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THE HEBRON AGREEMENT'S NOTE FOR THE RECORD: A PANDORA'S BOX OF LEGAL AND POLITICAL OBSTACLES

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The Note for the Record which accompanied the Israeli-Palestinian Protocol Concerning Redeployment in Hebron is, at first reading, modest in length and scope. Intended to settle compliance issues that had been problematic since the negotiation of the earlier agreements and to facilitate success in the permanent status negotiations, the Note for the Record has opened a Pandora's box of legal and political obstacles that have repeatedly found expression in headlines during the past year.

Why Hebron?

The city of Hebron resonates in Jewish and Islamic history. Hebron is where the Jews established their oldest legal deed when nearly 4000 years ago, Abraham purchased the Machpela cave for 400 pieces of silver as a burial site for himself and his Jewish descendants. Approximately 1000 years later, Hebron served as King David's initial seat of government. Even after the capital was moved to Jerusalem, Hebron remained one of

Judaism's four holy cities and Jews have lived continuously in Hebron, except for periods when they were forced out.

In 1929 an Arab pogrom resulted in the murder of 67 Ashkenazi Jews in Hebron and the destruction of their synagogues and yeshivas. The survivors fled the town, although the Sephardim stayed on until the Arab riots of 1936-1939 when they, too, were forced to flee. Jews returned only after Israel's capture of Hebron in the 1967 Six-Day War when Jewish settlers first founded a new city, Kiryat Arba, immediately adjacent to it, and then moved into the heart of the city.

Muslims also venerate Abraham and, through him, Hebron. The Arabic name of Hebron, *Khalil al-Rahman*, means "friend of Allah the Merciful," and refers to Abraham, who was also the father of Ishmael, from whom the Arabs claim descent. Palestinians have attempted to grandfather their roots in the region by claiming that they are also descended from various tribes that resided in

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Canaan in antiquity such as the Hittites, Jebusites, and Amorites, although these claims are not supported by archaeological or linguistic evidence. Nevertheless, Muslim Arabs have lived continuously in Hebron for approximately 1300 years and Palestinians currently constitute the overwhelming majority of the city's population.

Since Jews returned to downtown Hebron in 1968, there have been frequent violent encounters between the Jewish and Palestinian residents. In 1980, six students at a Hebron yeshiva, returning from Sabbath services, were killed in an ambush by Palestinian terrorists. In 1995, Dr. Baruch Goldstein killed 29 Muslim worshippers at the al-Ibrahimi mosque in the Tomb of the Patriarchs complex. Due to concerns for the safety of the approximately 500 Jews who reside in downtown Hebron as well as the desire to protect Jewish religious sites, Hebron was the last major city in the administered territories turned over to the Palestinian Authority by the Israel Defense Forces (IDF).

Compliance Difficulties

The Hebron Protocol, signed on January 17, 1997, was intended to take the IDF out of daily contact with most Palestinian residents of Hebron while simultaneously protecting the Jewish community and its religious sites. The Protocol contains an intricately redlined map of Hebron that indicates the boundaries of H-1 and H-2, the Palestinian- and Israeli-controlled sectors respectively, as well as numerous checkpoints, police stations, routes for joint patrols, and various other features. The Palestinian Police are assigned public order responsibilities in H-1 similar to those it already had assumed in other cities in the West Bank. Israel retains responsibility for the overall security of Israelis as well as all powers and responsibilities for internal security and public order in H-2.

A Note for the Record accompanying the Protocol contains a summary of the agreements reached by Arafat and Netanyahu during a meeting on January 15, 1997, in the presence of U.S. Ambassador Dennis Ross, and focuses primarily on issues involving the perceived failure of one of the parties to honor its commitments in the earlier interim agreements. In a sense, the note has become a Rorschach test, an inkblot whose meaning and significance has been in controversy virtually from day one. The future of the peace process as a whole may hinge more on Ross's Note for the Record than on the Hebron Protocol or any of the five previous interim agreements.

