengagement Negotiations,” *Journal of International Affairs*, vol. 29, no. 1 (Spring 1975), 38.

<sup>77</sup> *Ibid.*, 33. Quandt notes “Virtually since the creation of the state of Israel in 1948, Arab leaders have refused to negotiate directly with Israel since this could be interpreted as a recognition of Israel’s legitimacy.” This stance was famously expressed in the “Three No’s” at the Khartoum Conference in August 1967: “No negotiations, no recognition, no peace.”

be involved in the negotiations so that she would share responsibility for its implementation.”<sup>78</sup>

Suspicious over Kissinger’s personal pro-Israel bias presented a formidable challenge for his mission as mediator, which he consciously sought to mitigate. Touval observes “Egyptians perceived Kissinger to be doubly biased” as the US was considered Israel’s sponsor and Kissinger was presumed to be loyal firstly to Israel.<sup>79</sup> In an interview with prominent Egyptian journalist Muhammed Haikal, Kissinger responded to those concerns using careful language:

*Haikal: If your role is not the role of the ‘other party,’ the ‘role of the negotiator,’ what exactly is your role? Is it the role of ‘mediator’?*

*Kissinger: Again, I do not think so...indeed I am sure not. The role of mediator requires neutrality between the two parties...or at least that the two parties should feel that this neutrality exists or could exist.*

*Haikal: We do not feel this. Your bias towards Israel needs no proof. The latest indication of it is the air and sea bridge which is bringing arms and ammunition from the United States to Israel. So you are not and cannot be neutral; you cannot be a mediator...*

*Kissinger: Let us say, and agree to say, that I represent the role of the ‘concern’ of the United States for a grave crisis which is taking place in an area that is sensitive as far as we are concerned, an area in which we have strategic, political and economic interests—and security interests—and we want to protect these interests...<sup>80</sup>*

In a more stunning reference to the actual Israeli-American power dynamic that generations of later US mediators would try to downplay, Kissinger told Haikal:

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<sup>78</sup> Saadia Touval. *The Peace Brokers: Mediators in the Arab-Israeli conflict, 1948-1979.* (Princeton, New Jersey: Princeton University Press, 1982), 243.

<sup>79</sup> *Ibid.*, 275.

<sup>80</sup> “Kissinger Meets Haikal,” *Journal of Palestine Studies*, vol. 3, no. 2 (Winter, 1974), 210-211.

The USSR can give you arms... but the United States can give you a just solution which will give you back your territories, especially as you have been able to really change the situation in the Middle East.<sup>81</sup>

Quandt critiques Kissinger for “his misreading of Arab intentions was his belief that war would be prevented by maintaining the military balance in Israel’s favor.”<sup>82</sup> Indeed, as Kissinger appeared to be telling Haikal and his Arab audience, it was military strategy and force by the Arabs in the October 1973 surprise attack that Kissinger ultimately respected. Later generations of Arabs could be forgiven for understanding that not only Israel but America would ignore their negotiating concerns absent a credible threat of force. To that inevitability, Kissinger said, “It was not in our interest to seek [Israeli] subservience” as:

once it was proved that we could make Israel do anything, Arab demands would escalate... Our strategy depended on being the only country capable of eliciting Israeli concessions, but also on our doing within a context where this was perceived to be a difficult task. There is no doubt that the Israelis dedicated themselves to the second part of that proposition with more intensity than to the first.<sup>83</sup>

Indeed, there appeared to be no respite for Kissinger among the Israeli side he favored. Touval opines “Kissinger’s Jewishness may even have aroused some fear that he might lean over backward in order to demonstrate that his policy was not influenced by his inherent pro-Israel sentiments.”<sup>84</sup> Kissinger biographers described his frustration with Israeli Prime Minister Golda Meir playing the “Jewish” card with him, with Kissinger reportedly going so far as to say, “Golda, you’re killing me...Don’t you realize I’m supposed to be the

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<sup>81</sup> Ibid. 215.

<sup>82</sup> William B. Quandt. *Peace Process: American Diplomacy and the Arab-Israeli Conflict Since 1967*. (Washington DC: Brookings Institution Press, 2005), 103.

<sup>83</sup> Henry A. Kissinger. “Years of Upheaval: The Second Volume of His Classic Memoirs,” (New York, Simon & Schuster). 1057.

<sup>84</sup> Ibid., 278.

Secretary of State for the United States of America. Forget the Jewish thing.”<sup>85</sup>  
When Arab foreign ministers sought assurances from Nixon during the war over Kissinger’s bias and suitability, Kissinger recalls:

“He [Nixon] promised me as a negotiator. He implied—to my horror—that this ensured success. He returned to a familiar theme from his first term, assuring his guests that despite my Jewish origin I was not subject to domestic, that is to say Jewish, pressures.”<sup>86</sup>

Whatever intentions Nixon had to exploit Kissinger’s religious background, sympathetic biographers paint Kissinger as being obsessed with his credentials as an “evenhanded” mediator among Arabs and Israelis.<sup>87</sup> Kissinger had been to Israel “a couple of times” before becoming Secretary of State but had “never stepped foot in an Arab country” and claimed no “Middle East expertise.”<sup>88</sup> Despite that, Kissinger acknowledged he was consciously aware of his pro-Israeli bias throughout:

Though not practicing my religion, I could never forget that thirteen members of my family had died in Nazi concentration camps. I had no stomach for encouraging another holocaust by well-intentioned policies that might get out of control. Most Israeli leaders were personal friends. And yet, like Nixon, I had to subordinate my emotional preferences to my perception of the national interest. Indeed, given the historical suspicions toward my religion, I had a special obligation to do so. It was not always easy; occasionally, it proved painful. But Israel’s security could be preserved in the long run only by anchoring it to a strategic interest of the United States, not to the sentiments of individuals.<sup>89</sup>

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<sup>85</sup> Aaron David Miller. *The Much Too Promised Land*. (New York: Bantam Dell, 2008), 150, citing CBS host and Kissinger biographer Marvin Kalb.

<sup>86</sup> Henry A. Kissinger. *Years of Upheaval: The Second Volume of His Classic Memoirs*. (New York, Simon & Schuster, 1982), 535.

<sup>87</sup> Jacob Bercovitch. *Resolving International Conflicts: The Theory and Practice of Mediation*. (London: Lynne Rienner Publishers, 1996), 47.

<sup>88</sup> Aaron David Miller. *The Much Too Promised Land*. (New York: Bantam Dell, 2008), 131.

<sup>89</sup> Henry A. Kissinger. *Years of Upheaval: The Second Volume of His Classic Memoirs*. (New York, Simon & Schuster). 203-204. Kissinger was especially



Kissinger reportedly felt so strongly about Israel he made a “private pact with himself to resign” should President Nixon have moved toward imposing a solution on Israel,<sup>90</sup> further evidencing his partiality on the subject.

With Arabs, Quandt recalls how Kissinger emphasized America’s credibility in the negotiations by assuring that “the United States would not promise what it could not deliver, but it would deliver everything it promised.”<sup>91</sup> To ensure his own centrality as a mediator, Kissinger initiated intensely private negotiations shuttling between each side in an incremental, step-by-step fashion.<sup>92</sup>

Performing the “information sharing” role as described by Kydd, Kissinger spent “a major part” of his time “educating each party about the constraints operating on the others.”<sup>93</sup> Israelis and Syrians had almost no personal contact, and knew precious little about the other. Accurate insights obtained during Kissinger’s marathon sessions would therefore prove valuable as each sought to understand the position and true resolve of the other (Kydd). According to Quandt, Kissinger recognized “his credibility depended largely on his ability to portray accurately the positions” of the disputants.<sup>94</sup> In style, he used his “prestige and reputation as a negotiator” as well as his “considerable powers of persuasion.”<sup>95</sup>

Quandt also describes Kissinger’s fraught relationship with Israel during the talks. The Israeli state sought from the outset to limit America to a mere “messenger” between the two sides; anything further and it would walk.<sup>96</sup> Israelis envisioned Kissinger as a facilitator rather than catalyst for ideas, and insisted that he not table any proposal without first seeking Israel’s advance approval, appearing to preempt any “power mediation” (Fisher) or “directive”

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close to Israeli Minister Yigal Allon, who had been a student of Kissinger’s at Harvard in 1957. See 1084.

<sup>90</sup> Aaron David Miller. *The Much Too Promised Land*. (New York: Bantam Dell, 2008), 132.

<sup>91</sup> William B. Quandt. “Kissinger and the Arab-Israeli Disengagement Negotiations,” *Journal of International Affairs*, vol. 29, no. 1 (Spring 1975), 40.

<sup>92</sup> *Ibid.*, 47.

<sup>93</sup> *Ibid.*, 39.

<sup>94</sup> *Ibid.*, 42.

<sup>95</sup> *Ibid.*, 39.

<sup>96</sup> *Ibid.*, 34

strategies (Bercovitch), just in case Kissinger had those in mind, which he ultimately did. Recognizing Israel's ability to use countermeasures against the US via the American pro-Israel lobby, Nixon and Kissinger both tried initially to purchase its complaisance. As the 1973 war raged they pledged to generous financial (\$2.2 billion) and military support for Israel to fend off pressure.<sup>97</sup>

Unsurprisingly, this US aid for Israel helped fuel the conflict and drew the ire of the Arab world, particularly oil-producing Gulf countries, which wielded and were willing to use their considerable leverage over the US in a bid to keep its bias in check. Moments after the US announced its billions for Israel, Saudi King Faisal "announced an embargo of oil to the United States as well as substantial production cuts."<sup>98</sup> Separately, six of the Gulf Arab members of the Organization of Petroleum Exporting Countries (OPEC) unilaterally raised the price of oil by 70 percent, a move which Kissinger writes had "revolutionary implications."<sup>99</sup> Vehicles cued in long lines at gas stations all across the United States, putting into sharp relief its dependence on Arab energy. This was a rare moment when Arab states would successfully exercise negotiation leverage over the United States.<sup>100</sup> It was also (citing Welton and Pruitt) an effective measure to offset if not neutralize America's pro-Israel bias throughout the negotiations it led.

Indeed, as progress in the disengagement talks became evident and as Kissinger established good relations with the Arab states, the embargo was relaxed. Among Arabs, Quandt praises Kissinger for establishing "close personal relations" with both Assad and Sadat," noting his "frankness, candor

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<sup>97</sup> Ibid., 45.

<sup>98</sup> William B. Quandt. *Peace Process: American Diplomacy and the Arab-Israeli Conflict Since 1967*. (Washington DC: Brookings Institution Press, 2005), 116.

<sup>99</sup> Henry A. Kissinger. *Years of Upheaval: The Second Volume of His Classic Memoirs*. (New York, Simon & Schuster, 1982), 537.

<sup>100</sup> One could argue that non-state actors also learned Kissinger's message that "only America could deliver the Israelis." Indeed, armed insurgent groups across the Arab and Muslim world, including Al Qaeda, would later cite American foreign policy toward Israel/Palestine as a key motivator for its attacks against the United States, something Israelis and neo-conservatives have long sought to downplay despite the overwhelming evidence and the statements of its own leadership, including Osama Bin Laden.

and sense of humor had early gained him the respect of Arab negotiators.”<sup>101</sup> Kissinger, too, showed respect for his Arab interlocutors. He was seen to view Egypt’s Sadat, “like himself, as a strategist” and saw in Syria’s Assad “a first-class mind” and “fascinating character, one with whom a deal could be struck.”<sup>102</sup>

On each track, Egyptian and Syrian, Kissinger methodically broke each issue down into smaller components, looking for zones of agreement, resolving those first with an eye toward building upward and onward. On the Egyptian track, where Sadat felt unable to politically accept smaller Israeli ideas on limitations of forces in the Sinai, Kissinger offered to put them forward as American ideas to be enshrined in bilateral letters between Nixon and Sadat.<sup>103</sup> These more limited concessions still benefitted Egypt: in making a partial withdrawal in the Sinai, Israel set a historic precedent by withdrawing for the first time from territory it occupied in the 1967 war, even accepting the establishment of a UN zone, complete with UN blue helmets to monitor the ceasefire.<sup>104</sup>

Turning to Syria, Kissinger resorted to “power mediation” (Fisher) or “directive strategies” (Bercovitch), as Israel became intransigent, by penning a letter to the Israeli Prime Minister threatening to “reexamine the relationship between the two countries,” which caused Golda Meir to relent.<sup>105</sup> Note that Kissinger was pressuring the stronger party which enjoyed American bias, rather than the Arabs who were already disadvantaged and did not have the US in its preferred corner. Kissinger persisted with this forceful level of mediation engagement. As Israelis and Syrians came within hundreds of meters of agreement on Israeli

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<sup>101</sup> William B. Quandt. “Kissinger and the Arab-Israeli Disengagement Negotiations,” *Journal of International Affairs*, vol. 29, no. 1 (Spring 1975), 44.

