

## **An Alternative Diplomatic Process: A Renewed Regional Framework for Cooperation in the Middle East**

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- The peace process is not likely to move forward substantially in the near future. Although both sides ostensibly agree to a two-state solution, they are severely divided by the components of that solution, whether it is final borders, Israeli communities over the Green Line, security guarantees, or the fate of Palestinian refugees.
- Yet pursuit of peace is a worthy goal, even when it seems far away. In the absence of progress on the core issues dividing the sides, progress might be made on common concerns unrelated to the core issues.
- In 1991 the countries of the region embarked on multilateral talks based on the Madrid framework that eventually led to dozens of official and non-official meetings. Five multilateral working groups addressed key regional issues: environment, arms control and regional security, water, refugees, and economic development. The idea was to make progress on issues of mutual concern that might serve as confidence-building measures to move the bilateral tracks forward.
- It was a time when Arabs and Israelis were talking about regional issues in a serious manner. Restarting the multilateral talks and adopting a “code of conduct” for the negotiating process would allow the West to influence political evolution in the Arab world in a democratic and positive way.
- One advantage of a reconvening of the multilateral talks is that they would not really need any new concessions, as the framework has already been set up. If the multilaterals improve the atmosphere, they might facilitate the conclusion of a bilateral agreement.

The Middle East peace process is no longer in process. The Israeli-Palestinian track has reached a standoff – Israel’s most far reaching offers have not met Palestinian expectations, while Palestinians continue to insist on the “right” of return of refugees to Israel in a manner which would undermine the state’s Jewish majority.<sup>1</sup> As Palestinian Authority President Mahmoud Abbas (“Abu Mazen”) related to the *Washington Post’s* Jackson Diehl after acknowledging the Olmert offers of 2008, “the gaps were wide.”<sup>2</sup> Although internal Palestinian documents leaked to Al-Jazeera demonstrated that the gaps were as wide as had been previously assumed, the embarrassment shown by the Palestinian leadership revealed how uncomfortable they were when these discussions were made public. While one cannot truly measure progress in the absence of a signed, public agreement, it seems that there is still a lack of political will on both sides to make the hard concessions necessary for an agreement.

On top of this legacy of failed negotiations in the past, Abbas signed a reconciliation agreement with Hamas on May 4, 2011, despite the latter’s continuing commitment to armed resistance (*muqawama musallaha*). Israeli Prime Minister Benjamin Netanyahu responded to this development by saying that the Palestinian Authority has to decide between Hamas or Israel. In the meantime, Abbas appears to have decided on using the UN General Assembly to advance the Palestinian agenda instead of negotiations. Whether or not Abbas uses the UN as a springboard to a declaration of Palestinian independence, he appears determined to at least establish Palestinian borders by this multilateral process rather than through negotiations with Israel. Moreover, President Obama’s major Middle East foreign policy speech of May 19, 2011, is not likely to move the peace process forward.

In short, the peace process is not likely to move forward substantially in the near future. Israel’s full, unilateral, and unconditional withdrawals from Gaza in 2005 (including the removal of Israeli communities with close to 9,000 residents) and from Lebanon in 2000 not only did not put an end to attacks on the Jewish state, they led to an even greater volume of attacks, and resulted in Israeli incursions into Lebanon in 2006 and into Gaza in 2008 to stop the terrorism. Although both sides ostensibly agree to a two-state solution, they are severely divided by the components of that solution, whether it is final borders, Israeli communities over the Green Line, security guarantees, or the fate of Palestinian refugees. Desiring peace is not enough – and pushing the sides towards an agreement without laying the groundwork can result in disaster.

President Barack Obama’s well-meaning but ill-conceived efforts have been dashed on the rocks of the Middle Eastern realities.<sup>3</sup> U.S. and European attention is now focused on the uprisings and ferment in the Middle East that began in December 2010.

Yet pursuit of peace is a worthy goal, even when it seems far away. When some avenues are blocked, others must be tried. In the absence of progress on the core issues dividing the sides, progress might be made on common concerns unrelated to the core issues.