The Note for the Record begins with a statement

of purpose labeled "Mutual Undertakings," in which "[t]he two leaders agreed that the Oslo peace process must move forward...[and they] reaffirmed their commitment to implement the Interim Agreement on the basis of reciprocity." The specific mention of the principle of "reciprocity" may offer each of the sides an excuse for nonperformance when each side considers the other to have repeatedly and flagrantly violated the terms of the earlier agreements.

For Netanyahu, in particular, reciprocity has become a precondition for Israel's willingness to proceed with the entire peace process. This point strikes a chord with the significant proportion of the Israeli public which believes that Israel has continued to make concessions to the Palestinians, while the Palestinians have failed to uphold their elementary promises.

Changing the Palestinian Covenant

The Note further delineates "Palestinian Responsibilities" and "Israeli Responsibilities." It calls upon the PA to reaffirm its commitment in accordance with the Interim Agreement of "complet[ing] the process of revising the Palestinian National Covenant," which has served as the PLO's manifesto since its inception in 1964. The Palestinians' failure to amend their charter is of fundamental importance to the Israelis, since by declaring the establishment of the State of Israel illegal, calling for its destruction, and "reject[ing] all solutions which are substitutes for the total liberation of Palestine," the PLO justified its terrorist attacks against Israeli targets.

The Palestinians have repeatedly failed to comply with their promises to amend the Covenant. In his exchange of letters with Rabin on September 9, 1993, Arafat wrote: "[T]he PLO affirms that those articles of the Palestinian Covenant which deny Israel's right to exist, and the provisions of the Covenant which are inconsistent with the commitments of this letter, are now inoperative and no longer valid. Consequently, the PLO undertakes to submit to the Palestinian National Council for formal approval the necessary changes in regard to the Palestinian Covenant." Two years later, the Covenant had still not been changed, but a new deadline was fixed in the Interim Agreement signed on September 28, 1995, according to which the Palestinian National Council was obligated to amend the Covenant by no later than May 7, 1996. The Palestinian National Council did in fact convene and resolved on April 24, 1996, to amend the Palestinian National Council as required; this vote, however, did not actual-

ly change the Covenant. Indications that the old Covenant remains in force included the fact that the resolution does not specifically state which articles were annulled. In addition, immediately after the vote, Arafat's spokesman Marwan Kanafani characterized the resolution as a "license to start a new charter." (emphasis added)

Thereafter, three different deadlines for the completion of the new Covenant were announced by different Palestinian officials and all expired without any new version of the Covenant being submitted to or approved by the Palestinian National Council. In the Note for the Record which accompanied the Protocol, the PLO again reaffirmed its commitment to "[c]omplete the process of revising the Palestinian National Charter" and thereby, by implication, admitted that it had not fulfilled its obligations. Even this new reaffirmation was almost immediately put in doubt, however, when in January 1997 Arafat told the French newspaper *Le Monde*, "We have already canceled the articles that were in contradiction to the Oslo agreements. We have fulfilled our commitments. The rest of it concerns us only. The Israelis want us to adopt a new charter. As far as I know, the Israelis do not have a constitution. When they will have one, we will do the same."

Safeguarding Israeli Security

The Note for the Record also calls for the Palestinians to honor their commitments in "fighting terror and preventing violence, ... combat[ing] systematically and effectively terrorist organizations and infrastructure, [and the] [a]pprehension, prosecution and punishment of terrorists." Instead of dismantling the infrastructure of Hamas and other organizations sponsoring suicide bombings, the PA has adopted a policy of conciliation backed by limited force. Thus, while the Palestinian Police and security services have carried out arrests and held perpetrators and suspects in custody, officially banned the organizations, and punished some of those responsible for terrorist attacks, the PA generally favors accommodation and has never comprehensively dismantled the infrastructure of the terrorist organizations. Terrorist suspects arrested by the PA have routinely been released after the political protest following particular attacks has passed. Terrorists who have been prosecuted and convicted in the PA State Security Court are often released before completing their prison sentences, and thereafter employed by the Palestinian security forces.

