

THE ISRAELI-PALESTINIAN CONFLICT AND THE MIDDLE EAST PEACE PROCESSES: AN ANALYSES OF PEACE PROCESS SPOILERS

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Abstract

The Israeli-Palestinian conflict has been one that has endured for decades, making every attempt at resolving it inconsequential. The reason for this, as has been hypothesized, is as a result of certain spoiling dynamics contrived by the parties and other external interests consciously or unconsciously. These spoiling dynamics alongside certain unwholesome attitudinal disposition of the parties, have greatly undermines peace in the region. In light of the above, the study employed Daniel Katz Functional Attitude Theory (FAT) to unearth the philosophical underpinnings as to why both parties have engaged each other the way they have done to scuttle the various peace processes instituted by third parties. Using the documentary method of data collection, the study found that the actions of both parties in relations to peace organisations and commissions instituted by members of the international community, derailed peace processes in the region. The study therefore, concludes and recommends that for peace to be restored and maintained in the region, both parties must put aside their ancient attitude of mistrust and mutual suspicion ingrained in their psyche and cultural philosophy.

Keywords: Intractable Conflict, Peace Process Spoilers, Israel, Palestine, Middle East.

Introduction/Problematique

Many years, even decades have come and gone and yet, there is still no end in sight to the Israeli-Palestinian faceoff. A faceoff that has morphed into what is now perennially called an intractable conflict. This has been clearly one of the cardinal banes of peace in the Middle East. The Israeli-Palestinian conflict is one in which there are two different people, having different national identities and laying claim to one territory as their ancestral and perpetual homeland. In essence, only one identity can be allowed to exist at the expense of the other in Palestine. From the unfolding developments of the Israeli-Palestinian conflict, it is evident that both nations have demanded the total annihilation of each other. This can be said of the proclamations of the Palestinians and other Arab nations against the state of Israel and vice versa. For instance, the comment by the members of the Arab world which were a build up to the 1967 six-day war were very good examples of this:

We intend to open a general assault against Israel. This will be total war. Our basic aim will be to destroy Israel (Egyptian President Gamal Abdel-Nasser, May 26, 1967). The sole method we shall apply against Israel is total war, which will result in the extermination of Zionist existence (Egyptian Radio, Voice of the Arabs, May 18, 1967). I, as a military man, believe that the time

has come to enter into a battle of annihilation (Syrian Defence Minister Hafez al-Assad, May 20, 1967). The existence of Israel is an error which must be rectified. ... Our goal is clear to wipe Israel off the map (Iraqi President Abdur Rahman Aref, May 31, 1967).

In response, Israel has also made similar statements against the Palestinians. With the failure of the Camp David Accord, the former prime minister of Israel, Ehud Barak had this political mantra of no Palestinian partner for peace. In another fashion, the National Religious Party, represented in the Knesset (Israeli Parliament) includes in their party platform the following statement:

There will only be one state between the Jordan River and the Mediterranean Sea - the State of Israel. No independent national Arab entity will exist within the limits of the Land of Israel. No part of Israel will be given over to a foreign government of authority. The State of Israel will strive for peace and make every effort to attain it (National Religious Party, 2010).

Many scholars have officially designated the current conflict to the aftermath of the Arab-Israeli war of 1948 and the subsequent declaration of Israel's independence. In fact, Matesan (2012) opined that the creation of the Israeli state is perhaps the clearest starting point of the Israeli-Palestinian conflict, and that the border and nature of the Israeli state and territory continues to be the most contested issues and the heart of the conflict. In light of this, there have been numerous attempts to bring both parties to the negotiating table by nations of the world and other international bodies to resolve this impasse in the Middle East. The most shining example of such attempt was the Oslo Accords of 1993. But just like others, it failed. And the question is, why? Many scholastic peace and policy makers have disagreed as to why the Oslo peace process failed. While some are of the opinion that the Oslo Accords was inherently flawed, others point to the behaviour of spoilers which deliberately derailed the peace process (Matesan, 2012).

The concept and phenomenology of spoilers and spoiling behaviours points to the fact that there are certain elements from both the Israeli state and that of Palestine, who through their actions and inactions have dampened any chance for peace between both parties and in the Arab world. These actions and inactions range from provocative statements such as the ones itemised above, intolerable ideological leanings, violent acts, deep seated mistrust on both sides and psychological ill-feeling that the conflict is not likely to end anytime soon. These negative attitudinal tendencies, should be done away with for peace to be enthroned. The Israelis for instance, have been known to have pursued war diplomacy since 1948 and thus, have this terrible sense of insecurity. In fact Daniel Bar-Tal (1994) put it this way: "the Israeli mindset is a siege mentality that prevents constructive engagement with the Palestinians and the kind of compromises necessary for peace-making". These are the spoiling dynamics that this thesis would examine and analyse how they have crippled the several peace processes initiated by international bodies like the United Nations and other states like the United States, Norway, Britain, Egypt, Jordan and so on.

The literature on spoiler and spoiling dynamics were first mooted by Stephen Stedman (1997), Newman & Richmond (2006) and Matesan (2012) respectively. However, this thesis will align itself more with the views of Stedman who wrote extensively on peace process spoilers, and Newman & Richmond in spoiling literature, which points to subliminal acts that erodes a peace process, which we will refer to in this study as spoiling behaviours.

The Israeli-Palestinian conflict is largely one that is brought about by spoilers of varying shades and degrees. Both parties, as well as other external bodies, are particularly complicit in spoiling acts that endangered and derailed the myriad of peace processes that have been instituted. At the heart of the conflict is Jerusalem territorial status. The UN partition plan of 1947, borne out of its General Assembly Resolution 181 designated the contentious capital territory as an international status with a distinct legal stance, terming it as *Corpus Separatum*, (separated body or entity that is different from its environment), the final status issue of which must be settled through concrete negotiations. By this, the apex international body, having effectively campaigned for a two-state solution, recognised that West Jerusalem would and should be the capital of the state of Israel; while East Jerusalem is to be the capital city of the future state of Palestine. This is essentially why the recent move by the US government to relocate its embassy from Tel Aviv to Jerusalem is worrisome because of its inherent spoiling activities.