<sup>102</sup> Aaron David Miller. *The Much Too Promised Land*. (New York: Bantam Dell, 2008), 137, 154.

<sup>103</sup> William B. Quandt. *Peace Process: American Diplomacy and the Arab-Israeli Conflict Since 1967*. (Washington DC: Brookings Institution Press, 2005), 143.

<sup>104</sup> Ahron Bregman. *Cursed Victory: A History of Israel and the Occupied Territories*. (London: Penguin Press, 2014), 93.

<sup>105</sup> William B. Quandt. *Peace Process: American Diplomacy and the Arab-Israeli Conflict Since 1967*. (Washington DC: Brookings Institution Press, 2005), 143.

withdrawal from the Syrian town of Quneitra, he presented bridging US terms, which were ultimately accepted.<sup>106</sup>

Following Nixon's resignation amidst the Watergate scandal, President Gerald Ford requested Kissinger stay on as Secretary of State. For Arabs and Israelis, there was clearly an American mediation policy continuum from one administration to another—who could build on accrued credibility and persist with ongoing interactions (Kydd)—rather than an abrupt assignment of a new US mediator, untested and starting from scratch.<sup>107</sup>

Under Ford, Kissinger initially sought to pursue an Israeli-Jordanian agreement, which would address the fate of Palestinians. According to Quandt, “the unstated belief was that it was worth trying to bring Jordan into the diplomacy as a way of undercutting the more radical PLO.”<sup>108</sup> Yet before 1975, Kissinger had been less than sanguine that negotiations with Jordan would succeed. King Hussein, seen as a moderate, had only symbolically participated in the 1973 War, and lacked the “strong man” image Israel respected; it later emerged Hussein had secretly coordinated Jordan's actions in the war in concert with Israel, Jordanian participation was a mere gesture to save face on the Arab street.<sup>109</sup> Kissinger writes that “all planning and discussions with other governments regarding the West Bank of the Jordan River had assumed that King Hussein would be Israel's negotiating partner.”<sup>110</sup> That proved a faulty assumption. Moreover, though expelled from Jordan, the PLO had been gaining strength and, at an Arab League summit in October 1974, received a

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<sup>106</sup> Ibid., 150.

<sup>107</sup> While a comprehensive Israeli-Syrian peace would not materialize, it is worth noting that the Israeli-Syrian disengagement agreement has largely stood intact, although there have been notable violations since 2003 and with Israel's recent interventions in the Syrian civil war.

<sup>108</sup> William B. Quandt. *Peace Process: American Diplomacy and the Arab-Israeli Conflict Since 1967*. (Washington DC: Brookings Institution Press, 2005), 157.

<sup>109</sup> Ofer Aderet. “Jordan and Israel Cooperated During Yom Kippur War, Documents Reveal.” *Haaretz*, Published on: September 12, 2013, Last Accessed on: August 19, 2017. <http://www.haaretz.com/israel-news/.premium-1.546843>.

<sup>110</sup> Henry A. Kissinger. *Years of Upheaval: The Second Volume of His Classic Memoirs*. (New York, Simon & Schuster, 1982), 625.

unanimous declaration naming them as the “sole legitimate representative for the Palestinian people.” This effectively split the Palestinian issue away from Jordan, relieving King Hussein of responsibility as the PLO’s Yasser Arafat took center stage. Quandt recalls Kissinger being “unprepared for this turn of events.”<sup>111</sup> Looking askance, the Ford Administration sidelined the Palestinians by pursuing instead a second Israeli-Egyptian disengagement.

Here Kissinger would again use “power mediation” (Fisher) or “directive strategies” (Bercovitch) by exerting American pressure on Israel to compel its further withdrawal,<sup>112</sup> facilitated by the fact that the Israel had already done so in the first agreement. In return the Israelis demanded staggering financial rewards in the form of another \$2 billion dollar US aid commitment; a sentiment Quandt summarized as: “If the Americans wanted an agreement so badly, they could pay for it.”<sup>113</sup>

Yet again, during the mediation both Kissinger and Ford found Israel less forthcoming.<sup>114</sup> A review of recently declassified memorandums of conversation available at the Ford Presidential Library<sup>115</sup> reveals the heated exchanges between Kissinger and his Israeli counterparts. In Israel, the new Prime Minister Yitzak Rabin found Kissinger “a tough—and occasionally dangerous—rival” rather than a mediator.<sup>116</sup> In March 1975, when Rabin intimated collapsing the talks, an exasperated Kissinger appealed:

Even if you say it’s my fault, the result will be a massive loss of American influence in the Middle East, and no chance of ever having another

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<sup>111</sup> William B. Quandt. *Peace Process: American Diplomacy and the Arab-Israeli Conflict Since 1967*. (Washington DC: Brookings Institution Press, 2005), 159.

<sup>112</sup> Ahron Bregman. *Cursed Victory: A History of Israel and the Occupied Territories*. (London: Penguin Press, 2014), 95.

<sup>113</sup> William B. Quandt. *Peace Process: American Diplomacy and the Arab-Israeli Conflict Since 1967*. (Washington DC: Brookings Institution Press, 2005), 167.

<sup>114</sup> *Ibid.*, 166.

<sup>115</sup> The author wishes to thank the Ford Presidential Library, and Mr Mark Fischer (Archivist) in particular, for assisting my research there on October 21<sup>st</sup> and 24<sup>th</sup>, 2016.

<sup>116</sup> Yitzak Rabin and Yoram Peri. *The Rabin Memoirs*. (California: University of California Press, 1979), 261.

exercise like this again. The United States will be out as a major player.<sup>117</sup>

Following this, Kissinger announced the suspension of his mission, while President Ford announced he would “reassess” the entire strategic US-Israeli relationship, the second time such a threat against Israel was engineered by Kissinger. In both instances the US President stood squarely behind him. As Rabin would later reflect, reassessment was “an innocent-sounding term that heralded one of the worst periods in American-Israeli relations.”<sup>118</sup> For nearly six months, the US refused to sign new arms deals with Israel.

Though Rabin lambasted him for it, Kissinger blamed Israel—the stronger party it favored (Welton & Pruitt)—bolstering his “evenhanded” credentials with Arabs. “Before his stopover in London,” Rabin reflected, “the secretary of state—in his favorite though thin disguise as a ‘senior official’—briefed the journalist on the plane, who promptly informed the whole world that Israel’s hard line had, once again, led her to miss an opportunity.”<sup>119</sup> Clawing back, America’s premier pro-Israel lobby, AIPAC, circulated a letter signed by seventy-six Senators urging President Ford to resume foreign aid requests.<sup>120</sup> Kissinger would later claim “a couple of senators called to reassure him, telling him to ignore the letter.”<sup>121</sup> For his part, President Ford remembered “The letter... really bugged me... I was not going to capitulate to it.”<sup>122</sup> Ford told the Israeli Ambassador the following:

I want to work with the Prime Minister; I will work with him, but we have to move. I do not think it useful to get into a political confrontation with the Jewish community in the United States... Any political activity would

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<sup>117</sup> “Memorandum of Conversation”, Prime Minister’s residence in Jerusalem, March 19, 1975 8:45-10:20 a.m, Vol 2, March 7-22, 1975, Kissinger Trip (5), NSA Kissinger Reports on Middle East, Ford Presidential Archives, (SECRET/NODIS/XGDS).

<sup>118</sup> Yitzak Rabin and Yoram Peri. *The Rabin Memoirs*. (California: University of California Press, 1979), 261.

<sup>119</sup> Ibid.

<sup>120</sup> “Congress & the Middle East: Senate Letter Condemning President Ford on Blaming Israel for Peace Process Suspension”, *Jewish Virtual Library*, May 22, 1975, Last Accessed on October 18, 2017. <http://www.jewishvirtuallibrary.org/senate-letter-condemning-president-ford-on-blaming-israel-for-peace-process-suspension-may-1975>.

<sup>121</sup> Aaron David Miller. *The Much Too Promised Land*. (New York: Bantam Dell, 2008), 149.

<sup>122</sup> Ibid.

be very, very unhealthy. It would not be good for your country, for my country and for our relationship.<sup>123</sup>

Though the Egyptian-Israeli disengagement would take the form of an agreement that August, a key takeaway for the Israelis came via the extraction of two American presidential pledges in a single letter classified SECRET from Ford to Rabin on September 5, 1975.<sup>124</sup> It gave the appearance of America's diminishing ability to keep its pro-Israel bias in check during future mediation encounters:

-Should the US desire in the future to put forward proposals of its own, it will make every effort to coordinate with Israel its proposals with a view to refraining from putting forth proposals that Israel would consider unsatisfactory.<sup>125</sup>

In addition, even though the letter came off the back of a second and unrelated Israeli-Egyptian deal, it betrayed the Syrians by prejudicing their rights afforded by UNSCR 242:

*- The US has not developed a final position on the borders. Should it do so it will give great weight to Israel's position that any peace agreement with Syria must be predicated on Israel remaining on the Golan Heights.*<sup>126</sup>

Negotiation over the letter—which the Arabs were never made aware of—took many weeks. Upon finalizing the letter and presenting it to President Ford for signature, Kissinger had said of the experience:

"I really came back with a bad taste about the Israelis. They were treacherous, petty, deceitful—they didn't treat us like allies."<sup>127</sup>

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<sup>123</sup> "Memorandum of Conversation: President Ford & Ambassador Dinitz", The Oval Office, June 27, 1975, 9:58-10:09 a.m, Brent Scowcroft Files, Ford Presidential Library, Declassified 10/25/2011. (SECRET/NODIS)

<sup>124</sup> Memorandums of understanding were quite common at this stage in the negotiations, and side letters between the US and Israel and US and Arab parties were often used as a way to confidentially clarify matters or give assurances.

<sup>125</sup> "Letter from President Ford to Israeli Prime Minister Rabin", Records of Henry Kissinger, 1973-1977, Box 15, Miscellaneous, Documents, Telegrams, etc., 1975, Folder 8, National Archives, RG 59, SECRET.

<sup>126</sup> Ibid. Emphasis added.

<sup>127</sup> "Memorandum of Conversation", September 1975, CL 282, President's Files, Folder 1, Kissinger Papers, Library of Congress, Manuscript Division, (Secret/NODIS)

## **2.2 Observations on Kissinger's Mediation Bias:**

Perhaps owing to the passage of time, the attributes of Kissinger's shuttle diplomacy have clearly found a home within the contemporary scholarly literature on mediation bias and conflict resolution, including champions of biased mediation like Saadia Touval. At least initially, America's pro-Israel bias did stimulate cooperation among Arab states, particularly Egypt, which sought to drive a wedge between the US and Israel (Touval). US-Egyptian relations did improve drastically. Kissinger set as a goal the American ability to deliver Israeli concessions to the Arabs—i.e., acceptance of ceasefires, withdrawal from their occupied land based on international law and UN Resolutions 242 and 338. In the end, Kissinger did demonstrate America's ability to trade on its special relationship to convince Israel to do just that.

Crucially, Kissinger moved beyond procedural niceties and resorted to more aggressive mediation, employing "directive strategies" (Bercovitch) and "power mediation" (Fisher) with all parties, but particularly with the Israelis, and especially where he thought Israeli intransigence would cause America to lose influence to the Soviets. He threatened to walk out of talks, *twice* convinced the President of the United States—Nixon and Ford—to "reassess" the US-Israeli relationship, the latter even going so far as to withhold weapons and aid until Israelis became more reasonable. Though biased, Kissinger was willing to blame Israel publicly, and did, in spite of the ire it drew and the political countermeasures Israel attempted. Citing Fisher, Kissinger proved his utility by advocating on behalf of the weaker (Arab) parties rather than the strong party (Israel) that enjoyed America's favor.