The Note for the Record also calls on the Palestinians to strengthen security cooperation with Israel.

Arafat, however, has used withholding or curtailing security cooperation as a method of expressing displeasure with Israeli conduct. In addition, individual Palestinians who provide information to Israel are branded as "collaborators" and treated severely by the PA's security apparatus.

Perpetrators of terrorist attacks within Israel often escape punishment by fleeing to the PA self-governed areas. The Note reaffirmed the Palestinians' commitment to act on Israeli requests for the transfer of suspects to be tried "in accordance with Article II(7)(f) of Annex IV to the Interim Agreement." Nevertheless, from the outset of the peace process, the PA has refused to implement mandatory provisions requiring the transfer for trial of persons suspected of terrorism against Israel, despite the fact that the Interim Agreement and its predecessor, the Cairo Agreement, give Israel exclusive criminal jurisdiction over terrorist attacks against Israelis. At first, the rationale for non-compliance was found in the PA's interpretation that only offenses perpetrated after the signing of the Cairo Agreement were covered. When Israel subsequently requested the transfer of suspects in attacks carried out after the signing of the Cairo Agreement, the suspects were hastily brought to trial in PA courts, convicted, and imprisoned.

As of December 1996, of the twenty-seven persons whose transfer was sought by Israel, the PA did not even respond to Israel's request (except in two instances when the response was negative). Moreover, ten of the twenty-seven terror suspects apparently either serve in the Palestinian Police, the PA Preventative Security Service, or Palestinian Military Intelligence, or are in the process of joining their ranks.

Shortly before the signing of the Hebron Protocol, PA Preventative Security Chief Jabril Rajoub refused to transfer two Palestinians who killed two Israeli civilians in a drive-by shooting. He said that any request for transfer "is a dream and won't happen. You can forget about it." Despite Rajoub's attitude, which apparently represents the mainstream viewpoint of the PA's leadership, the Note for the Record reiterated the PA's obligation to transfer suspects. Moreover, since the Note, the magnitude of this problem has continued to grow.

Also included among Palestinian responsibilities enumerated in the Note is "preventing incitement and hostile propaganda, and confiscation of illegal firearms [e.g., those held by Hamas cells]. Arafat and senior PA officials have remained a major source of incitement throughout the peace process. A few months after

signing the Declaration of Principles (DOP), Arafat was taped during a speech in a mosque exhorting those present to wage a *jihad* with the goal of liberating Jerusalem. In November 1996, Netanyahu's office prepared a paper featuring ten such statements that Arafat had made in the previous months. Arafat also likened the agreements he had signed to the peace agreement signed by the Prophet Mohammed with the Quraysh tribe and then abrogated ten years later. Arafat has lauded as "martyrs" slain Palestinian terrorists such as Yihye Ayash, whose suicide bus bombings killed scores of Israelis. In September 1996, in the midst of tension following Israel's opening of an exit to an archaeological tunnel in Jerusalem, Arafat incited Palestinian security forces to "fight for Allah, and they will kill and be killed." In the ensuing violence approximately 100 Palestinians and Israelis were killed. A new low in inciteful propaganda was reached in April 1997 when the Palestinian Representative to the United Nations Commission on Human Rights, Nabil Ramlawi, accused Israel of "infecting by injection 300 Palestinian children with the HIV virus during the years of the intifada."

Pursuant to the Note for the Record, the PA is also responsible for reducing the size of the Palestinian Police force to the numbers permitted in the Interim Agreement and for exercising PA "governmental activity" or "governmental offices" in compliance with the geographic limitations in the Interim Agreement, which is shorthand for removing them from Jerusalem. Israel claims that twenty institutions, all of which are either official ministries of the PA or offices linked to it, are operating in eastern Jerusalem in violation of the Interim Agreement. Despite this proviso, the PA rejected Netanyahu's decision to close down Palestinian institutions in Jerusalem.