Beyond this, the settler question in Israel aggressively championed by the National Religious Party who work to preserve the status quo with regard to Israel's expansionist drive and settlements in the West Bank is one of the spoiling behaviours that have undermined the Middle East peace process. In fact, they have assiduously worked to promote the ideology of a Greater Israel that entails both occupation of the West Bank and Gaza. These actions have largely not only dissuaded the government of Israel from further withdrawals of occupied territories, but to also occupy more, as evidenced by the Knesset's enactment of the 2017 Regularization Bill, which has further contributed to the spoiling of the peace process on one hand and on the other, the intractability of the conflict following reactions from the Arab world.

In sum, this study will examine the various intricate and complex aspects of spoiling behaviours, real and imagined, which have derailed the Israeli-Palestinian peace processes for decades; x-ray the ill-fated attitudinal disposition of both parties to the conflict and other external bodies; know why certain elements engage in them and suggest ways in which they can be mitigated, managed and subsequently resolved.

Review of Related Literature

Peace Process Spoilers

Peace process spoilers are individual, groups or institutions within or outside the parties to a conflict, that directly or indirectly undermines peace processes. Spoilers do not just emerge, they are created by peace processes (Stedman, 1997) either to undermine peace totally or to help restructure peace processes (Newmann& Richmond, 2010). According to Stedman (1997), in his article *Spoiler Problems in Peace Processes* notes that "spoilers can be inside or outside a peace process" (Stedman, 1997, p. 8). Stedman views the hierarchy of spoilers from

the leadership of an organisation or a nation or group who sometimes renege from their promises towards a peace process. This he calls the inside spoilers. He observes thus

An inside spoiler signs a peace agreement, signals a willingness to implement a settlement, and yet fails to fulfil key obligations to the agreement. Examples include President Juvenal Habyarimana of Rwanda, who failed to implement key measures of the Arusha Accords to end his country's internal war; the Khmer Rouge (KR) in Cambodia, which signed the Paris Peace Accords then refused to demobilize its soldiers and chose to boycott elections; and the Union for the Total Independence of Angola (UNITA), which signed the Bicesse Accords in 1991, but returned to war in 1992 when it lost the election. Outside spoilers are parties who are excluded from a peace process or who exclude themselves, and use violence to attack the peace process-for example, the Committee for the Defense of the Revolution (CDR) in Rwanda, which committed genocide to prevent the implementation of the Arusha Accords (Stedman, 1997, p. 8).

Similarly, in the case of Israel and Palestinian conflict, there has been repeated spoiling of the peace processes (Oslo Accord, Camp David Summit, UN Resolutions, etc) after they were signed or agreed upon. It is such spoiling that have made peace intractable in the middle east region, especially between the key protagonist in the conflict.

Conversely, outside spoilers are those who employ the instrumentality of violence to derail a peace process. Acts terrorism, kidnappings, and assassinations are usually favoured by outside spoilers (Stedman, 1997). A good example of employing assassination tactics, especially of moderates is the one perpetrated by radical National religious group of the Likud party who assassinated their prime minister Yitzhak Rabin for his support of the Oslo Accords, which they believe will make Israel give up the occupied territories to Palestinians and the Arab world. They also consider this as heresy and a form of capitulation to their enemies.

Stedman further compartmentalized spoilers into three, namely: the limited, greedy and total spoilers. The study shall first analyse the two extremes of spoilers- the limited and total spoilers. Limited spoilers are those that have limited goals. For instance, they seek recognition, redress of grievance, a share of power, basic security of members and citizens and the exercise of authority based on the constitution and opposition. A good illustration of this type of spoiler is the state of Israel in the period leading to their declaration of independence in 1948. During this period, the Jews wanted nothing but recognition of their autonomy, independence and the right to self-determination and national survival. Thus, when the UN partition Plan of 1947 through resolution 181, they welcomed the idea, ran with it, and formerly declared their independence the following year. From the foregoing, one can say that limited goals do not mean limited commitment to achieving those goals. This one can see from the account of Israel, that they have to embark on a war called the war of independence or the Arab-Jewish war of 1948, to achieve those limited goals (Stedman, 1997).

The second branch of spoilers are the total spoilers who demand "total power, exclusive recognition of authority and hold immutable preferences: that is, their goals are not subject to change" (ibid, p. 10). Total spoilers are individuals who believe in the zero-sum ideology of all or nothing terms in a negotiation. The Arabs in the period leading to the 1948 war with the Jews were spoilers in this regard with reference to the UN Partition Plan of the previous year. They vehemently rejected the UN partition plan because they wanted total and indivisible control of the land of Palestine. This mindset and worldview led them to wage what they call a "total war", "war of annihilation or extermination" against the Jews in 1967.

The greedy spoilers are those described by Stedman as lying between the limited and total spoilers. He notes that

The greedy spoiler holds goals that expand or contract based on calculations of cost and risk. A greedy spoiler may have limited goals that expand when faced with low costs and risks; alternatively, it may have total goals that contract when faced with high costs and risks (ibid, p. 11)

In light of the above, both Israel and Palestine have been greedy spoilers at some point in the peace processes. Pre-1948, Israel was a greedy spoiler to the extent that their goals were limited. This spoiling position was adopted because the Jews never imagined nor envisage a victory over her teeming Arab neighbours; hence, their hurried acceptance of the UN partition plan. But this position quickly changed from limited to total after her acquisition of more territories by conquest following their victory in the six-day war with the Arabs. On the other hand, the Arabs were also greedy to the extent that their spoiling position was total in the pre-1948 era. This explains their absolute rejection of the Partition plan of the UN. However, this position also changed dramatically after the loss of several territories in the six-day war of June, 1967.