Kissinger proved invaluable at the information sharing role (Kydd), providing Israelis and Arabs with accurate insights concerning one another. Kissinger's close relationship with Assad and Sadat allowed him to channel them during meetings with Israeli officials. He did not act "more Israeli than the Israelis" (or more "royalist than the king," citing Kydd) and was careful to guard against suggestions that he would advocate for Israel even if his personal views conflicted. Lying in wait to trounce excessive American pro-Israel bias was the coordinated Arab oil embargo, a credible countermeasure to devastate the US economy.



Interestingly, in order to placate Israel for its withdrawal from Syrian and Egyptian lands, several parties were sacrificed. The first was Jordan's King Hussein, whose passive, non-belligerent posture and good clandestine relations with Israel worked against him. The second was the Syrians who were also mortgaged behind closed doors during the second Sinai disengagement. Their future welfare was compromised in secret US-Israeli side letters favoring Israel's retention of the Golan Heights (as it does to this day). There could be some room for maneuver in those letters, and debate over enforceability for future US presidential administrations is valid. But its memorializing in presidential letters set a precedent that would prejudice the minds of future American mediators. Finally, the Palestinians, entirely absent from Kissinger's 1973 postwar agenda, suffered the most.

In that regard, it is debatable whether, as Fisher cautions, the entire US mediation and intervention process became a sham for the stronger Israelis enjoying American bias. On the one hand, in response to having its nose bloodied by war, Israel did make modest withdrawals from Egyptian and Syrian land it occupied in 1967 for the first time. The negotiations also conditioned Israel to the fact it was ultimately obliged to fully leave Sinai, which it earlier claimed had religious significance; on the Golan, the Israelis could be forgiven for thinking otherwise because of the US side letters. No, the evident sham was the exclusion of Palestinians, which meant their rights and suffering went unaddressed and the occupation of their lands were entrenched, which clearly benefited the Israelis. Whether through personal bias, Cold War calculations or *real politik* (or some combination thereof), Kissinger did not believe a resolution between Israel and Jordan was possible at the time, and so in excluding them, placed their interests at a distinct disadvantage to Israel's.

### **2.3 Escalating US Mediation Bias from Clinton to Obama**

*The Truth About Camp David* and *The Palestine Papers* offer distinct historical contrast from the Kissinger era's limited mediation successes. The scholarly literature has yet to maturely integrate this recent period from my studies against previously held theoretical models on mediation bias. Even still, one can confidently argue that US behavior in the period covered by my research

cannot be described as “biased” alone, at least not in keeping with the conditions described by Touval in Chapter 1.

From Clinton to Obama—as both my publications show—gone were the “coldly focused... unsentimental pursuits of American strategic interests” demonstrated by Kissinger under Nixon and Ford.<sup>128</sup> Directive diplomacy (Bercovitch) or power mediation (Fisher)—including a willingness to be tough with Israel whom it favored—was instead replaced by flaccid, procedural/facilitation tactics that for long periods lacked a final endgame. *The Truth About Camp David* further calls into question whether US mediation strategy was even truly American, as Clinton’s closest aides confided to me how the US president “allowed [Israeli Prime Minister Ehud] Barak to drive the process,” an astonishing outsourcing of US policy that for Palestinians more resembled an extra Israeli negotiator than a mere negotiator with bias.<sup>129</sup>

Gone also were any American presidential threats to launch a “strategic reassessment” over Israel’s obstinacy. And had any Administration, Republican or Democrat, dared to publicly criticize Israel before the Congress, it is at best speculative who US lawmakers would side with. To the extent America did use directive/power mediation strategies, it was almost always channeled at the weaker Arabs, especially Palestinians, as pressuring Israel had become politically taboo.<sup>130</sup> This is largely because from the 1970s to the 1990s, American diplomacy became unmoored from international legal standards toward the Arab-Israeli conflict, drifting steadily toward the whims of popular domestic political sentiments about Israel, and the whims of the incumbent Israeli Prime Minister. By the time Bill Clinton arrived in office, pro-Israel bias

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<sup>128</sup> Dana Allin and Steven Simon. *Our Separate Ways: The Struggle for the Future of the US-Israeli Alliance*. (New York: Public Affairs, 2016), 41.

<sup>129</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 33.

<sup>130</sup> One could argue that blaming or otherwise disparaging Palestinians and Arabs was an activity that, far from being cost free for US politicians, was actually a cheap way of gaining domestic political points. For negative media portrayal of this constituency predating the September 11, 2001 attacks, see: Jack Shaheen. *Reel Bad Arabs: How Hollywood Vilifies a People*, Film, Directed by Jack Shaheen (2006).

was to become a cornerstone of American mediation. In contrast to the experienced statesman President George HW Bush, who pressured Israel over continued illegal settlement construction by holding up loan guarantees, the incoming Bill Clinton was an ambitious politician and foreign policy neophyte who vowed to stop “pro-Arab bias” among US policymakers.<sup>131</sup> As I chronicled in *The Truth About Camp David*, Clinton sought to remedy that through the employ of pro-Israel partisans Dennis Ross and Martin Indyk, each of whom took special interest in the Arab-Israeli conflict through their self-described “Jewish identity.”<sup>132</sup>

Few advisors in recent decades would hold as great a sway over the course of US policy toward the Arab-Israeli conflict. For Ross, the 1967 War “served as a crucible” for “forging” his “strong connection to Israel,” evoking his “great pride as a Jew” and paving the way for his “career” as a mediator.<sup>133</sup> Indyk’s own affinity would develop in part while serving a stint volunteering to help Israel during the 1973 war.<sup>134</sup> Friends but rivals, Ross and Indyk adopted similar postures, mediating the actual conflict itself while authoring pro-Israeli policy justifications for any domestic American doubters. Their influence was a dominating, if not enduring, force, externally but also within the presidencies of

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<sup>131</sup> Kurtzer, et. al. *The Peace Puzzle: America’s Quest for Arab-Israeli Peace, 1989-2011*. (Washington DC: Cornell University Press, 2013), 35.

<sup>132</sup> “I was first drawn to the Middle East through my Jewish identity and connection to Israel;” Martin Indyk. *Innocent Abroad: An Intimate Account of American Peace Diplomacy in the Middle East*. (New York: Simon & Schuster, 2009), 23.

“I identified with its people, and my own Jewish identity became more important to me as a result. Intrinsicly, I believed Israel had a right to exist and that the Jewish people needed and deserved a homeland, a place of refuge.” Dennis Ross. *The Missing Peace*. (New York: Farrar, Straus, and Giroux, 2004), 6.

<sup>133</sup> Dennis Ross. “Diplomatic turn: How the Six-Day War Shaped My Diplomatic Career”, *The Forward*, Published on: May 15, 2017, Last Accessed on: November 15, 2017. <http://forward.com/opinion/372007/diplomatic-turn-how-the-six-day-war-shaped-my-diplomatic-career/>.

<sup>134</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 37.

Clinton to Obama.<sup>135</sup> In 2015, Ross himself boasted he was “at the center of Middle East policy in four administrations, including with President Obama” while “shaping the US-Israeli partnership” by “working closely with every Israeli prime Minister...on every aspect of policy.”<sup>136</sup> An official biographer records Clinton “picked up most of his outlook from Dennis Ross” whom he considered among “the best people in the world on the issue.”<sup>137</sup> Clinton himself would fete Ross with a 2007 book jacket testimonial as “one of our country’s best practitioners of statecraft,” a staggering claim considering in all Ross’s time as America’s mediator from 1989-2001 (as well as a 2009-2011 cameo return) he personally concluded one single agreement: the 1997 Hebron Protocol.<sup>138</sup> Interestingly, it is that deal in particular that helped legitimize Israeli settlements, sanctioning Israeli control over the Old City, and putting Hebron on the path of apartheid rather than coexistence.<sup>139</sup> Following this negotiation, Ross claimed “We were much more than facilitators. We were not mediators. We were brokers. In the long run, my own personal judgment is it is better for us to play the supporting facilitating role than the brokering role.”<sup>140</sup>

In substance, it must be said that the United States itself committed to being an honest broker at all times during Ross’s employ, starting with Secretary of State James Baker, who pledged in a 1991 Letter of Assurance to the Palestinian

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<sup>135</sup> “According to a senior White House official, even though a lot of people personally did not like Ross, they dealt through him anyway because he was the president’s point man.” See Kurtzer, et. al. *The Peace Puzzle: America’s Quest for Arab-Israeli Peace, 1989-2011*. (Washington DC: Cornell University Press, 2013), 130.

<sup>136</sup> Dennis Ross. *Doomed to Succeed: The US-Israel Relationship from Truman to Obama*. (New York: Farrar, Strauss, Giroux, 2015), xiii.

<sup>137</sup> Taylor Branch, *The Clinton Tapes: Conversation with a President*. (New York: Simon & Schuster, 2009), 412.

<sup>138</sup> The Hebron deal is perhaps notable for disproportionately dividing this ancient city in a way that preserved a foothold for Jewish extremists to brazenly terrorize Palestinians there for decades to come. At the time of this writing, violence by Israeli settlers and accompanying IDF units against Palestinian civilians is a grave problem for Palestinian residents of Hebron.

<sup>139</sup> Lamis Andoni. “Redefining Oslo: Negotiating the Hebron Protocol,” *Journal of Palestine Studies*, vol. 26, no. 3 (Spring, 1997), 17. Ross was also accused repeatedly of pro-Israeli bias in handling this negotiation at the time by Palestinian officials. See *Ibid.*, 21-22.

<sup>140</sup> Dianna Cahn. “Successful but tired, US envoy finally going home.” *Associated Press International*, Jan 15, 1997.

side following the Madrid talks that “The United States will act as an honest broker in trying to resolve the Arab-Israeli conflict.”<sup>141</sup> Even as Ross remained through the transition of administrations from Bush Sr to Clinton, its new Secretary of State, Warren Christopher—who Ross also reported to—was quick to reaffirm that approach, committing the United States to “play an active role as facilitator, honest broker, good offices, bridging gaps and asking difficult questions of the parties.”<sup>142</sup> Throughout the ensuing Oslo process subsequent Clinton Administration officials would repeatedly reaffirm America’s claim of “honest broker” status.<sup>143</sup>

Ross, the point man to embody that directive—however aspirational—once described it in a more caveated way: “the United States has a special relationship with Israel. That doesn’t mean we *can’t* be an honest broker.”<sup>144</sup> A scrutiny of other public statements by Ross provides further evidence of his awareness of his own bias towards Israel, such as “my approach to the peace process was shaped by the conviction that Israel must feel secure if it was to take risks for peace.”<sup>145</sup> The American’s preoccupation with putting Israeli security concerns *first* confirms this bias. In rationalizing it, Ross dangles the prospect of delivery, echoing the language of Touval: “because we have the relationship with the Israelis, *who do you think is the one trying to move the Israelis?* It’s the US, and that’s been the case throughout.”<sup>146</sup>

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<sup>141</sup> Jacinta Sanders. “Honest brokers? American and Norwegian facilitation of Israeli-Palestinian negotiations 1991-1993.” *Arab Studies Quarterly*, vol. 21, no. 2 (March 1999), 2.

<sup>142</sup> Kurtzer, et. al. *The Peace Puzzle: America’s Quest for Arab-Israeli Peace, 1989-2011*. (Washington DC: Cornell University Press, 2013), 37.

<sup>143</sup> For example, see Natalie Allen. “Sandy Berger Remarks on Israeli Pullout from Hebron” *CNN*, January 11, 1997; also, “Text of the White House Signing Ceremony for the Peace Agreement between Israel and the Palestinian Authority” *Associated Press*, October 24, 1998.

<sup>144</sup> Lisa M Hamm. “US Mideast Envoy defends negotiations” *Associated Press*, May 22, 1997. Italics for my own emphasis added.

<sup>145</sup> Dennis Ross. *The Missing Peace*. (New York: Farrar, Straus, and Giroux, 2004), 7.