Israeli Commitments

The Note states that Israel will deal with prisoner release issues in accordance with its commitments in Oslo II. That earlier agreement obligates Israel to release male prisoners in certain categories (i.e., detainees and prisoners imprisoned for security offenses not involving death or serious injury and persons who have served more than two-thirds of their sentence) and requires Israel to consider as eligible for release prisoners in other categories (i.e., sick prisoners and detainees and those over age 50). Israel has in fact released thousands of Palestinian prisoners and detainees, including all the women prisoners, but the PA wants each and every Palestinian to be released.

Matters for Negotiation

Referencing some of the topics that the Note specifies as "Issues for Negotiation," Arafat has asserted that, "[w]e should not begin the final phase before we have tackled all the 34 outstanding points concerning Oslo I [the Declaration of Principles] and Oslo II." He identifies among those points safe vehicular passage between the West Bank and Gaza, opening the Gaza Airport, and opening the Gaza seaport. Disagreements over Israeli security concerns, i.e., that the port and airport not be used by the PA or Palestinian opposition groups to smuggle weapons, have frustrated efforts to solve these disputes.

Further Israeli Redeployment

The Note for the Record required the Israelis to implement the first phase of further redeployments during the first week of March 1997. On March 7, 1997, Israel announced that it would withdraw from 9.1 percent of the West Bank in the first of three scheduled further redeployments. The U.S. State Department called the Israeli decision "a demonstration of Israel's commitment to the peace process." However, Arafat rejected Israel's announcement, claiming that it involved "no more than 2 percent of the occupied land" and that it was "again a gross violation of what has been agreed."

As a related document to the Hebron Protocol, then U.S. Secretary of State Warren Christopher had written a letter committing the U.S. to back Israel's definition of its own "security needs." This implies that Israel can unilaterally determine, on perceived security grounds, the territory from which it will withdraw in the three stages of further redeployment. Then U.S. Ambassador to Israel Martin Indyk stated in a radio interview, "It's clear in the agreement that Israel designates the specified military locations. So the amount of territory handed over is Israel's decision."

Arafat, however, labeled the dimensions of Israel's offered withdrawal as inadequate and, therefore, no first stage redeployment of the IDF was carried out. According to an IDF spokesman, this can happen only when there is coordination with the PA so that the latter can assume responsibility for the areas the IDF exits.

The Palestinians claim that a key provision of the Oslo II agreement regarding three further Israeli redeployments entitles them to exercise local self-rule over nearly the entire West Bank before September 1998. Major differences exist between the sides over what constitutes a "military location," one of the categories of locations from which Israel is not required to pull

back. The senior Palestinian negotiator, Ahmed Qreia, narrowly interprets the term. He stated, "[i]f Israel needs to keep soldiers on a certain mountain or patrolling borders in the Jordan Valley, we can discuss this. But we cannot discuss this if the Israelis want to use this clause in such a way which makes it clear that they are not serious [about redeploying]." Israel is also not required to redeploy from the Jewish settlements and Jerusalem under Oslo II. By contrast, Joel Singer, the former Legal Advisor to the Israeli Foreign Ministry who negotiated the Interim Agreement, wrote, "Israel has the right to unilaterally 'specify' which parts of the West Bank it considers to be a military location," noting that the accord does not use the usual adjective "agreed upon" before the term "military locations."

It is evident that significant further redeployments by the IDF would change the overall situation dramatically. Instead of the current situation in which Palestinian-controlled cities are akin to islands in an Israeli-controlled sea, the Israeli-held pockets would begin to resemble islands in a Palestinian sea, a situation anathema to some ministers in Netanyahu's cabinet, and which would leave Israel holding few territorial cards when negotiating the complex permanent status issues.