Progress in the peace process is of course quite dependent on events and personalities. Talks can be disrupted by political assassination, such as that of Yitzhak Rabin, or by mass violence, such as the so-called “Second Intifada” which broke out in 2000 after the

Palestinians rejected Israeli offers at Camp David in the summer. But the current situation is one of a relatively low level of violence, and this makes it a propitious time to start – or restart – with a new approach.

What kind of efforts are needed and worth trying at this time, when bilateral Israeli-Palestinian and Israeli-Syrian tracks are at a standstill? We do not have to look far. During the administration of George H.W. Bush, and under the leadership of Secretary of State James Baker, in late 1991 the countries of the region embarked on multilateral talks based on the Madrid framework that eventually led to dozens of official and non-official meetings within the framework of multilateral working groups.

At a time of disillusionment with the peace process, this monograph aims to refresh our collective memory of a time when Arabs and Israelis were talking about regional issues in a serious manner. We conclude with a proposal for restarting the multilateral talks and for a “code of conduct” that would allow the West, *inter alia*, to influence political evolution in the Arab world in a democratic and positive way. It is now more important than ever to define who stands with democratic values as well as with the democratic process.

## The Madrid Multilateral Framework: Beginnings

With the breakup of the Soviet Union and the Eastern European Communist regimes, as well as the U.S. victory over Iraq in the first Gulf War in 1991, the U.S. was determined to use its newly found momentum and renewed prestige to take a crack at Arab-Israeli peace. The Soviet Union – soon to be simply Russia once again – was no longer able to play the spoiler role and support radical Middle Eastern regimes. America’s massive show of force in the region and the impressive coalition it led against Saddam Hussein provided the U.S. with new leverage.<sup>4</sup> Secretary of State James Baker, who wrote that he initially resisted the pull of Middle East peace-making and had been warned by previous secretaries against it, nevertheless found himself drawn in.<sup>5</sup>

Baker believed that the Arabs expected him to follow through on a promise to address the Arab-Israeli situation after the war with Iraq, and that with the American leadership demonstrated by the fall of the Soviet Union and the victory in Iraq, progress was possible. “[E]veryone wanted to be American’s best friend,” he wrote, and concluded: “I believed it was time to seize the moment.” Baker correctly reasoned that with the Arab radicals in disarray after the war, the Gulf states would be willing to play a more constructive role.<sup>6</sup> He thus embarked on eight trips to the region beginning in the spring of 1991.

The origins of the idea of multilateral talks on regional cooperation are difficult to trace. Some senior U.S. officials state that the idea was an expansion of one of the points of Prime Minister Yitzhak Shamir’s four-point plan of April 1989 concerning regional cooperation. In any case, the U.S. seized on the idea as a way to sweeten the notion of bilateral talks for Israel, which sought recognition and acceptance in the region.<sup>7</sup> Washington envisaged multilateral working groups on several regional issues, with the participation of key countries such as Saudi Arabia. Riyadh gave its consent.<sup>8</sup>

After much negotiation, particularly over the thorny issue of Palestinian representation (Israel did not recognize the PLO until 1993), the U.S. and the Soviet Union issued a joint invitation to Israel, Jordan, Syria, Lebanon, and the Palestinians to attend an opening international conference in Madrid on October 31, 1991. Direct bilateral negotiations were scheduled to begin four days after the opening of the conference, while multilateral negotiations were supposed to begin organizing two weeks after the opening of the conference.<sup>9</sup>

The Madrid framework ended up organizing five multilateral working groups to address key regional issues. The idea was to make progress on issues of mutual concern that might serve as confidence-building measures to move the bilateral tracks forward.

The multilaterals officially convened on January 28, 1992, at the Moscow Multilateral Middle East Conference, with the participation of thirty-six parties.<sup>10</sup> Arab countries participating in the talks, in various capacities, included the Palestinians, Jordan, Egypt, Algeria, Bahrain, Kuwait, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Tunisia, the UAE and Yemen. Five working groups were set up: environment, arms control and regional security, water, refugees, and economic development. This idea was modeled, to some extent, on the Conference on Security and Cooperation in Europe (CSCE), where working groups were governed by consensus, and an effort was made to instill confidence amongst the participants.<sup>11</sup> The CSCE had first convened in Helsinki in July 1973 in order to bring together Cold War rivals, and was expanded and renamed the Organization for Security and Cooperation in Europe (OSCE) in 1994.