<sup>146</sup> Dennis Ross. “Thinking Strategically: Should America Support Israel?” Published on July 22, 2014, Last Accessed on November 15, 2017. [https://www.youtube.com/watch?v=XTQD6qeCb\\_0](https://www.youtube.com/watch?v=XTQD6qeCb_0).

Indeed, whether consciously or not, Ross mimics aspects of Touval when expressing that “having a special relationship with Israel is not inconsistent with producing peace. *It may be a prerequisite for producing peace*”<sup>147</sup>

Yet other proclamations by Ross suggest the Touval model of mediation bias would never be applicable in a strict sense. For example, when Ross asserts that “peacemaking required that the Arabs understand that no wedge would be driven between the US and Israel,”<sup>148</sup> he clearly upends Touval’s formulation that cooperation will follow when disputants in a three-way bargain face the possible defection of a mediator from its favored party to the least favored one.<sup>149</sup>

Traditionally viewed as more liberal than Ross, and more personally aligned with Israel’s Labor Party, Indyk also affirmed America’s commitment of “being the honest broker and full partner, not only to Israel, *but also to the Palestinians.*”<sup>150</sup> Recalling his time in Israel during the 1973 War decades later, Indyk remarked how “in those dark days...I witnessed how...Henry Kissinger brokered a cease-fire that ended the war and paved the way for peace between Israel and Egypt.”<sup>151</sup> Indyk certainly appeared to share Kissinger’s bias and personal affinity for Israel. But he failed in taking affirmative steps to offset that bias among Arabs, which Kissinger did through even-handed performance. Again, Indyk’s concept of “honest broker” came with devastating caveats. As I cited in *The Truth About Camp David*, in 1998 Indyk would tell Jewish-Americans words meant to assuage them: that “evenhandedness is not even in

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<sup>147</sup> Dennis Ross, “The Foundation for Defense of Democracies Holds a Discussion on US-Israel Relations”, August 17, 2016. (italics for my own emphasis).

<sup>148</sup> Dennis Ross. *The Missing Peace*. (New York: Farrar, Straus, and Giroux, 2004), 7.

<sup>149</sup> The Israelis, according to Touval’s logic, would work to keep America in its corner and preserve continued American bias while Palestinians would beaver away at getting America to relent and join its coalition. But what hopes would Palestinians have when the US credibly claims it will never, under any circumstance, leave Israel’s side or show any “daylight” in its position?

<sup>150</sup> “With Indyk saying Oslo has broken down, U.S. may focus on NATO until July.” *Mideast Mirror*, May 19, 1997. (italics for my own emphasis)

<sup>151</sup> Nathan Guttman. “Martin Indyk, New Mediator in the Middle (East).” *Forward*, August 9, 2013.

our lexicon.”<sup>152</sup> Not to prove hypocritical, Indyk dispensed the same unpleasant truth to a mostly Arab audience one year later: “I didn’t say we were evenhanded. And it’s not a word I use myself. We are certainly pro-peace, and we’re certainly pro-Israel, and we’re certainly pro-Palestinian when it comes to supporting the peace process.”<sup>153</sup>

As Indyk lacked any demonstrated international conflict resolution before joining the Clinton Administration, it is unclear what led him—a self-professed student and admirer of Kissinger—to dispense the even-handed component that was requisite to Kissinger’s success. A revelation from one of the most recent comprehensive studies sheds valuable light on Clinton’s possible intentions in drafting Indyk straight from AIPAC into the White House, where he would serve in various capacities from 1993-2001. As captured in the 2013 book by Kurtzer et al., a senior AIPAC staffer confided that while Indyk eschewed the reputation of being AIPAC’s “man on the inside,” Clinton responded, “Are you kidding us? It benefits me to have him as AIPAC’s candidate.”<sup>154</sup> This would seem to suggest that, just as Nixon tried to use Kissinger, Clinton would trade on Indyk for political perks with America’s powerful pro-Israeli constituents, many of whom are Democrat voting Jewish-Americans. This would further reveal, citing Fisher, “devious objectives” in the negotiation—only in this instance, by the mediator himself rather than either of the warring parties—as Clinton appeared to suggest Indyk’s pro-Israeli presence in the US-led negotiations was engineered to boost him in domestic political polls.

Indyk would again resurface for a single year (2013-14) in the latter years of the Obama Administration as Special Middle East Envoy, this time—in perhaps a rhetorical nod to harsh criticisms—he promised the Palestinians that the US would not impose on them again: “we would not coordinate with the Israelis and

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<sup>152</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 37.

<sup>153</sup> Martin Indyk. “Remarks by Martin Indyk, Assistant Secretary of State for Near Eastern Affairs at the Center for Policy Analysis on Palestine.” *Federal News Service*. June 3, 1999.

<sup>154</sup> Kurtzer, et. al. *The Peace Puzzle: America’s Quest for Arab-Israeli Peace, 1989-2011*. (Washington DC: Cornell University Press, 2013), 280, footnote 63.

agree with the Israelis in advance.”<sup>155</sup> Demonstrating another problematic aspect of Indyk’s personal bias, his closeness to Israel’s Labor Party did little to win credibility with incumbent Prime Minister Benjamin Netanyahu and his hawkish right-wing government, who largely marginalized him (then US Ambassador to Israel, Indyk’s open support for Israel’s Labour party in the 1990’s resulted in him being returned to Washington after Netanyahu’s electoral victory as Likud prime minister, as I described in *The Truth About Camp David*).<sup>156</sup> Years later, Indyk would finish this second mediator stint just as his first: empty handed without brokering a single agreement for anyone. Being close to liberal sectors of Israeli political society, it turns out, did little to help Indyk “deliver” Netanyahu’s increasingly hawkish, right-wing government coalitions in negotiations with the Palestinian Authority.

Dennis Ross also formally re-emerged in the Obama Administration from 2009-2011, having nurtured his contacts with Israel’s right-wing politicians even further during his “off” years from government service. During that interregnum, Ross witnessed the expansion of his own family ties to Israel while heading a Jerusalem-based Zionist think tank originally founded by the Jewish Agency of Israel.<sup>157</sup> Initially wary of Ross’s track record on Israeli-Palestinian peace, Obama brought Ross on although initially relegating him away from Palestine to the Iran issue, a matter of strong concern, especially amongst US supporters of Israel. The Middle East Envoy job went to retired Senator George Mitchell, a heavyweight politician and former judge renowned for successfully brokering the Northern Ireland peace agreements.

When Mitchell ran into political problems with the Netanyahu government, Ross quietly deployed to “assure Jerusalem” that team Obama was “committed to

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<sup>155</sup> “Martin Indyk on Israel and the US”, *Al Jazeera*, Published on September 11, 2016, Last Accessed on November 16, 2017.

<http://www.aljazeera.com/programmes/headtohead/2016/06/transcript-martin-indyk-israel-160613082408332.html>.

<sup>156</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 37.

<sup>157</sup> Nathan Guttman. “Latest Chapter in Mideast Tension is Dennis Ross vs. George Mitchell,” *Forward*, July 12, 2011.



Israel's security and well-being."<sup>158</sup> Ross resurfaced in October 2009 transcripts from *The Palestine Papers* as he met with Saeb Erekat at the White House, in spite of the negotiations being the remit of Senator Mitchell, who was not present.<sup>159</sup> Ross's outreach to both Palestinians and Israelis would mark the beginning of Ross's encroachment on what was supposed to be Mitchell's turf. Their tensions became obvious to everyone; neither would succeed in their missions.

Steven Simon, who served Obama as Senior Director for the Middle East and North Africa at the National Security Council, writes that "The Israelis were in a uniquely advantageous position of being able to choose their American interlocutor."<sup>160</sup> Just as they had under the Clinton years, the Israelis turned to Ross for special treatment. For example, in 2010, Ross advised Obama on a political and security deal for Israel and advocated exchanging the release of convicted spy Jonathan Pollard and giving Israel a squadron of America's most advance fighter aircraft—the F-35, costing \$330 million per plane—for a two month freeze on building new settlements.<sup>161</sup> While having a continuum of the same US mediators (Kydd) clearly benefited Israel, who received Ross and Indyk's bias, it disadvantaged the disfavored Palestinian as the accrual of trust instead became their accrual of distrust in America. An astounding confession from Simon's book includes the acknowledgement that "the United States under Obama did continue to act as 'Israel's lawyers'—that is, *mediating on the principle that Israel must be satisfied and the Palestinians convinced*,"<sup>162</sup> precisely the circumstances Beber warned against in his critique of biased mediation.<sup>163</sup>

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<sup>158</sup> Ibid.

<sup>159</sup> Clayton E. Swisher. *The Palestine Papers: The End of the Road?* (London: Hesperus Press, 2011), 309-313.

<sup>160</sup> Dana Allin and Steven Simon, *Our Separate Ways: The Struggle for the Future of the US-Israeli Alliance*. (New York: Public Affairs, 2016), 94.

<sup>161</sup> Ibid., 92.

<sup>162</sup> Ibid., 124. Author's emphasis.

<sup>163</sup> See page 10 of this essay, where Beber cautions "What happens if the mediator believes that not his ally, but the other disputant needs to make a concession in order for a settlement to be feasible? In such circumstances he would *always* ask the disfavored party for a concession.

## **2.4 Biased Mediator or “Israel’s Lawyer”?**

“Israel’s lawyer” references a jarring May 2005 headline that appeared in the establishment *Washington Post’s* op-ed pages. Its author was Aaron David Miller, a PhD historian turned diplomat who had recently departed from the State Department after serving as Ross’s deputy for a number of years. “For far too long,” Miller wrote, “many American officials involved in Arab-Israeli peacemaking, myself included, have acted as Israel’s attorney, catering and coordinating with the Israelis at the expense of successful peace negotiations.”<sup>164</sup> Expressing both consciousness and frustration with US mediation bias toward Israel, Miller went on to attest how the US lost “sight of the need to be advocates for both Arabs and Israelis.”<sup>165</sup> With Palestinians, Miller confessed the US “departure point was not what was needed to reach an agreement acceptable to both sides but what would pass with only one — Israel.”<sup>166</sup> On Camp David 2000, Miller plainly admits “we ended up advocating Israel’s positions before, during, and after the summit.”<sup>167</sup> Harkening to recent history, including Kissinger’s efforts, Miller concludes “when we have used our diplomacy wisely and functioned as advocates and lawyers for both sides, we have succeeded.”<sup>168</sup> In 2016, Ross would remove whatever ambiguity remained over his preferred client, telling a gathering of American Jews his belief that “[p]lenty of others have been advocates for the Palestinians. We don’t need to be advocates for the Palestinians. We need to be advocates for *Israel*.”<sup>169</sup> This would, in fact, suggest Ross believes that being Israel’s lawyer is the correct form of mediation bias.

While Miller’s article corroborated and even advanced beyond his earlier criticisms presented in *The Truth About Camp David*, it was another

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<sup>164</sup> Aaron David Miller. “Israel’s Lawyer,” *Washington Post*, Published on: May 23, 2005, Last Accessed on: October 17, 2017.

<http://www.washingtonpost.com/wp-dyn/content/article/2005/05/22/AR2005052200883.html>.

<sup>165</sup> Ibid.

<sup>166</sup> Ibid.

<sup>167</sup> Ibid.

<sup>168</sup> Ibid.

<sup>169</sup> Phillip Weiss. “Dennis Ross tells American Jews: ‘We need to be advocates for Israel’—and not for Palestinians.” *Mondoweiss*, Published on June 17, 2016, Last Accessed on October 17, 2017. <http://mondoweiss.net/2016/06/american-advocates-palestinians/>.