Newmann and Richmond (2006) in their article titled *challenges to peacebuilding* conceptualises spoilers and spoiler literature from a rather broad perspective. Just like Stedman, they assert that peace processes births actors and parties of various persuasions and sympathies to undermine a peace process, both internally or externally. They note that

These actors are either within or (usually) outside the 'peace process', and use violence or other means to disrupt the process in pursuit of their aims. Parties that join a peace process but then withdraw and obstruct, or threaten to obstruct, the process may also be termed spoilers. Similarly, there are parties that are a part of the peace process but which are not seriously interested in making compromises or in committing to a peaceful endgame. They may be using the peace process as a means to gain recognition and legitimacy, time or material benefits, or simply to avoid international sanctions. These are collectively known as 'devious objectives'. Finally, spoiling includes actors that are geographically external to the conflict but which support internal spoilers and spoiling tactics: ethnic or national diaspora groups, states, political allies, multinational corporations or any others who might benefit from violent conflict or holding-out. So-called civil or domestic conflicts are,

in reality, often influenced or characterized by international processes, causes and consequences. There is, therefore, no reason to confine our analysis of spoiling to a zone of armed conflict (Newman & Richmond, 2006, p. 102).

According to them, spoiling is an integral part of a peace process, just like conflict is an inevitable part of social and political change. In effect, without spoiling and spoilers in a peace process, there can't be a meaningful, sustained and sustainable peace in a conflict situation. Thus, spoilers are necessary agents of a peace process as they help to shape and finetune the peace process for meaningful impact and sustainable resolution. Consequently, Newman and Richmond observe that

spoiling is not always aimed at destroying the peace process. Disputants may become involved in a settlement process in order to improve upon their prospects, but not necessarily to compromise with their adversary. A settlement process carries with it a series of assets that the disputants may value. The disputants may therefore harbour devious objectives, unrelated to the attainment of a compromise solution, which might include motives such as: achieving time to regroup and reorganize; internationalizing the conflict; profiting materially from ongoing conflict; legitimizing their negotiation positions and current status; and avoiding costly concessions by prolonging the process itself (Newman & Richmond, 2006, 106).

On the other hand, spoiling a peace process is also another method employed by certain groups because they see the peace process as a move that tends to undermine "their right, privileges or access to resources, whether physical, strategic, or political" (ibid, 106). A good illustration of this is the assassination of the Jewish prime minister, Yitzhak Rabin for his willingness to give up some territories to the Arab in the Oslo Agreements of 1993 and 1995.

It is spoilers of this nature that makes conflict intractable and protracted for a very long time. Had the prime minister seen the peace process through in the way he purposed, perhaps there may have been different paradigm for a speedy resolution of the conflict between the Jews and the Arabs in the Middle East. With this, the study shall be conceptualising and analysing intractable conflicts, as well as its characteristics.

Intractable Conflict

Intractable conflicts are those conflicts that are intransigent and have incessantly dwarfed and undermined attempts at its resolution. The Merriam Webster's Dictionary (2005) defined intractable as something that is not easily governed, managed or directed; not easily manipulated or wrought; not easily relieved or cured. In light of this, Smith (2014) sees intractable conflict as conflict that persists over time, resists resolution, and involves some form of violence (physical, structural, symbolic) between conflicting parties. Smith further noted that those involved perceive one another as threats. They also use spoilers to distort messages from and about the other in order to sustain enmity. This also leads to the polarization and rigidification of their positions, and culminating in the sustenance of tension. The core reason for some intractability of conflict lies in the benefit a party gets from it, which

could be the dominance a party to the conflict over the other. With the foregoing, mediation measures are doomed to fail in the resolution of the conflict. In fact, they often worsen it, putting the whole population at risk; because of the ensuing injustices meted out on the citizens. This, according to Smith can cause isolation, marginalization, discrimination, displacement, exploitation and statelessness (Smith, 2014).

Goldman and Coleman (2011) itemised the salient characteristics of intractable conflict. First, they are protracted because they subsist for a long period of time. (Coleman, 2000). Second, they are highly destructive both to the parties and others who attempt mediation, directly or indirectly. This is usually in terms of costs and human resources put into attempts at resolving the conflict. Third, they defy all attempts at resolution by third parties (Kreisberg, 2005).

Theoretical Framework

The theory employed to underpin the philosophical foundation of why the Israeli-Palestinian conflict and resultant peace processes have created spoilers that have made the conflict protracted and intractable, lies in Attitude Theories; but more especially, Daniel Katz Functional Attitude Theory (FAT) of 1960. The major reason for the deployment of this theory also lies in the critical thought of the researcher to know how beliefs and opinions of both parties were formed and why have they refused to change significantly over several decades. Hence, the question: why do Israelis and Palestinians hold certain beliefs and attitude towards each other that have led to the spoiling of several peace processes? And why have these opinions and beliefs refused to change over several decades significantly? This refusal in change of opinion, belief and attitude between both parties is at the core of the intractability of the conflict between them, and has been one of the spoilers of any meaningful peace progress made over time. The named socio-psychologist above would help us answer the above question.

It must be pointed that there are certain attitudes that have been formed overtime between the Israelis and Palestinians that have significantly spoil any attempt at peaceful resolution of the conflict between the parties. These attitudes are ingrained beliefs and opinions held from antiquity by both parties which have influenced violent behaviours from the parties and the object of their conflict (the land of Palestine), and more especially, Jerusalem.

Katz (1960) defined attitude as a "predisposition of an individual to evaluate some symbol or object or aspect of his world in a favourable or unfavourable manner." Such predispositions are usually products of held beliefs and opinions by individuals or groups in societies which has determinative behavioural effects towards certain objects or other individuals. Ipsos Encyclopedia (2016), defined attitude as "a favourable or unfavourable evaluative reaction toward something or someone, exhibited in ones beliefs, feelings, or intended behaviour". With this, it does mean that individuals or group (spoilers) hold onto certain attitude if they are favourable towards their cause and discontinue certain attitude if they are unfavourable. More often than not, sociologists and anthropologists have employed functional analysis to explain societal structures. Katz in his FAT uses the same method to analyse attitudes. This is by no means the only method of studying attitudes and belief systems, but it is useful for this study. In this theory of attitude, Katz, asserts that at the psychological level, the "reasons for holding onto or for changing attitudes are found in the functions they perform for the

individual" (Katz, 1960). Thus, it therefore means that the reason(s) for the inherent spoiling of the peace process in Palestine is largely found in the attitudinal dispositions of both parties towards each other. Hence, the intractability of the conflict. For both parties, the beliefs, attitudes and opinions held with regard to ownership of the land of Palestine and general relations with each other is still largely functional and favourable to them, and so would not change anytime soon. The functions outlined by Katz include: *adjustment function, ego defence function, value expression function and knowledge function*. But for the purpose of this study, we shall dwell on the first three functions. In FAT, Katz notes that an individual tends to hold onto a belief system or attitude in order to give meaning to what would otherwise be meaningless and chaotic (Jones, 2011).