According to Edward Djerejian, then Assistant Secretary of State for Near Eastern Affairs, the multilateral talks aimed to “address functional issues on a region-wide basis...to foster broader human contact between Israelis and Arabs.”<sup>12</sup> This was indeed a very unique and special moment. Israel was joined not only by Egypt, Jordan, and the Palestinians, but, for the first time, North African and Gulf countries took part in a public cooperative forum with Israel.<sup>13</sup> (Syria and Lebanon remained aloof, maintaining that the multilaterals were not useful without progress in bilateral, state-to-state talks.)

## The Refugee Working Group (RWG)<sup>14</sup>

The RWG, with Canada as the chairman (or “gavelholder”), convened five meetings: May 1992 (Ottawa); November 1992 (Ottawa); May 1993 (Oslo); October 1993 (Tunis); and May 1994 (Cairo).

It was clear to the participants from the outset that issues relating to the final status of the Palestinian refugees would be left to the Israeli-Palestinian bilateral track. When the Declaration of Principles (DOP) was signed between the PLO and Israel on September 13, 1993, the 1948 refugee issue was reserved for the final status negotiations. Issues relating to the admission to Israel of displaced persons who fled the West Bank and Gaza in 1967 were relegated to a four-member Continuing Committee comprised of Israel, Egypt, Jordan, and the Palestinian Authority, following the Sharm el-Sheikh summit of early September 1999. One might have thought that this would have left little for the RWG to do, but that was not the case.

At the first meeting in Ottawa, work was organized by themes, with lead countries designated as theme “shepherds” as follows: databases (Norway); family reunification (France); human resources development, job creation and vocational training (the United States); economic and social infrastructure (the European Union); public health (Italy), and child welfare (Sweden).

### Achievements

The RWG’s achievements were modest, but not without significance. Basic data collection has been carried out, and priorities have been assessed, as well as have the impact of choices. A survey of living conditions for Jordan’s Palestinians was undertaken; refugee needs were identified in the areas of public health, child welfare and economic and social infrastructure; and two surveys of living conditions in the West Bank and Gaza were organized.

At the May 1994 plenary in Cairo, reported progress was made in four fields: human resources and development, where several countries agree to conduct courses for the refugees in four areas; child welfare (Sweden was to fund some programs); social and economic infrastructure (the U.S. was to provide aid to develop refugee housing in Syria and Lebanon); and public health (the establishment of a regional laboratory in the West Bank).

Canada has taken its role of gavelholder seriously and has raised funds for refugees, including its own funds. For example, it facilitated the reunification of refugee families in Rafah from the Egyptian side to the Gaza Strip.

## Refugees: Moving Forward

Rex Brynen and Jill Tansley note that the RWG could “facilitate official and semi-official contacts but also encourage the production of new and innovative thinking about the refugee issue by scholars, non-governmental organizations, and others within civil society. Its database and research functions might also be focused on more strategic refugee-related research, in areas ranging from the absorptive capacity of the West Bank and Gaza, to compensation, repatriation, refugee camp rehabilitation, residency rights, and so forth.”<sup>15</sup> We would add that the RWG’s work could be expanded in parallel to include data collection on the compensation due to Jews who left Arab countries as refugees, a topic that is certainly to be raised by Israel in final status negotiations and one with multilateral implications.

During his visit to Israel in October 2009, Canadian Foreign Minister Lawrence Cannon conveyed to Israeli President Shimon Peres that he would soon present a Canadian plan for the renewal of the RWG.<sup>16</sup>

## The Environmental Working Group (EWG)<sup>17</sup>

The EWG has Japan as its gavelholder. Regional members include the PA, Jordan, Israel, Egypt, Morocco, Algeria, Kuwait, Qatar, UAE, Oman, Bahrain, Yemen, and Turkey, with Saudi Arabia serving on the steering committee along with Canada and Tunisia. It held seven formal meetings, the last of which was in Amman in June 1995, in conjunction with the Water Working Group. A further, intersessional meeting was held in Muscat in June 1996.