Trading Charges of Violations

The Palestinians and Israelis have frequently traded charges of violations of the Note for the Record and other agreements. Most of the violations that are blamed on Israel are not, if one is precise, literal transgressions of the text of agreements signed by Israel, although they may be viewed as contrary to the spirit of the peace process. It is impossible to know whether those who level these charges have actually read and understood the relevant agreements or whether they are engaged in a cynical political effort to deflect criticism of the PA.

Few international agreements have been negotiated in such an atmosphere of mistrust and ill-will as that which prevailed during the four months it took to reach the Hebron Protocol. A British journalist aptly referred to the Protocol as "a peace agreement with a fuse attached." Just how short the fuse was has been demonstrated by the subsequent paralysis of the peace process following the Netanyahu government's decision to go ahead with Israel's longstanding intention to develop a new neighborhood on an empty hill in southern Jerusalem called *Har Homa* in Hebrew and *Jebel Abu Ghneim* in Arabic. This decision was greeted with vocal Palestinian protests against what was invariably referred to as "Jewish settlement" activity.

Unable to point to any specific provision in the DOP or the Interim Agreement that limits Israeli construction, the Palestinians portray the *Har Homa* decision as contrary to the "spirit" of the peace process. The problem with this highly elastic concept is that it allows Arafat to introduce new demands at will.

In the aftermath of Israel's decision to commence construction of *Har Homa* in early 1997, the on-again off-again permanent status talks and Palestinian security cooperation were suspended by Arafat. Indeed, the Palestinians have frequently punctuated their demands by walking out of peace talks. The peace process was further complicated when two major multiple suicide bombings claimed scores of casualties in the center of Jerusalem. Israel then announced that until the Palestinians act to prevent terrorism no progress is possible in the talks.

The Beginning of the End of the Peace Process

The purpose of the interim agreements was to create a momentum that would push Israel and the Palestinians toward a final settlement. They also were intended to build confidence and trust, which could be applied to overcome future difficulties. At this stage there should be no illusions about the future of the Oslo peace process. Israeli and Palestinian nationalism have been in conflict over essentially the same land for a century. The tempo of this conflict and its modes of expression have mutated over time. With the Declaration of Principles agreement in 1993, hopes blossomed that an era of trust could, within the modest period of less than six years, write a new page of history and result in an enduring permanent status agreement resolving all dimensions of the conflict. Disillusionment with both the process and its sponsors, however, has increasingly replaced the initial hope.

Clearly, the United States can, if it is willing to continue its major commitment of diplomatic and economic resources, make a difference in instances where the distance separating the parties is narrow enough. This looks increasingly doubtful, however, and it appears that further American arm twisting is likely to backfire and cause alienation from both Israel and the Palestinians. A radical departure from America's diplomatic hyperactivity and military commitment in the region was suggested by one expert. Richard Haass, former head of the Middle East office on the National Security Council staff, claimed that "ripeness" is the key to successful negotiations. Haass urged a low-profile approach to the Middle East and said that if the U.S. is overeager, it can actually make the

situation worse.

According to William B. Quandt, a former senior American diplomat who has written extensively about Arab-Israeli peacemaking, as distinct from the principals at the Camp David conference (which Quandt played a major role in shaping), Netanyahu and Arafat do not have "in the back of their minds a similar looking map, a similar set of relations" where each side can trade off the remaining issues. This was not the case with Begin and Sadat. Moreover, Quandt believes that Clinton, unlike former President Carter, is neither inclined to press the parties nor to offer dramatic proposals to stimulate negotiations. At Camp David, "[t]here was a deal waiting to be struck," but with Israel and the Palestinians "going into final status the gap between the parties is...50 or 60% — that's quite a bridge. And Clinton is frankly not a great bridge builder." Thus Quandt forecasted that a Camp David-style summit, of the kind suggested for the final status issues, "would probably fail, the gap is so enormous."