At this juncture, we shall be looking in detail at three of the four typologies of Katz's functional attitudes in relations to the Israeli-Palestinian conflict and the Middle East peace processes.

a) The adjustment function: Essentially this function is a recognition of the fact that people strive to maximize the rewards in their external environment and to minimize the penalties. A child develops favourable attitudes toward the objects in his world which are associated with the satisfactions of his needs and unfavourable attitudes toward objects which thwart or punish him. Similarly, in the Israeli-Palestinian situation, it is favourable to both parties to hold or continue the exhibition of their current attitudes or beliefs in relations to the ownership of the land of Palestine. A shift in attitude or belief is deemed by them to be catastrophic and will not be in the best interest of their countrymen and citizens. Also, a change in attitude by one of the parties will be a favourable outcome for one and unfavourable for the other. For instance, the Palestinians have held the position of land grab and even theft by the Jews before and after the six-day war of 1967, and so have sworn to annihilate them. This, for them, will be a violation of their territorial integrity. In light of this, a change in opinion or belief is not to be contemplated. But if there were to be a change, it therefore will be favourable to the Jews as it will meet their goal of having a Homeland they can call their own after the persecution they had faced all over Europe, especially during world war two; and unfavourable to the Palestinians as it will amount to losing significant portion of their territories to strangers. Attitudes acquired in the service of the adjustment function are either the means for reaching the desired goal or avoiding the undesirable one, or are affective associations based upon experiences in attaining motive satisfactions. Both attitudes and habits are formed toward specific objects, people, and symbols as they satisfy specific needs. In a nutshell, the positional stance of both parties with regard to the ownership of the land of Palestine is because of the function(s) the land performs for them. It performs the function of Homeland and territorial integrity and rights for both the Jews and Palestinians if they were both recognised and accepted as being the owners of the portions they claim; and a change or adjustment of this position will be largely unfavourable for both parties.

b) Ego-defensive function: In this function, Katz highlighted that people not only seek to make the most of their external world and what it offers, but they also expend a great deal of their energy on living with themselves. The mechanisms by which the individual protects his ego from his own unacceptable impulses and from the knowledge of threatening forces from without, and the methods by which he reduces his anxieties created by such problems, are known as mechanisms of ego defence. In light of this, the situation in Palestine is clearly a manifestation of this attitude function of ego and the defence of it. After the six-day war, the

entire Arab world, not just the Palestinians were sorely battered at the outcome of the war, where the Jews took some of the territories of the Palestinians and some of their Arab neighbours, and have added it to the ones acquired. With such development, one can say that the ego and self-image of the Palestinians in concert with their Arab friends were badly damaged. So, not accepting the outcome of the war, which led to the loss of their territories is indeed an attempt to still remain relevant and uphold their self-image, despite losing the war. Many of our attitudes exhibited by individuals and groups today have the function of defending self-image. When we cannot admit to ourselves that we have deep feelings of inferiority, we may project those feelings onto some convenient minority group and bolster our egos by attitudes of superiority toward this “underprivileged group”. The hurried attacks of the Palestinians on the Jews, to assert their superiority, underscores this ego defensive attitude function. The Jews being the minority in the Palestinian question has been lashed out on severally by their Arab neighbours, just for the fact that they have seen themselves as being in the majority and so can out-muscle the Jews in the event of a war within the territory of Palestine. This action of the Jews irked the Palestinians and thus prompted the invasion of the Jews.

According to Katz, though people or groups are ordinarily unaware of their defence mechanisms, especially at the time of employing them, they differ with respect to the amount of insight they may show at some later time about their use of defences. In some cases, they recognize that they have been protecting their egos without knowing the reason why.

c) Value-expressive function: While many attitudes have the function of preventing the individual from revealing to himself and others his true nature, other attitudes have the function of giving positive expression to his central values and to the type of person he conceives himself to be. While it is true that the Israeli-Palestinians conflict is not strictly speaking a religious conflict, it however has an undertone of religiosity. The Jewish state of Israel is founded on Judeo-Christian philosophy, a cultural religious value which they are not likely to trade for anything nor have it eroded or intermixed with other forms of religious philosophy or culture. Israel's most powerful ally in the West (United States) also share similar religious value with the Jewish state and are totally committed to the survival and sustainable development of Israel. At the core of this reason is the similar or shared national interest of United States and Israel in the Middle East (Blackwill&Slocombe, 2011, p.4-5). In like manner, Arab nations who are predominantly Muslims are also strongly supporting the course of the Palestinians in the Middle East against the Jews. Though this aspect may not be strongly pronounced in the conflict between the parties, it is nonetheless a subliminal crucial aspect of the conflict. Katz further stated that a man may consider himself to be an enlightened conservative or an internationalist or a liberal, and will hold attitudes which are the appropriate indication of his central values. Value-expressive attitudes not only give clarity to the self-image but also mould that self-image closer to the heart's desire.

At this juncture, it suffices to say that the above FAT in relation to both parties and other external elements to the Israeli-Palestinian conflict is absolutely hinged on the strong held belief system, opinion and attitudes exhibited by the actors. A change in these opinion and attitudes (adjustment function) will be seen to be unfavourable to either parties, hence their unflinching and unwavering stance over the ownership of the land, despite mediation of

members of the international community. Accepting territories and boundaries earmarked by members of the international community will be a great blow to the ego of the Jews who have lost so much, including lives of citizens during wars that led to the annexation of some of the territories they occupy today. On the other hand, the Arab bitter defeat in those wars and the subsequent loss of their territories will not augur well with their egos if they were to accept that Israel should keep the territories they got after the wars.