In addition to these formal meetings, several experts meetings and informal meetings were also held. The last workshop was held in Amman in November 1998 on environmental management training, in which a priority list of training programs was developed by Egypt, Israel, and the PA, with support from the U.S. and Japan.

### Achievements

The EWG seems to have made progress on issues ranging from the construction of an environmental data bank to the sharing of information on issues ranging from environmental management, maritime pollution, water quality, sewage and waste management, to desertification and hazardous waste disposal.<sup>18</sup>

One of the most significant achievements was an agreement by the EWG members on the Bahrain Environmental Code of Conduct for the Middle East at a meeting held in Muscat in October 1994. The following principles were agreed upon by all the regional parties:

- Natural resources of the region must be preserved and all activities that would have an adverse effect must be avoided.
- A comprehensive peace in the region and environment protection are interdependent, and the regional parties will cooperate on environmental issues.
- The parties will facilitate and encourage public awareness and participation by training and education.
- The regional parties will join forces for environmental protection and conservation and begin working in the following fields: water, marine and coastal environment, air, waste management, and desertification.<sup>19</sup>

### The Environment: Moving Forward

Environmental issues have only become more crucial since the EWG ceased meeting. Global warming concerns everyone, and should give an impetus for Middle Eastern countries to cooperate on the issue. Various projects have already been agreed upon – the parties could begin moving towards examining implementation.

## The Working Group on Water Resources (WGWR)

The WGWR has the U.S. as gavelholder, with Japan and the EU as co-organizers. It established four areas for cooperation: enhancement of water data availability; water management practices, including conservation; enhancement of water supply; and concepts of regional water management and cooperation.

It held eight plenary meetings, with the last one held in Amman in June 1995, and numerous intersessional meetings.

### Achievements

The WGWR probably has more concrete achievements to its credit than any other working group. In addition to reaching agreement in February 1996 on the Declaration on Principles for Cooperation on Water-Related Matters and New and Additional Water Resources<sup>20</sup> and establishing the Water Data Banks Project (<http://www.exact-me.org>), the crowning glory of perhaps the entire working group process is the Middle East Desalination Research Center (MEDRC) headquartered in Muscat, Oman.<sup>21</sup> Participants from the region include Israel, Jordan, the PA, Oman, and Qatar. MEDRC, still active, focuses its activities on desalination research and education, awarding grants, and involving more than 200 experts worldwide.

### WGWR: Moving Forward

Even though Oman broke off diplomatic relations with Israel in 2000, following the outbreak of the Second Intifada, MEDRC has served as a point of contact between the two countries. In November 2009, *Ha'aretz* reported that Israel Foreign Ministry Director-General Yossi Gal and other high-ranking foreign ministry officials had held secret state-level meetings that month in Muscat. The formal reason for the visit was participation in MEDRC's annual conference, but talks were reportedly held with Omani officials, including Foreign Minister Yusuf Bin Alawi.<sup>22</sup>

A newly reconstituted WGWR, perhaps combined with the EWG, could make further progress on addressing crucial regional issues. Given commitments from the parties, these are certainly areas that could be de-politicized enough in order to make significant progress.

# The Regional and Economic Development Working Group (REDWG)

The REDWG was designed to address issues of economic cooperation in the areas of tourism, infrastructure, and training. Chaired by the EU, it held several meetings, including four Middle East/North Africa (MENA) summits (Casablanca, 1994; Amman 1995; Cairo, 1996; Doha, 1997). The summits did not last; even the MENA Summit Internet domain, mena.org, was sold off, and is still up for sale.

REDWG adopted the Copenhagen Action Plan in November 1993, which put on the table 35 projects in the following fields: communications, transportation, energy, tourism, agriculture, financial markets and investment, trade, training, regional networks, and bibliography. A Middle East-Mediterranean Travel and Tourist Association (MEMTTA) was initialed in Casablanca in September 1995.

## Achievements

Only Jordan and Israel, which have a peace treaty, have made any progress on economic cooperation. In March 2003, stemming from the MENA Summit of 1997, the two countries signed the Irbid Qualifying Industrial Zone Agreement, which allowed the two countries to profit from trade incentives provided by the U.S.