Struggling With the Permanent Status Issues

In the Hebron Protocol negotiations, Arafat and Netanyahu sought to demonstrate their toughness to their respective constituencies, but in the end they wanted to reach an agreement. The Hebron Protocol was a watershed in that for the first time a Likud-led coalition government negotiated with PA Chairman Arafat and thereafter handed over physical day-to-day control of most of the city of the Jewish Patriarchs. The Protocol overcame what, at the time, were considered to be major ideological and personal difficulties in the peace process. In addition, although some misgivings were voiced over the expanded U.S. role, common wisdom was that the peace process had passed perhaps its most difficult test.

Various crises in the peace process, such as the one that preceded the Hebron Protocol, have been solved by widening the negotiations beyond the immediate sticking point. As the stakes rise, the importance of each issue becomes blurred and the ability of both sides to claim victory increases. This method of overcoming difficulties by mortgaging future issues has reached the point of diminishing effectiveness as the parties enter the permanent status negotiations.

In the meantime, the rhetoric has escalated on both sides. Arafat has given many speeches about how the Palestinians will not rest until their flag is hoisted on the minarets of eastern Jerusalem. Set behind Arafat's desk is a picture of Jerusalem's al-Aksa mosque. A PA minister accused Israel of responsibility for two of the Islamic Jihad suicide bombers in Gaza who had

exploded themselves near buses filled with Israeli schoolchildren. Palestinian leaders, religious and political, all the way up to Arafat himself, announced that various Israeli policies were a "declaration of war." Arafat also declared that Israeli Independence Day constitutes, "[t]he Day of the Palestinian Holocaust." Responding to the Arab rhetoric, Israeli Justice Minister Tzahi Hanegbi threatened that if Arafat uses force against Israel, Arafat would be forced out of Gaza and return to wandering "between Tunis and Baghdad" with a suitcase. Netanyahu, commenting on the murder of two Palestinian land dealers after the PA announced a law stating that Palestinians selling land to Jews would be executed, stated, "I think it is ghastly, monstrous...a racist law, a Nazi law, a Nuremberg law."

If and when the hurdles arising out of the Note for the Record are cleared, the parties can hardly hope for easier times. Just the opposite is almost certain in light of the daunting agenda that awaits the resumption of the permanent status talks. While the parties succeeded, at least on paper, in devising temporary fixes in the form of interim agreements, this stratagem will no longer be effective in the permanent status talks. At this point, the parties will no longer be able to avoid or postpone the ultimate political, historical, doctrinal, and security implications of their common venture. Clearly, extraordinary and unprecedented concessions will have to be made. For example, the intensity of disagreement about Jerusalem, which both parties claim as their capital, could easily precipitate the denouement of the entire peace process. The Jewish settlements, Israeli recognition of Palestinian statehood, the apportionment of scarce fresh water sources, the custody of religious sites holy to two or more faiths, the future of the Jewish settlements, and the desire of many Palestinian refugees (from the 1948 War) and displaced persons (from the 1967 War) to return either to the Palestinian entity or to Israel, are each issues that could trigger the breakdown or freezing of negotiations or repudiation of the entire process.

Conclusion and Outlook

American officials who played a major role in putting together the Note for the Record and the Hebron Protocol at first expressed official optimism. U.S. Ambassador Indyk confidently told Israeli journalists, "we are now taking the first step towards the building of trust." President Clinton heralded the pact as a step toward "a lasting, secure Middle East peace." Israeli supporters of the peace process were also jubilant, gratified that Netanyahu and his Likud party had, in agreeing to withdraw from territory that they once

insisted was God-given, arrived at a new and realistic attitude toward the Palestinians. However, these efforts to put a positive spin on the outcome, if anyone believed them at the time, had a very brief life span.

In years to come, the Note for the Record and the Hebron Protocol may be remembered as the zenith of the peace process, from which the likely direction is toward confrontation. Intended to wrap up loose ends and clear the table to begin the critical permanent status talks, the Note for the Record makes clear that even matters that were supposedly settled by earlier agreements fester as sources of conflict. Interminable friction over relatively minor items on the agenda, issues that were often touted as "confidence-building measures," have instead destroyed trust as wrangling has convinced the parties they are being entrapped and cheated.