Finally, the values held by both parties will likely be eroded should they give in to certain demands emanating out of negotiations made by members of the international community. As stated earlier, the Jewish nation of Israel wants a nation strictly founded on the ancient Jewish laws and tradition, and would like no form of interference with regard to such tradition. The Palestinians and other Arab neighbours who are predominantly Islamic nations will not have it differently from the Jews as they also would like their new nation to be founded on core Islamic principles and tradition.

Law for the Regulation of Settlement in Judea and Samaria, 5777-2017

On the 6th of February, 2017, the Israeli Knesset (Parliament) passed a regulation law for the regulation of land in Judea and Samaria, the biblical name for today's West Bank. The vote for the passage of the law came with a very slim margin of 60 in favour and 52 against, is said to retroactively legalise thousands of housing units in about 16 Israeli settlements and outposts on about 2000 acres of Palestinian lands (Fisher, 2017). According to the Regulation Law, a land is defined as that upon which Israeli settlements were built in "good faith" or with the "consent of the state." Under the law, registration and title/ownership to land must be done with the consent of the government official in charge, especially where ownership has not otherwise been previously established.

The law also allows the Government of Israel (GoI) to expropriate the rights of use and possession of privately-owned land in the region, which shall be in effect until a political resolution on the status of the region is achieved. Such expropriation is not without compensation as privately-owned land that have been affected by the new law will be adequately compensated. Finally, the law expressly states that all pending administrative orders regarding evacuation and destruction of settlements, except for those issued for the implementation of judicial decrees or court decisions, shall be suspended with effect from the date of publication (Fisher, 2017).

Rationale for the Passage of the Law

After the six-day war of 1967, with resultant occupied territories by the Jewish state of Israel, Israel has since developed a policy attitude of expansion through the establishment of settlements in the occupied Palestinian territories (oPt), which includes Gaza, West Bank and East Jerusalem (Howlett, 2001). In 2005, after the Camp David Summit between Egypt and Israel, the Jewish has since withdrawn her settlers from Gaza and have resettled them in West Bank (Fisher, 2017). Since then, more and more settlements and outposts have been built by the GoI. These behavioural patterns of policy, which includes heavy military occupation, has since stifled development of Palestinian towns and villages through expropriation of lands, discriminatory and arbitrary planning and zoning policies, restrictive and selective granting

of building and construction permits, as well as the demolition of Palestinian homes (Howlett, 2001).

Following from the foregoing, about 4,700 Palestinian homes have been demolished on the grounds that their structures violates Israeli permit requirements. The major tool the GoI has used appropriate Palestinian lands is by designating as "state lands". The Regulation Law is also one of the numerous moves made out to legitimise their behavioural policies and dispositions, and also to designate lands in the West Bank and East Jerusalem as state lands (Howlett, 2001). According World Bank Report (2008), 70% of lands in the West Bank has been declared state lands, meaning that Palestinians cannot build on the lands. In the same vein.

With the above anti-democratic treatment against Palestinians on their lands, several Human Rights groups have petitioned the Courts of Israel to seek redress for Palestinians. It is one of the outcomes of those petitions that made the Supreme Court of Israel rule and gave a decree that some Israeli settlements, especially Amona outpost where about 40 settler families are resident, should be evacuated (Fisher, 2017). It was the recent implementation of this Court order that led to the passage of the Regulation Law.

Beyond this, the quest for achieving the Greater Israel Project helps to understand the reason for the Legalisation Law. This ideology championed by the National Religious Party in the Knesset underscores the reason why more Palestinian homes and construction have suffered demolitions on account of been built illegally or without permits on one hand and on the other, seldom grants them permits, even when demanded legally through application.

Legal Analyses and Spoiling Dynamics of the Law

As earlier noted, the Legalisation Bill now referred to as the Regularisation Law allows the State of Israel to takeover vast tracts of land in Palestine, especially private Palestinian lands in the West Bank region for settlement construction. This, Adalah (2017) asserts violates several international laws, as well as Palestinians property rights. This behaviour exhibited in the above law enactment will in no small measure further spoil future peace talks between the parties. According to Adalah, the law creates a framework through which "Israeli settlements built on private Palestinian land in the West Bank can be legalized or regularized via retroactive expropriation, planning, and zoning regulations". With this law, a process has been set in motion allowing the Jewish state to legalise about half of Israel's settlement outposts. This is also in addition to the 3,500 additional homes constructed illegally as Israeli settlements, but was adjudged as being legal by the Jewish state, even though it is clearly against international norms. This policy attitude and behaviour from the GoI will further create conditions of mistrust and breed total suspicion of the Jewish government by the Arab community. Future negotiations will be grossly undermined as the Arabs will consider it a waste of their time, given that previous international agreements between them and Israel have not been honoured. One of such international agreements that was not honoured was the Rome Statute (Adalah, 2017)

According to the Rome Statute, it is a war crime for an occupying power to transfer its population to an occupied territory. Also, the exploitation, domination and application of the

occupying power's national laws in the oPt, is a flagrant violation of international law (ibid). In light of this, Diakonia International Humanitarian Resource Law Centre observes that

Israeli settlements and the systems and practices that accompany them... constitute breaches of a variety of international law provisions including the prohibition of racial discrimination and the prohibition of destruction and confiscation of private property by an OP. Similarly, Israel continues to maintain and build the Wall despite the finding of the 2004 International Court of Justice advisory opinion that it should be dismantled in those places where it is constructed on Palestinian territory (Diakonia, 2017, p. 6)

To corroborate Adalah and Diakonia's views, Israel's Attorney General, Avichai Mandelblit, stated that the law is against the rule of law and is inconsistent with Israel's obligation under international law. Mandelblit also adds that he will not defend the law in any of court of Israel. In addition, both Palestinian and Israeli human rights groups have petitioned the Supreme Court of Israel to revoke the law (Communist Party of Israel (CPI), 2017).