*Washington Post* article years after that inspired me to undertake this essay on biased mediation. I am referring to a 2008 obituary of Professor Saadia Touval, whose colorful life was recalled as beginning in the once-outlawed Jewish paramilitary group *Haganah* and led to academia where he served as an Israeli university dean, apparently educating certain American diplomats. Its mundane title, “Saadia Touval, 76, Expert on Mediation Issues,” gave away little but the body of the article yielded intriguing detail. “His work on ‘biased intermediaries,’” read the obituary, “had an impact on prominent U.S. negotiators such as Aaron David Miller and Dennis Ross, who borrowed his ideas.”<sup>170</sup> The obituary quoted Miller heaping praise on Touval for coming up with “a reasonable and compelling look at theory for practitioners” and developing “a very practical approach that was of great benefit to me.” Ross quoted Touval’s scholarship in his own book on statecraft<sup>171</sup> and at his frequent public speaking engagements, makes comments that, at a minimum, sound inspired, if not influenced by, Touval’s biased mediation scholarship. Yet in a series of interviews for a 2002 academic journal, Ross claimed his own negotiation techniques were “intuitive and derived from experience, and that he was not particularly influenced by any specific theory current in the mediation/negotiation literature.”<sup>172</sup> If true this would suggest Ross, like Indyk, freelanced and came up with their own untested approach—getting the “bias” part right but failing to bring other key back-end aspects that are expected, including “delivery” of the favored side and allowing for the potential of a wedge to be formed in the special relationship.

What resulted was a mutation that defies tidy scholarly classification. Juxtaposing Touval’s scholarship aside the performance of Ross and his team in *The Truth About Camp David* more broadly, the many departures from the complete package of biased mediation articulated by Touval become evident.

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<sup>170</sup> Adam Bernstein. “Saadia Touval, 76, Expert on Mediation Issues.” *Washington Post*, Published on: April 25, 2008, Last Accessed on: October 17, 2017. <http://www.washingtonpost.com/wp-dyn/content/article/2008/04/24/AR2008042403637.html>.

<sup>171</sup> Dennis Ross. *Statecraft: And How to Restore America’s Standing in the World*. (New York: Farrar, Straus and Giroux, 2007), 216.

<sup>172</sup> Brian Bebchick. “The Philosophy and Methodology of Ambassador Dennis Ross as an International Mediator.” *International Negotiation*, no. 7. (2002) 127, footnote 2.

Indeed, American mediator bias towards Israel during the Ross/Indyk era has far more in common with Miller's version of "Israel's lawyer" than it does with Touval's scholarship on biased mediation. At various points, the approach of Ross and Indyk go into further permutations of fringe biased mediation categories including Kydd's "more royalist than the king" (or Powell's "*agent provocateur*"), as critiqued by the former PLO Foreign Minister in *The Truth About Camp David*:

Ambassadors Ross and Indyk were viewed by everybody as being partial, biased, pro-Israel, and they sometimes defended Israel much more than the Israelis delegates did. In fact, we always thought that anything good about the peace process we got out of the Israelis when Dennis Ross was looking the other way."<sup>173</sup>

To be sure, Ross, Indyk and later serving US mediators certainly had the pro-Israel "bias" credentials. But Touvalian they were not. No Palestinian or Syrian could ever "hope to drive a wedge" between the US and Israel, as Touval hypothesized, especially when US support for Israel reached new rhetorical heights with multiple pronouncements, made from most every level of the US political establishment—Republican and Democrat—that such "daylight" with Israel would never be tolerated.<sup>174</sup>

Conspicuously absent too is Touval's key benefit for Arabs accepting biased US mediation—America's presumed ability to deliver the Israelis.<sup>175</sup> For

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<sup>173</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 148.

<sup>174</sup> M.J. Rosenberg. "Sorry, Democrats: Your NRA is Spelled AIPAC." *Lobellog*, Published on: October 9, 2017. Last Accessed on: November 16, 2017. <https://lobelog.com/sorry-democrats-your-nra-is-spelled-aipac/>.

<sup>175</sup> Martin Indyk takes a different view on this. In an interview with Al Jazeera anchor Mehdi Hassan, he said "We have used the leverage. We've used it repeatedly. And that has produced, on repeated occasions, offers from Israel to the Palestinians which have gone a very long way to meet their needs. And nobody else, not the UN, not the EU, not the United Kingdom, has been able to do that, only the United States has been able to do that. From "Martin Indyk on Israel and the US", *Al Jazeera*, Published on September 11, 2016, Last Accessed on October 18, 2017,

Palestinians, despite every US President from Lyndon Johnson demanding an end to settlement expansion, continued growth of settlements demonstrates the perverse fallacy of American political will to “deliver” Israel.<sup>176</sup> The Americans could stop the expansion of settlements, if it had the political will, by imposing significant costs on the Israelis until it stopped. But instead they found an enabler of settlements amongst the very top American mediator, who at best presented a “yellow” light on the topic, if not a “green” one through his silence. In *The Truth About Camp David*, senior US diplomat Toni Verstandig told me when it came to criticizing settlements, Dennis Ross was “the most uncomfortable...[Ross] felt we couldn’t diminish our leverage with Israel if we came out and publicly criticized what he believed was catering to constituencies in Israel.”<sup>177</sup> Left with a free hand to build as many settlements on stolen Palestinian land as possible, this reflects what Fisher described as “devious objectives,” as Israel purposefully manipulated negotiations to bide time and improve its own territorial gain with American acquiescence.

For Syrians, although the US claimed for years to be the political repository of “Rabin’s deposit” of a full return to the June 4, 1967 lines, that delivery never proved forthcoming, even as the late Hafez al-Assad repeatedly offered normal and full peaceful relations in exchange.<sup>178</sup> Later, as the George W Bush Administration flirted with regime change in Damascus, the new Syrian President, together with representatives of the Israeli government began to look

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<http://www.aljazeera.com/programmes/headtohead/2016/06/transcript-martin-indyk-israel-160613082408332.html>.

<sup>176</sup> Dana Allin and Steven Simon, *Our Separate Ways: The Struggle for the Future of the US-Israeli Alliance*. (New York: Public Affairs, 2016), 183.

<sup>177</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 31.

<sup>178</sup> Barak’s top negotiator with Syria, Gen. Uri Saguy (Ret.), admitted “We do not always check ourselves when it comes to strategic political failures of the highest order. He added that peace “would have happened had we done what we promised to ourselves, the Americans, and the Syrians.” From Joshua Landis. “Uri Saguy on Barak’s “Missed Opportunity” with Syria — Didi Remez trans.”, *Syria Comment*, Published on June 17th, 2010, Last Accessed on October 17, 2017. <http://www.joshualandis.com/blog/uri-saguy-on-baraks-missed-opportunity-with-syria-didi-remez-trans/>.

to the Turks and even Swiss for mediation.<sup>179</sup> For its part, the US-aid dependent Palestinian Authority appeared to recognize that Touval's description of "biased mediator" is not on the American offering, and as shown in *The Palestine Papers*, doubled down on biased American mediation—knowing that it resembles more "Israel's lawyer" and at times even "more royalist than the king." Although given shrinking territory available for a viable, contiguous, Palestinian state, there are signs they too are waking up to the reality of an American emperor that has no clothes. In 2015 when the US Congress cut the Palestinian Authority's annual \$400 million dollars in aid over its decision to peacefully and lawfully contest Israel's conduct in recent campaigns against Gaza, Palestinian President Mahmoud Abbas confided doubt over Secretary John Kerry, then mediating the talks: "If Kerry can't get me \$400 million dollars, *how will he get me East Jerusalem?*"<sup>180</sup>

Touval would also have us believe that Israel would try and preserve its favored position with America to prevent Arab encroachment. However true that might have been in the 1970s, in recent years it is only episodically so, exacerbated by the decline of American influence worldwide. One example is following Israel's subterfuge at Geneva and Camp David summits in 2000, when Barak prevailed on the US to take Israel's side and blame the Arabs for the failure. Another is when Ariel Sharon reeled Bush back into Israel's fold by warning him Israel would not be treated as a throwback to 1930s "Czechoslovakia" in Bush's post September 11<sup>th</sup> bid to shore up an Arab coalition to "fight terrorism."<sup>181</sup> By 2011, the widening rift in US-Israeli drift became perceptible, if not purposeful. A White House official recalled a presentation in Jerusalem by Israel's then foreign minister, who warned Israel might go off and chart its own course with a "new alliance involving Russia, China, India, and other countries," a move reflecting Israel's "deep disdain for the encumbrances, especially regarding the

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<sup>179</sup> "Israel-Syria: Former MFA DG describes Track-Two Negotiations", *Wikileaks*, Published on February 7, 2007, Last Accessed on October 18, 2017, [https://wikileaks.org/plusd/cables/07TELAVIV421\\_a.html](https://wikileaks.org/plusd/cables/07TELAVIV421_a.html).

<sup>180</sup> Hussein Agha, Interview with author, London, 22 November 2016.

<sup>181</sup> James Bennet, "Sharon Invokes Munich in warning U.S. on 'Appeasement'", *New York Times*, Published on October 5, 2001, Last Accessed on October 18, 2017, <http://www.nytimes.com/2001/10/05/world/sharon-invokes-munich-in-warning-us-on-appeasement.html>.

Palestinians, that Washington attaches to its support.”<sup>182</sup> Israel has defied the US time and again, sending its Prime Minister to humiliate and rebuke President Obama in 2015 over the Iran nuclear deal.<sup>183</sup> An indicator of just how much the power asymmetry has changed: at the time of this writing certain Arab dictatorships have largely come to believe that *only Israel* can deliver the Americans rather than the opposite. In spite of their differences over the Palestinian question, they quietly look to Israel for help, especially the US Congress, on topics ranging from adopting anti-Iran policies to cutting slack on Arab human rights abuses to supporting crackdowns against the Muslim Brotherhood.<sup>184</sup>

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<sup>182</sup> Dana Allin and Steven Simon, *Our Separate Ways: The Struggle for the Future of the US-Israeli Alliance*. (New York: Public Affairs, 2016), 214.

<sup>183</sup> Seumas Milne, Ewen MacAskill and Clayton Swisher, “Leaked Cables show Netanyahu’s Iran bomb claim contradicted by Mossad.” *Guardian* Published on: February 23, 2015, Last Accessed on: October 17, 2017.

<https://www.theguardian.com/world/2015/feb/23/leaked-spy-cables-netanyahu-iran-bomb-mossad>.

<sup>184</sup> John Hudson. “Egypt’s Rules Have A New Friend in DC: The Israel Lobby”, *Foreign Policy*, Published on August 19, 2013, Last Accessed on October 18, 2017.

<http://foreignpolicy.com/2013/08/19/egypts-rulers-have-a-new-friend-in-dc-the-israel-lobby/>.

## **PART THREE: CONCLUSIONS**

### **3.1 Neither Honest Broker, Nor Effective Broker**

What about other benefits that US biased mediation might bring? Seldom did the US provide Israel with accurate insights about Arab resolve that Israel did not know already or better understand themselves. One reason why these partisan mediators lacked a deep understanding of the Arabs was the fact they did not seem to enjoy good relations with either the elder Assad (who had good relations with Kissinger) or Arafat. As *The Truth About Camp David* details, mutual enmity between Ross and Arafat and Ross and Assad was well established.<sup>185</sup> The broader US mediation team was also culturally ignorant about Arabs and Islam. As later confirmed in *The Peace Puzzle*, a devastating 2013 critique of American mediation based on more than 120 experts interviewed, “expertise that Ross and his staff held on Israel was not matched by a corresponding expertise or experience with Palestinian, Arab, or Islamic needs.”<sup>186</sup> In the run up to Jordan’s 1994 peace agreement with Israel, a former Jordanian foreign minister recalled how “King Hussein did not trust Ross at all” and that was “why Hussein did not want to tell the United States about his moves with Israel.”<sup>187</sup> Israelis at Camp David recalled Arafat’s dislike of Ross, as one remembered “Arafat said once or twice to Clinton that Ross and others on the US team were ‘working for the Israelis, not for you.’”<sup>188</sup> For his part, Ross recalled avoiding a meeting between Clinton and Arafat: “I feared that I might lose my cool with Arafat. I had had it with him.”<sup>189</sup> Leaving aside that Ross was an unelected presidential appointee and that Arafat was a democratically elected leader representing a presumptive state in the making, the anecdote reflects less the presence of discipline on Ross’s part and more how great was the chasm between this mediator’s relations and emotions with the single consequential Palestinian at a momentous summit. As one American official in

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<sup>185</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 92.

<sup>186</sup> Kurtzer, et. al. *The Peace Puzzle: America’s Quest for Arab-Israeli Peace, 1989-2011*. (Washington DC: Cornell University Press, 2013), 128.

<sup>187</sup> *Ibid.*, 130-131.

<sup>188</sup> *Ibid.*, 131.