Although the peace process is already in intensive care, the definitive climax is liable to come when the Palestinians deduce that they cannot negotiate a permanent settlement that meets their minimal requirements. May 5, 1999, is the deadline for the conclusion of the permanent status arrangements. At that point or even before, having gained whatever was possible from the interim agreements, Arafat is likely to carry through with his frequent threat to declare a Palestinian state. He is unlikely to initiate large-scale fighting with Israel as his forces are nowhere near a match for the IDF. Arafat might not even officially abandon the peace process that the West has underwritten, both in political and economic terms. Such a move would likely cost the PA its international backing without gaining significant tangible support from the Arab and Muslim world. Instead he will simply blame Israel for the failure of the process and allege that he had no alternative but to move forward in building his state without Israeli interference.

Thus, the Note for the Record may become the vortex of controversy that will ultimately precipitate the unraveling of the Israeli-Palestinian peace process. This is not to imply that the Note is the sole derivation of all of these calamities. Rather, it is merely the latest agreement which, in attempting to bridge the widely divergent Israeli and Palestinian interests, reflects the critical internal contradictions of the Israeli-Palestinian peace process as a whole. It further demonstrates the diminished ability of the United States, the process's paramount international sponsor, to close the gap that divides Israel and the Palestinians four years and six interim agreements after the famous ceremony on the White House lawn.

In years to come, the peace process that began in Oslo may be regarded as another of the highly variegated and virtually perennial efforts that, despite prodigious efforts, fell short of initial hopes and expectations. The epitaph will place the onus for the breakdown of the process on the unrealistic and naive expectations among the proponents of peace. An additional cause for the breakdown will be the non-fulfillment by the parties, especially the Palestinians, of their written promises throughout the interim period.

A generation ago, Secretary of State Henry Kissinger, the genius of incremental Middle East diplomacy, opined that the objective was for the parties to the negotiation to gain confidence, become committed to achieving results, and be carried along by the momentum of peacemaking to resolve issues that had previously seemed intractable. Yet despite his prodigious efforts, he learned that some issues were so complex and emotional that peace between the sides was unattainable in that generation. Kissinger concluded after much shuttle diplomacy that the diplomat aspiring to mediate between Arabs and Israelis would have to be satisfied with small achievements, which were better than nothing.

Acknowledging the chimera of peace and the failure of the interim process begun in Oslo will not permanently terminate efforts, international and/or local, to settle the Israeli-Palestinian conflict. History suggests that within a few years, perhaps sooner if a crisis again focuses world attention on the chronic instability of the region, a new American president or secretary of state will re-engage in Israeli-Palestinian peacemaking. Alternatively, perhaps the parties themselves will moderate their claims and, having become familiar with each other during the negotiation of the interim agreements, embark on a new beginning.

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Daniel J. Elazar

With the Protestant Reformation and its idea of the federated commonwealth, the covenant tradition in European politics reached its highest point. Then, less than a century later, that idea was transformed into the idea of civil society organized around a political compact and governed by a written constitution consented to by the people it served. This transformation marked the transition from premodern to modern covenantalism. The transition took place in two tracks. The better known was the philosophic track championed by Hobbes, Spinoza, and Locke, which set down the theory and principles of modern democratic and republican civil society. The other, theological track, pioneered by European settlers from various Reformed Protestant backgrounds, developed actual republics framed by written constitutions. Together, they led to the establishment of the United States of America in the eighteenth century.

Covenant and Constitutionalism, the third of four volumes in the series of volumes exploring the covenantal tradition in Western politics, traces the trends and the developing relationships of constitutionalism and covenant that ultimately led to the transformation of the latter into the former. It explores these first steps and the subsequent paths that emerged out of the constitutionalized covenantal tradition in Europe such as federalism, communitarianism, and the cooperative movement, and how these covenantal ideas and expressions were both supported by and challenged by liberal democracy and individualism as they unfolded in the latter part of the modern epoch and immediately thereafter.

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