One of such notable moves was the one made by an Israeli Human group known as the Yesh Din, who filed a petition against the Israeli outpost of Adei Ad at the Supreme Court of Israel, on behalf of Palestinian land owners. The outpost has six buildings that were erected there on lands that are not state lands, and it is home to some 60 Israeli families (CPI, 2017). CPI observes that

Adei Ad was set up in 1998 as a maverick outpost without official government approval, partially on land allegedly owned by residents of the Palestinian villages of TurmusAyya, Al-Mughayyir, Qaryut, and Jalud. Activists say Israel has quietly allowed dozens of outposts to remain in the West Bank, demolishing homes only when forced to do so by the court (CPI, 2017, p. 1).

Thus, in the petition filled to the Supreme Court on behalf of Palestinian council leaders of the villages of Turmusaya, Al Mughayer, Qaryut, and Jalud, demanding that the outpost be removed by the state. The petition, which is arguably the first of its kind, argues that the outpost is a hotbed for criminality, extreme violence and systematic abuse of human rights of residents in the area and is built illegally on Palestinian lands. The Yesh Din petition categorically states that

the outpost of Adei Ad, which stands defiantly on a hilltop overlooking the fields of the villages in the area...has amassed a decisive impact on the daily lives of the residents of Turmusaya, Al Mughayer, Qaryut, and Jalud, while expanding and spreading into the villages' lands; it is a source for violent acts committed against many Palestinians, primarily residents of the neighboring villages; constitutes a hub for advocating vandalism of property and land, with the goal of expelling them and expropriating additional land, as well as for expanding the outpost's territory de-facto (CPI, 2017, p. 1).

After studying the petition of the human rights group, the State Attorney reminded the Supreme Court that it would have to consider the new Regularisation Law and its implication when deciding the fate of the outpost. These are some of the legal behaviours and attitudes employed by the GoI to spoil the peace process. Should they get a favourable decision from the Supreme Court, it will in no small measure undermine the internationally recognised two state solution to the resolution of the conflict. This is so, because when most of the lands have been expropriated, there will not be much land left for the new state of Palestine in the future. The spoiling attitude of Israel goes as far as undermining international laws and resolutions, thus creating an aura of bad faith and distrust in future negotiations.

According to Israeli Central Bureau of Statistics (2008), about 481, 600 Jewish settlers are in the West Bank and East Jerusalem in over 123 Israeli settlements and 105 Jewish Outposts, whose mode of settling is uncertain. Hence the need to regularise the settlements and outposts. Dimova (2008), asserts that Palestinian structures were only allowed to stand on about 9% of the land in East Jerusalem. Meanwhile, as of 2005, 82% of housing units were built for Israel in contradistinction to Palestinians' 18% in East Jerusalem (World Bank Report, 2008). Also, the Barrier Wall separation gifts and annexes about 10% of territories of West Bank to Israel, including its Arable lands and water aquifers (Global Policy Forum, 2010). The above submissions clearly violate article 49 of the Fourth Geneva Convention which stressed that "the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies"

According to Peace Now Report (2007), 94% of the request for building and construction permits by Palestinians were denied by the state of Israel. Also, for every construction permit given by the Government of Israel to a Palestinian, 18 other constructions are demolished and 55 more demolition orders are issued. The Report also notes that out of 1,624 construction permits sought by Palestinians between 2000-2007, only 91 of them were granted. But 4,993 demolition orders on Palestinian homes and constructions were issued in the same period (ibid). By contrast, about 18,472 housing units were constructed by the Jews in the West Bank within the same period (Israeli Central Bureau of Statistics, 2007).

The US decision to move its Embassy from Tel Aviv to Jerusalem has inherent spoiling Behaviour

The UN Resolution 181 of 1947 marks the origin for the opposition to the establishment of Embassies in the city of Jerusalem. The resolution which was adopted on the 4th of November, 1947 by UNGA created three entities from the defunct United Kingdom's Palestine Trusteeship: Arab State, Jewish State and the "Special International Regime for the City of Jerusalem." Further to that, another UNGA Resolution 194 elaborated the status of the City of Jerusalem by designating it a *corpus separatum*, a city with a special legal and political status that is different from its environment and without any form of sovereignty nor independence (Fisher, 2017; Bolton, 2017).

However, the aftermath of the Arab-Israeli war of 1948, kicked off a dispute over the ownership of the city of Jerusalem, as Israel seize the western half of the city. Also, after the six-day war of 1967, Israel seized the remaining eastern half of the city (Bolton, 2017).

Outraged by the actions of the GoI, members of the international community vehemently opposed the current position and status of the city of Jerusalem, urging the GoI to return its boundaries to the pre-1967 boundary lines until both parties discuss by way of negotiation the *modus operandi* of the administration of the city of Jerusalem (Bolton, 2017).

A spoiling behaviour with regard to the UN position on the city of Jerusalem began in 1990 when the U.S Congress unanimously resolved through a resolution (H.Con.Res. 290 and S.Con.Res. 106) that Jerusalem is and should remain the capital of the State of Israel. The first President of the U.S to activate this spoiling policy was President Bill Clinton in 1992. His administration promised to "support Jerusalem as the capital of the State of Israel" and denigrated his predecessor, President George H.W. Bush, for having "repeatedly challenged Israel's sovereignty over a united Jerusalem" (Bolton, 2017).

However, the commencement of the Oslo Accords in 1993 halted the administrations move of making Jerusalem the capital city of Israel because Washington thought it wise not to preempt the outcome of the ongoing negotiations in Oslo (Haaretz Daily, 2017). After Oslo, the Congress also adopted a bipartisan Jerusalem Embassy Act in 1995, requiring the movement of the U.S. embassy from Tel Aviv to Jerusalem, with a proviso that the president could waive the requirement if it runs contra to U.S national security (Haaretz Daily, 2012).

For more than two decades now, successive administrations in the U.S have opted to exercise this waiver to the Jerusalem Embassy Act. Most recently, the U.S Senate in June 2017 overwhelmingly adopted *S.Res. 176* which reaffirms the Jerusalem Embassy Act of 1995 and calls upon the President and all United States officials to abide by its provisions (Mohammed, 2017).