<sup>189</sup> Dennis Ross. *The Missing Peace*. (New York: Farrar, Straus, and Giroux, 2004), 705.



*The Peace Puzzle* states “Clinton was so goddamn ill-advised by the people around him, it is sickening.”<sup>190</sup> The book adds “The American team had no full appreciation for Palestinian domestic politics and, somewhat surprisingly no full understanding of Israeli politics.”<sup>191</sup> According to Kydd’s standards, this would render the same “American team” incapable of eliminating uncertainty about the resolve of the other party. If it understands neither’s bottom lines well, who exactly is it in a position to advise?

It is particularly remarkable, if not counterintuitive, that biased American mediators failed to accurately understand Israeli bottom lines and strategy, which Palestinians expected it to know best. Instead, the US was left musing alongside Palestinians over Israel’s true intentions and next moves. The US also, as seen in *The Truth About Camp David*, lacked even basic mastery of the core conflict details to prove useful to either side. An Israeli negotiator complained to me how “The American team didn’t know the substance;” adding to this handicap, Aaron David Miller lamented how “The Israelis and Palestinians came very prepared to Camp David—the problem was, we didn’t.”<sup>192</sup>

My revelation of this general ignorance among US mediators further cast doubts on its overall suitability to reliably filter information amongst the parties. According to Kydd, if either Ross or Indyk had information that the Arabs had steely resolve on an issue, in order to be useful they must accurately convey that to Israel. That, in turn, might hypothetically incline—but not guarantee—Israel toward making a concession. On the other hand, if Ross and Indyk believed the Arabs were not resolved, they would urge the Israelis to not make a concession, and if the Arab side *actually* was resolved the conflict would continue. Consider how badly both failed on this score with respect to conveying Hafez al-Assad’s unbroken resolve to reclaim every inch of the Golan Heights right up to the Sea of Galilee, as detailed in Chapter Eight of *The Truth*

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<sup>190</sup> Kurtzer, et. al. *The Peace Puzzle: America’s Quest for Arab-Israeli Peace, 1989-2011*. (Washington DC: Cornell University Press, 2013), 125.

<sup>191</sup> Ibid. See also footnote 42.

<sup>192</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 264.

*About Camp David* and reconfirmed in scholarly works subsequent to mine.<sup>193</sup> Consider also how this logic played out at Camp David 2000 with Jerusalem as an example. International law (UNSCR 242) protects Palestinian legal claims for Israel to end its occupation of East Jerusalem, including Al Aqsa Mosque/Temple Mount. It was the most important item of the many issues to be negotiated at Camp David, an obsession of Arafat's, who was quoted admitting before his death how "had they given me Al-Quds (Jerusalem) and the Al-Aqsa Mosque, I would have given them everything."<sup>194</sup> Though Arafat showed incredible flexibility at Camp David 2000—such as agreeing to the principle of land swaps—neither Ross nor Indyk understood, much less conveyed to Israel, Arafat's resolve on Jerusalem.

On the contrary, because Ross and Indyk were excessively partisan on the subject—pro-Israel but also religiously and emotionally attached as Jews to the Zionist narrative—part of Camp David 2000 was wasted while they and other soul-searching American negotiators—almost exclusively Jewish—went through a process of self-discovery and contemplation on what *they* could subjectively accept on Jerusalem as Jews, rather than what diplomats representing the United States should do in accordance with international law (UN Resolution 242). At least for Ross, doing so would require walking back public declarations he had made as early as 1989, when he opined that "an independent Palestinian state is economically not going to be viable and it may also be a source of instability" and other statements like "[s]elf-determination in a Middle Eastern context has come to mean one thing: an independent Palestinian state. And our position... is that an independent Palestinian state in our view is not a prescription for a stable and enduring settlement."<sup>195</sup>

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<sup>193</sup> Joshua Landis. "Uri Saguy on Barak's "Missed Opportunity" with Syria — Didi Remez trans.", *Syria Comment*, Published on June 17th, 2010, Last Accessed on October 17, 2017. <http://www.joshualandis.com/blog/uri-saguy-on-baraks-missed-opportunity-with-syria-didi-remez-trans/>. See also Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 34-130.

<sup>194</sup> Kurtzer, et. al. *The Peace Puzzle: America's Quest for Arab-Israeli Peace, 1989-2011*. (Washington DC: Cornell University Press, 2013), 137.

<sup>195</sup> "USIA WORLDNET 'Dialogue' With Guest Dennis Ross, Planning Policy Advisor, Department of State, Moderated by Paul Duke", *Federal News Service*, June 14, 1989.

For Indyk's part, when Barak contemplated dividing the Old City, rather than encouraging him to continue and fulfill Israel's legal obligations of returning occupied Palestinian land, he expressed disbelief if not opposition. Shlomo Ben Ami, Israel's foreign minister recalled "walking in the fields with Martin Indyk that night and both of us saying that Ehud was nuts."<sup>196</sup> Indyk corroborated that exchange in his 2009 memoir how "personally, I considered Barak's offer a mistake; he was going too far too fast."<sup>197</sup> This is particularly striking given the American's had framed Camp David as a "make or break" summit to make final decisions. In this instance, citing Kydd, Indyk became "more royalist than the King" (citing Powell, "*agent provocateur*") preferring Israel make a smaller offer even when its favored side was willing to make bigger ones — and in spite of the fact that this would contribute to the lack of a conflict-ending agreement that all believed would probably lead to renewed war (as it did in the summits aftermath with the Second *Intifada*). Citing Beber, Indyk was not just biased to want an agreement allocating as much as possible to his preferred disputant, Israel; Indyk actually wanted Israel to offer *less* at that moment in time than what Barak was willing to do.

Indyk was hardly alone in becoming "more royalist than the King" at Camp David; Dennis Ross would also earn this distinction. Prior to Barak's offer to divide portions of Jerusalem, Ross recalls telling Indyk, "We'd better think of ways to compensate Palestinians for what they won't be able to get from the Israelis on Jerusalem," going on to suggest as a "big symbol for Arafat" that they would say "the American embassy will be built in the part of Abu Dis that extends into the current municipal boundary of East Jerusalem."<sup>198</sup> Later, while discussing territorial percentages, Ross notes that some amongst his team believed the Palestinians were entitled to full territorial compensation under international law. "I disagreed," Ross writes,

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<sup>196</sup> Ari Shavit. "End of a Journey: Interview with Shlomo Ben Ami," *Haaretz*, October 3, 2001.

<sup>197</sup> Martin Indyk. *Innocent Abroad: An Intimate Account of American Peace Diplomacy in the Middle East*. (New York: Simon & Schuster, 2009), 322.

<sup>198</sup> Dennis Ross. *The Missing Peace*. (New York: Farrar, Straus, and Giroux, 2004), 681.

I was not focused on reconciling rights but on addressing needs...I believed it was possible for the Palestinians to have territorial contiguity and viability with 7 percent (Israeli) annexation...I felt strongly about 6 to 7 percent annexation, and I was not prepared to lower the ceiling. Nor was I prepared to introduce the idea of an equivalent swap.<sup>199</sup>

Indeed, subsequent Israeli and even *American* proposals would greatly improve the territorial percentage well beyond what Ross had initially felt “prepared” in the summer of 2000 to offer. Another instance of “more royalist than the King” mediation by Ross is recounted in his own words. Just prior to issuing the Clinton Parameters in December 2000, he recalled meeting Mohammed Dahlan to assure him that on territory “Israelis will not go below 7 percent annexation. You can get 95 percent of the territory with a 2 percent swap but you will not do better than that.”<sup>200</sup> Later that day, Ross learns the Israelis had, in fact, done far better minutes before him, “accepting 5 percent annexation.”<sup>201</sup> Rather than being supportive of Israel for continuing to show flexibility and move in the direction of fulfilling its international legal obligations, Ross acknowledges being

stunned and angry...I was furious. What was the point of my conveying a tough posture of issues of supposed principle to the Israeli side if they were simply going to undercut me?<sup>202</sup>

Addressing the arbitrary adjudication of what Ross perceives were Palestinian “needs,” Norman Finkelstein writes, “What is most peculiar about Ross’s argument is his apparent belief that his personal adjudication is less arbitrary than reference to a consensual body of laws. Leaving aside the strange premise that the transitory opinion of one should count for more than the received opinion of many, it is unclear what qualifies Ross for the role of philosopher-King.”<sup>203</sup>

*The Truth About Camp David* discussed the Israeli ability to ensure US mediation bias in the period surrounding the summit—including Barak’s connections to Clinton’s pollsters and assisting Hillary Clinton in securing the

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<sup>199</sup> Ibid., 726.

<sup>200</sup> Ibid., 748.

<sup>201</sup> Ibid., 749.

<sup>202</sup> Ibid.

<sup>203</sup> Norman G. Finkelstein. “The Camp David II Negotiations: How Dennis Ross Proved the Palestinians Aborted the Peace Process,” *Journal of Palestine Studies*, vol. 36, no. 2 (Winter 2007), 49.

New York Jewish community in her bid for US Senate.<sup>204</sup> But from the period stretching through both my publications, the broader Arab world became feckless at equalizing American bias. Long gone were the Gulf Arab states use of oil embargoes as a means of keeping American bias in check (Welton & Pruitt).<sup>205</sup> Arab states lacked “high power” over biased American mediators to affect their future welfare, and to the extent any power was exerted in protest of American Mideast policy, it was often expressed through violence by so-called terrorist groups (and with covert acquiescence by some Arab states) whose tactics were roundly condemned. Citing Touval, neither Ross, Indyk, or any other policy partisans that came after sought to take steps to safeguard their continued acceptability to *both* sides. They were never realistically going to lose their jobs because of Arab complaints, even on the odd occasions when they made them privately and even sometimes publicly.<sup>206</sup>

*The Truth About Camp David* evidences years of Arab complaints about Ross’s excessive bias—including to the White House and President himself. Only at the very end of the Clinton presidency did the White House begin to entertain if those complaints had merit, concluding even then that it was far too late to do anything meaningful about it, a factor compounded by how bureaucratically central to the process Ross had made himself.<sup>207</sup> Citing Kydd, the lack of US mediator accountability denied Palestinians another countermeasure to offset US bias as the mediators would never face the prospect of being replaced after vouching for promises made by the Israelis, who would only later breach. The

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<sup>204</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 240-241 and 314-315.

<sup>205</sup> Elliott Abrams. *Tested By Zion: The Bush Administration and the Israeli-Palestinian Conflict*. (Cambridge, Cambridge University Press, 2013), 35. For example, “Saudi Arabia made it clear they would not use oil as a weapon.”

<sup>206</sup> See Nicolas B. Tatro. “Arafat says U.S. mediator biased in Israel’s favor”. *Associated Press*, Dec 20, 1996. “The most important thing is that Ross has to be an accurate mediator, not biased to the side of the Israelis.” Even less diplomatic language was used the next year by the PLO’s Foreign Minister Faruq Qaddumi: “Ross can go to hell because he is a Zionist aligned with Israel.” See “PLO official says US envoy can “go to hell””. *Agence France Press*. March 30, 1997.

<sup>207</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 184-187.

failure to be accountable after falsely vouching for Israel was evident throughout *The Truth About Camp David*, and included breaches of Arab confidences not just by Ross or Indyk but by President Clinton himself. For example, in the March 8, 2000 agreement when Clinton promised Arafat that Barak would make good on his pledge to lessen Israel's occupation of 3 West Bank villages, which Barak quickly reneged upon; when Clinton inveigled Assad to attend the Geneva summit based on supplying Israeli withdrawal to the June 4<sup>th</sup> 1967 lines, which never materialized; or, more blatantly, when Clinton pledged to Arafat in the presence of many that the United States would not under any circumstances blame Palestinians if the Camp David summit failed.