Consequently, President Trump in a declaration of 6 December, 2017 officially recognised Jerusalem as the capital of Israel. He asserts that Israel is a sovereign nation with the right like every other sovereign nation to determine its own capital. Thus, acknowledging Jerusalem as Israel's capital was obvious, a reality, right thing and a long overdue step to advance the Israeli-Palestinian peace process. He comments:

It was 70 years that the United States, under President Truman, recognised the State of Israel. Ever since then, Israel has made its capital in the city of Jerusalem the capital of the Jewish people established in ancient times. Today, Jerusalem is the seat of modern Israeli government...the home of the Israeli Parliament, the Knesset, as well as the Israeli Supreme Court. It is the official residence of the Prime Minister and the President. It is the headquarters of many government ministries (Times of Israel, 2017).

The president further argued that his declaration was in consonance with his 2016 presidential campaign promise and U.S. 1995 Jerusalem Embassy Act, to move American embassy from Tel Aviv to Jerusalem which past presidents of the U.S have failed to deliver. He comments: Today, I am delivering, and added that U.S will begin preparation for the movement of U.S Embassy from Tel Aviv to Jerusalem. He further notes that the decision does not foreclose any

future negotiation, especially with regard to the two-state solution between Palestine and Israel (Times of Israel, 2017).

Reactions and Spoiling Behaviours

Reactions

Following the 6 December, 2017 declaration of President Trump on the movement of U.S Embassy from Tel-Aviv to Jerusalem, there were several reactions from within and outside Arab states, with serious spoiling implications for future peace process and negotiations. The first notable reaction came from the UN Secretary General, Antonio Guterres who urged both states to immediately return to the negotiating table and quickly reaffirmed that "there is no alternative to the two-state solution; there is no Plan B (Aljazeera, 2017).

Similarly, President of the Palestinian Authority Mahmoud Abbas, opined that the U.S. has given up its mediatory role in the middle east following the declaration. The Palestinian Liberation Organisation (PLO) stressed that the declaration by Trump was a contravention of international law, a wakeup call for extremism and inimical to the two-state solution to the conflict in the region. Several Islamic nations, with particular reference to Egypt, Turkey and Qatar individually expressed their dissatisfaction with the declaration. Egypt expressly excoriated the declaration, Turkey volubly termed it as "irresponsible", and Qatar bemoaned the declaration "as dangerous escalation and a death sentence to any peace efforts" (Aljazeera, 2017).

Also, several organisational meetings were held by different bodies following the declaration. Notably, the Arab League and Organisation of Islamic Countries (OIC) assert that the declaration was partisan, dangerous, unilateral, against international law. amounts to the legalisation of Israel's occupation of Palestine and that it negates the international commitment to a just and comprehensive peace based on the two-state solution (Aljazeera, 2017; Vanguard, 2017; Independent, 2017).

Earlier in January 2017, a Jordanian government spokesperson warned that a U.S. embassy move to Jerusalem would cross a red line and would have catastrophic implications on several levels, indicating that it could bolster extremism in the region and would affect Israel's relations with Jordan and probably with other Arab states (Moore, 2017).

In Europe, the European Union Foreign Affairs and Security Policy Chief Federica Maria Mogherini reaffirmed their support and respect for internationally agreed decision on the status of Jerusalem, with East Jerusalem as the capital of the future Palestinian State and West Jerusalem as the capital of Israel (Aljazeera, 2017)

Nearly two weeks after Trump's declaration, the UNSC met on 19 December 2017 voted overwhelmingly 14-1 on an Egyptian-draft resolution, stating the Council's outright rejection of the declaration (Beaumont, 2017).

On December 6, 2017, a letter sent to Trump containing the concerns of Christian churches, Assemblies and Congregations led by the primate of the Greek Orthodox Church of Jerusalem, Patriarch Theophilos III, warned that the move would yield increased hatred,

conflict, violence and suffering in Jerusalem and the Holy Land, moving us farther from the goal of unity and deeper toward destructive division (Guardian, 2017).

On a confrontational scale, the declaration resulted in violent reactions, with rockets fired by Salafist groups towards Israel from within and outside West Bank and Gaza on hand, while in Iran, Jordan, Tunisia, Somalia, Yemen, Malaysia and Indonesia, there were protests and demonstrations, as well as outside America's embassy in Berlin, on the other (Reuters, 2017).

Spoiling Behaviours

For decades now, the U.S has taken a mediatory posture in the conflict between Palestine and Israel. Washington was able to do this, because its perceived neutral stance between the disputing parties. (Fisher, 2017). However, Trump's declaration regarding the movement of U.S Embassy from Tel-Aviv to Jerusalem has significantly altered this position of neutrality and credibility as an impartial umpire in the dispute between Palestine and Israel. This is a spoiling behaviour that has witnessed series of excoriable statements from members of the international community. This will in no small measure protract the conflict further, especially with regard to making both parties return to the negotiating table, which has been put on hold for some years now. More importantly, the task of finding another neutral, credible and impartial mediator is such herculean task. Corroborating this view, the Palestinian President, Mahmoud Abbas said that "these deplorable and unacceptable measures deliberately undermine all peace efforts." (Al-jazeera, 2017). Hanan Asharawi, a Palestinian veteran similarly avers that "the peace process is finished. They have already pre-empted the outcome" (Reuters, 2017).

According to Bolton (2017), Trump's decision triggered off the subliminal religious perspective to the conflict. The next realm of violence will be the politicization of religion and the resultant martyrdom arising from the defence of the religious sites in Jerusalem. Hatuqa (2017), affirmed that there are two common negative perceptions that have been accentuated by the declaration: "the U.S. has not been an honest broker of the peace process; and the fallacy of the Oslo Accord by avoiding the final status of Jerusalem, Palestinian refugees right of return, and the unfeasibility of the two-state solution". These are inherent spoiling behaviours that have greeted the declaration. Most are anchored on mistrust and absolute suspicion of U.S position as a reliable arbiter in the Middle East peace process.