Over time, the repeated betrayal of Arabs ultimately began to harm America's preferred client. As the US proved incapable at Camp David of "delivering" Palestinians, Israel's top negotiator lamented in my book how "we Israelis have sacrificed a lot of our positions because of that biased tag that was put on Dennis Ross and on others...Arafat used to say to Clinton, "These guys are working for the Israelis, not for you!"<sup>208</sup> Amnon Lipkin-Shahak, the former IDF Chief of Staff who also negotiated at the summit on Israel's behalf echoed that sentiment, saying:

It would have helped the Americans to be more trusted by the Palestinians. The Palestinians lost trust through time. They look at the Americans as an Israeli agent. But they had no choice. They could go nowhere.<sup>209</sup>

This is partly because successive US presidents clearly believed the negative diplomatic externalities they created by betraying or belittling Arabs were minor compared to the domestic political benefits of being seen as siding with Israel. An impassioned rant by the Palestinians lead negotiator in *The Palestine Papers* records this frustration:

That's it. Nineteen years. We delivered on our Road Map obligations. Even Yuval Diskin raises his hat on security. But no, they can't even give a six-month freeze to give me a fig leaf to see, to find out, what we

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<sup>208</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 374.

<sup>209</sup> Ibid, 259.

can do...on swaps, but no. You don't see me in the same ship. Your focus in on PR, quick news, and we're cost free. You know my word is nothing compared to you, in Congress. What good am I if I'm the joke of my wife, I'm so weak."<sup>210</sup>

Like legions of politicians throughout history, short term domestic political expediency proved more attractive than the long-term principle of justice and peace internationally; the politically inexpensive former is nowadays preferred by pollsters while the politically costly latter is often what makes history.

As I show in *The Palestine Papers*, the asymmetrical rift between Israelis and Palestinians only widened post 9/11, where the Palestinian Authority worked hard to distance itself from the Western "terrorist" label by bending over backwards to demonstrate security cooperation with Israel, including killing fellow Palestinians.<sup>211</sup> Not unlike Oslo, which descended into a procedural sham (Fisher) that enabled the stronger Israelis to manipulate the process in order to build more "facts on the ground", the George W Bush team did its part to further this fraud through its 2002 "Roadmap", a document that pledged a Palestinian state by 2005. Validating Beber, it is also noteworthy how the US self-selected into the mediation role between Israelis and Palestinians again, given not only the lack of recent success but also upon belief by the Bush Administration that the efforts of the Clinton team were an unmitigated disaster, in part because they were not biased toward Israel enough. According to Bush's Treasury Secretary, in their first meeting on the topic Bush made clear "We are going to correct the imbalances of the previous administration on the Mideast conflict. We're going to tilt it back to Israel."<sup>212</sup> Bush would later soften that stance and re-engage, although for calculated strategic reasons: the US sought to build a coalition to go to "fight terror" and wage war against Iraq.<sup>213</sup> Key allies, including Britain, insisted the US "do something" diplomatically about Palestine to lessen their domestic criticism against further upending the Middle

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<sup>210</sup> Clayton E. Swisher. *The Palestine Papers: The End of the Road?* (London: Hesperus Press, 2011), 71.

<sup>211</sup> *Ibid.*, 53-62.

<sup>212</sup> William B. Quandt. *Peace Process: American Diplomacy and the Arab-Israeli Conflict Since 1967.* (Washington DC: Brookings Institution Press, 2005), 390.

<sup>213</sup> Elliott Abrams. *Tested By Zion: The Bush Administration and the Israeli-Palestinian Conflict.* (Cambridge, Cambridge University Press, 2013), 38-39.

East in conflict and bloodshed. To provide the window dressing of mediation, as I write in *The Palestine Papers*, from 2001-2011 the US dispatched a cycle of hyperactive envoys—including an ambassador, 6 generals, and one CIA director, all obsessed with helping first and foremost quiet attacks against Israelis with little concurrent concern for Palestinian safety.<sup>214</sup> Yet again, the US went to work like a corrupt auditor assisting an embezzler, ensuring Israel maximized its territorial gains at the expense of Palestinians, giving symbolic hope to Palestinians and solid guarantees for Israel's security.

From the outset, officials serving the George W. Bush Administration were told the new aim would be for conflict management rather than peacemaking, a paradigm that disadvantages the weaker Palestinian side.<sup>215</sup> They, in turn, were expected to endure more years of land theft and occupation until it ostensibly elected a leadership of America's liking.<sup>216</sup> Even when they did so, a new round of excuses emerged to justify their occupied status. The key driver of this was White House Senior Advisor Elliot Abrams, another pro-Israeli partisan known for his hawkish, Likud party views. Although George W Bush explicitly embraced a Palestinian state in the UN Security Council for the first time in 2002, Abrams would claim how Bush thought it would be "immoral" to "replace Israeli occupation with another typical Arab tyranny;" thus, "the nature of the Palestinian state was now a greater priority than its territory."<sup>217</sup>

There is evidence Abram's claim that Palestinian reform must proceed freedom was a procedural sham to buy Israel more time to consolidate its hold on territory. While briefing Abrams in 2005 on ways to improve Palestinian connectivity in its future sovereignty, Simon recalls how Abrams "observed, perhaps just a bit mischievously, that 'there isn't going to be a Palestinian state'"

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<sup>214</sup> Clayton E. Swisher. *The Palestine Papers: The End of the Road?* (London: Hesperus Press, 2011), 54.

<sup>215</sup> "Condi [Condoleezza Rice] and Steve [Hadley] had previewed in the week [before the inauguration] that there was going to be a change from peacemaking to conflict management," according to Bruce Riedel as quoted in *Peace Puzzle*, Kurtzer et al., 156-157.

<sup>216</sup> Elliott Abrams. *Tested By Zion: The Bush Administration and the Israeli-Palestinian Conflict*. (Cambridge, Cambridge University Press, 2013), 15.

<sup>217</sup> *Ibid.*, 43.



even though it was stated policy at the time.<sup>218</sup> Indeed, a key innovation during Abram's shepherding of this "conflict management" phase was the addition of "recognizing Israel as a Jewish state" as a condition on Palestinians. Instead of addressing the longstanding core issues of borders, security, Jerusalem, and refugees, Israel and its partisans in the Bush Administration had them instead dedicate much time and diplomatic bandwidth debating whether to accept a humiliating claim required of no other state on the planet. Of course, the raising of such a new condition in this midst of this patently shambolic process had its desired effect of diverting attention from areas where Israeli concessions were expected and demanded.

Although a later push for negotiations happened at Annapolis in 2008, making notable progress, they almost always occurred in bilateral Israeli-Palestinian meetings where American mediators were absent. The US gave a commitment to mediate, then exempted themselves from mediating, strangely, allowing the parties themselves to breathe life into discussion ostensibly free, at least momentarily, of American bias.

For its part, the US has engaged in Leadership Selection Intervention (citing Weinberg), throughout the Oslo peace process and beyond<sup>219</sup> to elect an Israeli Prime Minister it believes will be most forthcoming in a peace process, which is no doubt by some Israeli politicians considered a hostile act of foreign interference. *The Truth About Camp David* lays out how Clinton overtly tried and failed to see Peres elected over Netanyahu in 1995.<sup>220</sup> That was not lost on Netanyahu, who went on to have terrible relations with Clinton throughout his Administration. Similarly, my research details how the US tried and succeeded in electing Ehud Barak over Netanyahu in 1999 but failed to see his re-election following Camp David 2000.<sup>221</sup> Its obsession with helping Barak

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<sup>218</sup> Dana Allin and Steven Simon. *Our Separate Ways: The Struggle for the Future of the US-Israeli Alliance*. (New York: Public Affairs, 2016), 81.

<sup>219</sup> Aaron David Miller. "US Acts as though it seeks regime change in Israel," *Los Angeles Times*. April 12, 2010.

<sup>220</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 6-7.

<sup>221</sup> *Ibid.*, 9-14.

succeed politically echoed the Bush Administration's desire to see Ehud Olmert succeed, as shown in *The Palestine Papers*, including American requests of Palestinian officials to help make gestures to politically benefit Olmert. Meddling is bi-directional too, at least between Israel and the US (Palestinians have no domestic American political leverage), as the Israelis continue to have high power over any American president's future political welfare, particularly through the Congress where such influence is made easy by lax campaign finance laws and special interest groups. Toward Palestinians, the US also worked assiduously, with Israel's Mossad taking lead, in a global campaign to discredit and isolate Palestinian President Yasser Arafat. Former Mossad director Ephraim Halevy boasts in his 2006 memoir how

...from the very beginning my blueprint for forging a new Palestinian leadership was a direct attempt to effect a regime change in a key player, a key adversary, of Israel... This was not a clandestine effort to pull strings. It was an up-front campaign designed to gain public support and not simply endorsement of a concept, but an actual precise list of measures designed to obtain the desired result.<sup>222</sup>

Following Arafat's suspicious 2004 death,<sup>223</sup> the US and Israel found a reform-first compliant Palestinian President in the form of Mahmoud Abbas and the American educated Prime Minister Salaam Fayyad. Once installed, the US knew how to exert levers over Abbas and Fayyad to buy their complaisance, occasionally playing them off each other. Driving home that point in *The Palestine Papers* is the caution given by one of the fleeting biased mediators sent by President Bush, US General Keith Dayton: "As much as President Bush thinks Abu Mazen is important," Dayton told his Palestinian interlocuters, "without Fayyad, the US will lift its hand from the PA and give up on Abu

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<sup>222</sup> Efraim Halevy. *Man in the Shadows: Inside the Middle East Crisis With A Man Who Led the Mossad* (London: St Martin's Press, 2006), 214.

<sup>223</sup> See Pascal Froidevaux et al. "Po poisoning as possible cause of death: forensic investigations and toxicological analysis of the remains of Yasser Arafat." *Forensic Science International*, 259 (2016). "Factsheet on Forensics Report concerning the late President Yasser Arafat." *Centre hospitalier universitaire vaudois*. Published on: November 10, 2013. Last Accessed on: November 16, 2017. <http://www.chuv.ch/chuv-factsheet-arafat-131008.pdf>. "What Killed Arafat". *Al Jazeera Investigates*. Published on: July 4, 2012. Last Accessed on: November 16, 2017. <https://www.youtube.com/watch?v=KBT7o0piZ8E>. "Killing Arafat". *Al Jazeera Investigates*. Published on: November 10, 2013. Last Accessed on: November 16, 2017. <https://www.youtube.com/watch?v=qr2DULWPzAs>.

Mazen.”<sup>224</sup> Owing to substantial aid and financial assistance it gives each year to the Palestinian Authority, that is no idle threat. The US is uniquely positioned to coerce the Palestinian Authority to follow its instructions through the negotiations—or risk not meeting payroll for sizeable population who survive on PA salaries. Whilst the Israelis can safely ignore the US and still collect its money (as Netanyahu did, continuing settlement expansion whilst collecting a \$38 Billion dollar loan guarantee by the outgoing Obama Administration), the Palestinians cannot. Against this backdrop of fundamental imbalance, increasing levels of pro-Israeli bias among American mediators might seem negligible. But as Arabs and Palestinians continue their interactions and reach the same outcome—that no peace is possible, no American delivery of the Israelis will materialize, much less any hope of “driving a wedge” between the US and Israel—they are likely to stop trying at some point, and explore alternative paradigms to achieve those fundamental rights which this dysfunctional biased mediation paradigm has been unable to deliver. On one occasion witnessed in *The Palestine Papers*, Saeb Erekat deigns to caution Obama Administration officials about the continued devaluation of US credibility to mediate. Reflecting the colonial mindset that Palestinians are subjects who lack basic agency to form opinions, the US Ambassador snapped back “*We make the call on our own credibility.*”<sup>225</sup>

### **3.2 Trump and the Era of the Extremist Mediator**

In 2017, Trump designated the Middle East peace portfolio to a trio of Jewish-American Zionists well known for their family and religious ties to the State of Israel, financial support for settlement construction and uncompromising views toward the Arabs.<sup>226</sup> In less than one year on the job, there is already ample evidence their extreme pro-Israel bias makes them less a “mediator” to this

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<sup>224</sup> Clayton E. Swisher. *The Palestine Papers: The End of the Road?* (London: Hesperus Press, 2011), 60.

<sup>225</sup> *Ibid.*, 252.

<sup>226</sup> This is especially odd for Kushner, who, prior to joining his father-in-law’s presidential team, was known, along with his wife Ivanka, for espousing liberal and progressive American political values. Therein lies an interesting phenomenon—progressive with American political values which include tolerance and equality while concurrently hawkish with Israeli political values which include intolerance and support for Apartheid.

conflict and more an “agent provocateur,” or a third-party whose extreme bias is yet again more royal than the king—or, more Israeli than the Israelis.

Regarded as one of the President’s closest confidants in his inner circle, Trump’s son-in-law Jared Kushner’s personal ties with Netanyahu and the settler movement cannot be overstated. Through their activism with the Chabad-Lubavitch network, Kushner’s Orthodox Jewish family has over the years donated millions to Israeli organizations, including “hospitals, schools, and other institutions, including ...a few in (illegal West Bank) settlements such as Beit El.”<sup>227</sup> On the eve of his inauguration, Trump reportedly told Kushner, “If you can’t produce peace in the Middle East, nobody can.”<sup>228</sup>

This confidence placed in Kushner is astonishing given his complete lack of demonstrated diplomatic expertise, and his absence of experience in international conflict mediation. His sole credentials appear to be his family ties to the President of the United States and his family’s lifelong support for the State of Israel.

Assisting in Israeli-Palestinian negotiations is Jason Greenblatt, given the formal title of “Special Representative for International Negotiations.” Originally working as Trump’s personal lawyer in the 1990s, Greenblatt rose to become the Chief Legal Advisor of the Trump Organization. How Greenblatt’s in-house corporate legal skills, however, would transfer toward Arab-Israeli diplomacy remains to be seen. Also an Orthodox Jewish-American, Greenblatt, the child of Holocaust survivors, has focused on Israel and Jewish-related causes throughout his career. In 2015, Greenblatt published *Israel for Families: An Adventure Guide in 12 Days*, a travel guide to the country whose conflict he would come to mediate only two years later. His approach to the thorny issues

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<sup>227</sup> Jodi Kantor. “For Kushner, Israel Policy May Be Shaped by the Personal,” *New York Times*, Published on February 11, 2017, Last Accessed on October 18, 2017, <https://www.nytimes.com/2017/02/11/us/politics/jared-kushner-israel.html>.

<sup>228</sup> “When it comes to Israel, stakes are high for Jared Kushner”, *CBS News*, Published on February 15, 2017, Last Accessed on October 18, 2017. <http://www.cbsnews.com/news/jared-kushner-influence-trump-israeli-pm-netanyahu-meeting/>.

facing the Israeli-Palestinian conflict is evidenced by this book's absence of any reference to Palestine or the occupation.

Greenblatt told the right-wing *Jerusalem Post* in November 2016 how President Trump would “not impose peace on the parties” and, regarding the possibility of moving the US Embassy from Tel Aviv to Jerusalem, Greenblatt foreshadowed Trump “is going to do it. He is a man who keeps his word.”<sup>229</sup> Equally surprising was Greenblatt's revelation that “Mr. Trump does not view the settlements as an obstacle to peace”, undoing, with a single utterance, decades of US policy towards the illegal settlements.

In normal circumstances, such damaging policy reversals would be moderated by experienced diplomats appointed to the Ambassador's post. President Trump's appointment of David Friedman, his personal bankruptcy lawyer, signals a flouting of such diplomatic rigor. Friedman distinguished himself in a career as an attorney at the Bar of New York, defending Israel's right-wing settler community as they continue to breach international law. A lifelong attendee at a conservative Orthodox synagogue and son of a prominent Rabbi, Friedman served as director of the American Friends of Bet El Institutions, a tax-exempt US non-profit that annually funneled millions of US dollars in charitable donations to indirectly subsidize the illegal Israeli settlement of Bet El, in contravention of US policy since 1967. Friedman has described Israeli settlements as “legal” rather than illegal, promised on the campaign trail that a Trump Administration would “support Israeli annexation of parts of the West Bank,” and called liberal Jews supporting a two-state solution as “worse than

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<sup>229</sup> Tovah Lazaroff. “Trump Advisor: ‘West Bank Settlements are not an obstacle to peace’”, *Jerusalem Post*, Published on November 10, 2016, Last Accessed on October 18, 2017, <http://www.jpost.com/Arab-Israeli-Conflict/Trump-advisor-West-Bank-settlements-are-not-an-obstacle-to-peace-472231>.

See: “US ambassador ‘confident’ Trump will move embassy to Jerusalem,” *The Times of Israel*, Published on: November 16, 2017, Last Accessed on: November 16, 2017, <http://www.timesofisrael.com/us-ambassador-confident-trump-will-move-embassy-to-jerusalem/>.

ka-pos,” a reference to Jews in World War II concentration camps who were assigned by Nazi guards to supervise forced labor and camp administration.”<sup>230</sup>

Friedman moreover penned a 2016 column for an Israeli newspaper in which he called the two-state solution a “scam” and urged to put the negotiations to an end.<sup>231</sup> Less than one year later, when such views threatened his ability to pass Senate confirmation, Friedman sung a new tune, recanting a significant number of his former positions. He assured visibly weary US Senators his new belief that a two-state solution remained “the best possibility for peace in the region” adding his recent epiphany that “settlements may *not* be helpful” after all.<sup>232</sup> Tennessee Republican Senator Bob Corker even went so far as to claim that Friedman was “willing to recant *every single strongly held belief that [he’s] had.*”<sup>233</sup> In response, Friedman stated that it would be a “fulfillment of a life’s dream... [to strengthen] the bonds between the United States and Israel.”<sup>234</sup>

The appointments of Kushner, Greenblatt, and Friedman seem to provide all the evidence needed of the Trump Administration’s disregard, and perhaps even contempt for the Palestinians. The Palestinians, keenly aware of the financial and ideological support this American trio have given to illegal Israeli settlements, no doubt regard them as potential agent provocateurs (Powell). And should they ever come to tabling final status positions on Jerusalem, refugees, territory and security, it is probable the Palestinians will find their offers unacceptable if not laden with Trojan Horse traps (Wittmer et al.). And the

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<sup>230</sup> Karen DeYoung. “Trump Picks a supporter of West Bank settlements for ambassador to Israel,” *Washington Post*, Published on December 15, 2016, Last Accessed on October 18, 2017, [https://www.washingtonpost.com/world/national-security/trump-picks-a-supporter-of-west-bank-settlements-for-ambassador-to-israel/2016/12/15/1a50c03c-c32e-11e6-9a51-cd56ea1c2bb7\\_story.html](https://www.washingtonpost.com/world/national-security/trump-picks-a-supporter-of-west-bank-settlements-for-ambassador-to-israel/2016/12/15/1a50c03c-c32e-11e6-9a51-cd56ea1c2bb7_story.html).

<sup>231</sup> David Friedman. “End the Two-State Narrative” *Arutz Sheva*, Published on February 8, 2016, Last Accessed on October 18, 2017, <http://www.israelnationalnews.com/Articles/Article.aspx/18368>.

<sup>232</sup> “US Ambassador to Israel Confirmation Hearing” video dated February 16, 2017, Last Accessed on October 18, 2017. <https://www.c-span.org/video/?424017-1/israeli-ambassador-nominee-david-friedman-testifies-confirmation-hearing&start=5873>.

<sup>233</sup> *Ibid.*

<sup>234</sup> *Ibid.*

estimated 59% of Israelis who believe in a two-state solution<sup>235</sup> have cause for concern in Trump's casting doubt on whether the two-state solution even remains an American objective. This raises the prospect, before negotiations have even begun, that the US mediator will be "more royalist than the king" (Kydd) by taking pro-settlement and anti-two-state solution positions that polls seem to suggest a majority of Israeli and Palestinians prefer. For the Israelis, there is little chance this pro-settler trio will illuminate any misunderstandings by gaining superior insights into Palestinians. If anything, Israelis will find little more than a sympathetic sounding board and a public defender.

This also poses new ethical questions over the outcome when the agenda of a mediator is clearly something other than peace, at least in any realistic sense. Citing Fisher, what does this mean if the pro-Israeli partisans representing the United States follow a pattern of allowing or encouraging the process which they mediate to be used as a "sham, in which the stronger [Israeli] party influences the interaction for its own benefit while the fundamental issues remain unaddressed"?<sup>236</sup> Citing Touval, if Palestinians can never in a million years hope to drive a wedge between the US-Israeli dyad under President Trump, why accept this biased mediation to begin with?

For its part, seemingly unaware of the lack of positive results produced by years of deploying increasingly pro-Israel negotiators to mediate the conflict, the US under the Trump Administration has surpassed its mediating stance as an "agent provocateur" and has become what some might consider to be an "extremist mediator". Indeed, two events in the first week of December 2017 underscore the very extremes these partisans pursue to try and tilt the legal scales of justice in Israel's favor at the expense of not only Palestinians but Muslims worldwide.

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<sup>235</sup> "Palestinian Support for two-state solution drops, poll finds", *Jerusalem Telephonic Agency*, Published on 16 February 2017, Last Accessed on October 18, 2017. <http://www.jta.org/2017/02/16/news-opinion/israel-middle-east/palestinian-support-for-two-state-solution-drops-poll-finds>.

<sup>236</sup> R. J. Fisher. "Methods of third-party intervention". In *Advancing Conflict Transformation: The Berghof Handbook II*, edited by B. Austin, M. Fischer & H. J. Geissmann, 157-182. (Opladen, Germany: Barbara Budrich Publishers), 172.

The first came in court documents prepared against Donald Trump's former National Security Advisor Michael Flynn, which revealed how the retired general had lied to FBI agents about his role *before* Trump became president in attempting to illegally thwart a December 2016 UN Security Council Resolution vote condemning Israeli settlements. UNSCR 2334 ultimately passed, but Flynn's courting of senior foreign diplomats behind the backs of the Obama Administration was discovered and flagged as a possible violation of US federal criminal law. As part of that scandal, numerous press reports indicate that a special prosecutor is conducting a criminal investigation into Kushner's alleged role in ordering that illegal interference.<sup>237</sup>

The second event—Trump's announcement of his decision to move the US Embassy to Jerusalem and recognize it as Israel's capital—has already proved a major historic milestone.<sup>238</sup> When Dennis Ross emerged as the lone voice internally to advocate for the Jerusalem Embassy move in 2000, I noted in *The Truth About Camp David* how quickly his arguments were dismissed by more evenhanded members of the Clinton Administration.<sup>239</sup> Nearly two decades later, no such firewall exists in a Trump Administration packed with ideologues and extremists. Global consensus opposes Trump's declaration, a gift made to the Netanyahu government without a single Israeli concession and a provocation in response to which Palestinian President Mahmoud Abbas said

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<sup>237</sup> See Michael D. Shear and Adam Goldman. "Michael Flynn Pleads Guilty to Lying to the F.B.I. and Will Cooperate With Russia Inquiry" *The New York Times*, Published on December 1, 2017, Last Accessed on December 8, 2017, <https://www.nytimes.com/2017/12/01/us/politics/michael-flynn-guilty-russia-investigation.html>, and Chris Riotta. "Jared Kushner Failed To Disclose He Led A Foundation Funding Illegal Israeli Settlements Before U.N. Vote" *Newsweek*, Published on December 3, 2017, Last Accessed on December 8, 2017, <http://www.newsweek.com/jared-kushner-disclosure-form-west-bank-settlements-israel-white-house-729290>.

<sup>238</sup> Julian Borger and Peter Beaumont. "Defiant Donald Trump Confirms US will recognise Jerusalem as capital of Israel" *The Guardian*, Published on December 7, 2017, Last Accessed on December 8, 2017, <https://www.theguardian.com/us-news/2017/dec/06/donald-trump-us-jerusalem-israel-capital>.

<sup>239</sup> Clayton E. Swisher. *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process*. (New York: Nation Books, 2004), 228.



“The U.S. can no longer function as a diplomatic sponsor and mediator.”<sup>240</sup>

Kushner, Greenblatt, and Friedman each supported and pushed Trump to implement the Jerusalem changes, and rejoiced in its passing. However long or short their White House time may prove, the Trump Administration has already well tested the limits of mediator bias and will no doubt leave future academic generations much to consider.

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<sup>240</sup> Jack Houry and Reuters. “Abbas Rejects Trump’s Jerusalem Speech: U.S. Can No Longer Mediate Between Israel and Palestinians” *Haaretz*, Published on December 6, 2017, Last Accessed on December 8, 2017, <https://www.haaretz.com/middle-east-news/palestinians/1.827357>.

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## **ANNEX**

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