However, on the flip side, spoiling behaviours are not only centred on negatory outcomes as it can in some circumstances produce tangible gains (Newman & Richmond, 2006). Spoiling also helps the disputing parties reassess the conflict situation, reanalyse their positions and redefine their goals. This assumption is analogous with Trump's spoiling behaviour, expressed in his declaration. Consequently, Trump termed his declaration as

nothing more nor less than a recognition of reality... we are not taking a position on any final status issues, including the specific boundaries of the Israeli sovereignty in Jerusalem or the resolution of contested borders. Those questions are up to the parties involved (ibid)

What the President called "a recognition of reality" is seen a spoiling behaviour by the Arabs who believed it has undermined the U.S impartial and neutral role in the conflict. But on a closer look, it might actually be what it is. The Embassy is currently being built at the Western half of Jerusalem which is the internationally agreed future capital of Israel. This, however, means that the declaration has not pre-empted the final status negotiations and decisions, regarding the city.

In light of this, the action of the U.S President on 6th December, 2017 is only a spoiling behaviour that will reshape the peace process positively. It will prompt and nudge members of the Arab community to re-strategise, rethink and reanalyse the declaration.

Consequently, Bolton avers that

relocating the Embassy would not adversely affect negotiations over Jerusalem's final status or the broader Middle East peace process, nor would it impair our diplomatic relations among predominantly Arab or Muslim nations. In fact, by its recognition of reality, shifting the Embassy would have an overall positive impact for U.S diplomatic efforts (Bolton, 2017, p. 2).

Leman (2017) also acknowledged that the spoiling behaviour will remove the air of uncertainty concerning the Jerusalem question, and help modify Palestinians ought to expect legitimately at the negotiating table. He further affirmed that "as has been so often the case in the past, however, it is the very attempt to placate Palestinian and Arab demands that makes peace less likely. A hard dose of realism may well set the stage for serious negotiations".

In view of the foregoing, it is pertinent to note that Trump's declarative spoiling behaviour ought not to be the problem here, rather it should be considered as a step in the right direction. But owing to the ancient hatred and mutual suspicion of both parties towards each other, the move has been seen as hostile and a death knell to the Middle East peace process. Whether both parties like it or not, it is important to note that the unanimously and internationally agreed two state solution will never happen if both parties don't start accepting its own part of Jerusalem. This, the study believes is what U.S spoiling behaviour seeks to achieve.

Conclusion

This study focused on the intractability of the Israel-Palestinian conflict and its erosion of peace in the Middle East. The study fingered the attitude of both parties, as well as other external bodies to the conflict, as one of the major causes of the intractability of the conflict for decades now, if not centuries. These causes of the intractability of the conflict have been termed as spoiling dynamics of the peace process, leading to the conflict resolution. Amongst several other spoilers and spoiling dynamics of the peace process involving both parties, the study identified and analysed some unexplored spoiling dynamics that has further crippled the peace process between the parties. These are: the US decision to move its embassy from Tel Aviv to Jerusalem; and the Regularization Bill passed by the Knesset over Israeli settlement in the West.

The study, through Daniel Katz Functional Attitude Theory, identified that the above listed spoiling activities further deepened the level of mistrust between the parties. The feeling and perception of bias by Palestinians and other Arab nations towards US role as the chief broker of peace in the region was laid bare the more with Donald Trump's pronouncement on the 6th of December, 2017, to move US embassy from Tel Aviv to Jerusalem. The ancient hatred of Arabs against the West as an imperialist and hegemonic power was further reignited after Trump's declaration. This will literally further fan the embers of bad blood and deep-seated distrust of attitude in the Arab world towards the US and the West in general.

These are some of the attitudes that spoilt the peace process between the parties. With this, one sees no end to the conflict in the next decade, given these new spoiling activities by both parties. The most devastating and crucial aspect of this is that the Palestinians and members of the Arabs do not even know who they can rely on to broker peace in the region.

Recommendations

It has been analysed and advised by several scholars, international bodies, states and International Organisations that a two-state solution is the ultimate answer and resolution to the Israel-Palestinian conflict. The foundation for this was laid from the UN Partition Plan of 1947. This was given more life in the UNSC Resolutions 242 of 1967 and 338. According to Berger et al (2010), "It offers the only realistic prospect for lasting peace and attainable justice for Israelis and Palestinians. It offers clear and substantial benefits to Americans, Palestinians and Israelis, as well as to most of the other states in the region." Furthermore, the two-state solution will go a long way in calming the nerves of radical extremist groups in the Muslim and Arab world. Berger et al finally asserts that the two-state solution will benefit even the major peace broker (United States) and other interested parties like Israel, Palestine and the Arab world in general. They commented that:

For Americans, a two-state solution would eliminate one of the grievances that feeds radical extremism throughout the Arab and Islamic worlds. It would fulfil pledges that U.S. President Barack Obama made during his historic June 2009 Cairo speech to the Muslim world, and it would enhance the U.S. position throughout the region and around the globe. An end to the conflict would also help fulfil America's longstanding commitment to Israel's survival and its commitment to Palestinian self-determination.

For Palestinians, obtaining their own state means an end to more than four decades of occupation, acknowledgment of their past suffering, the fulfilment of their national aspirations and an opportunity to shape their own destiny at last.

For Israelis, a two-state solution ends the demographic challenge to Israel's character as a Jewish-majority state, removes the stigma of being an occupying power, enables a lasting peace with the entire Arab world and eliminates a critical barrier to full international acceptance (Berger et al, 2010; p. 1).

In light of the above, it is pertinent to note that the different spoiling dynamics outlined in this study should be taken into consideration and be discontinued forthwith, if any meaningful discussion and negotiation towards achieving a lasting peace is desired by all stakeholders in

the conflict. There can only be peace if both parties can put aside their ancient attitudinal perspective and stance of mistrust they have for each other. This, as has been theorised and outlined in this study by Daniel Katz in his *Functional Attitude Theory* and by Rouhana and Bar-Tal in their work, *Psychological Dynamics of Intractable Ethno-national Conflicts*, where they emphasised that attitudes played a key role in spoiling the peace process of the conflict between Israel and Palestine to make it remain intractable. This must be considered by bodies such as the US and UN brokering peace between these parties when they get them to the negotiating table again.

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