## REDWG: Moving Forward

A canal from the Red Sea to the Dead Sea, or, alternatively, from the Mediterranean Sea to the Dead Sea, has also been a focus of REDWG. The aim is to increase hydroelectric power and desalination. The project is still being studied, with preference now being given to the Red Sea-Dead Sea option, although environmental organizations have called its sustainability into question.<sup>23</sup>

The projects mooted in the Copenhagen Action Plan need to re-examined and updated. MEMTTA could be put into action.

## Arms Control and Regional Security Working Group (ACRS)<sup>24</sup>

The idea of arms control and regional security in the Middle East came about in the lead-up and aftermath of Iraqi dictator Saddam Hussein's invasion of Kuwait in the summer of 1990. Following Saddam's April 1990 threats to "incinerate half of Israel" if it attacked his non-conventional facilities, Egypt offered a proposal for a Weapons of Mass Destruction Free Zone. In the aftermath of the Gulf War in May 1991, U.S. President George H.W. Bush announced a proposal for a Middle East arms control initiative. These and other arms control developments meant that when the Madrid process went into high gear towards the end of 1991, it was clear that ACRS would be included among the five working groups that comprised the multilateral part of the peace process.

The talks were guided by the U.S. approach, which saw confidence-building measures (CBMs) as a central issue. The idea was that states would gradually, through a step-by-step process, see the value of cooperation on security matters.

ACRS was active from January 1992 to December 1995, and involved Israel, Bahrain, Egypt, Algeria, Jordan, Kuwait, Morocco, Oman, Qatar, Saudi Arabia, Tunisia, the UAE, Mauritania, and Palestinian representatives. Representatives from Yemen took part in a few of the meetings as well. Many intersessional meetings were held between the six plenary meetings.

Under the U.S. and Russia as gavelholders, the unique seminar format chosen led to "unprecedented positive regional dynamics, with potentially far-reaching implications."<sup>25</sup> Initial agreement was reached on several Confidence and Security-Building Measures (CSBMs). The talks were accompanied by Track II discussions, which, according to Emily Landau, contributed positively to ACRS.

The format was one of a working group or seminar, with much learning and clarification of positions. Issues discussed included maritime cooperation; a conflict prevention center; pre-notification of military activities; and declarations regarding regional security objectives and arms control. Quite a few workshops took place in 1993, and the reports were positive, noting that discussions were future-oriented. Some countries participated more than others. Egyptian, Jordanian, Palestinian, Omani, and Israeli experts were in attendance regularly, while other countries participated less, or did not attend at all.

At the fourth plenary held in November 1993, the talks were split into two baskets: conceptual and operational. The conceptual basket was designed to explore how the relations between the regions' states would be constituted; define objectives of arms control; decide on verification measures; and reach agreement on declarations that would be mutually reassuring. The operational basket was to cover CSBMs in the maritime arena; deal with prior notification and the exchange of military information; establish a regional communications network based on the one developed in the CSCE; and discuss a Jordanian plan for a regional security center.

The last plenary session met in Tunis in December 1994. While discussions proceeded well on some of the other issues, a final agreement on a Declaration of Principles and Statements

of Intent on Arms Control and Regional Security was stymied by disagreements between Egypt and Israel on the nuclear issue. While Israel accepted the principle of a Weapons of Mass Destruction Free Zone (WMDFZ), it rejected Egypt's insistence that there be a specific clause that all parties join the Nuclear Non-Proliferation Treaty (NPT) in the future.

But in the operational basket, which emphasized CSBMs, significant progress was made on several cooperative efforts in the areas of search-and-rescue and prior notification of military exercises. Egypt, Oman, Tunisia, Israel, Jordan, and the Palestinians agreed to establish a regional communications network based on the CSCE system and using excess CSCE capacity at its Hague-based network hub. It was also agreed to set up three regional security centers in Jordan, Qatar, and Tunisia, tasked with crisis prevention.

While the talks proceeded well, the seeds of failure were sown because of a dispute between Israel and Egypt over the placing of the nuclear issue on the agenda of the ACRS. Israel argued that the issues had to be preceded by CSBMs on a step-by-step approach, while for Egypt the nuclear issue was central to arms control and should therefore be an important part of ACRS.

Over the course of 1995 the talks began to break down, as Egypt and Israel conflicted over the ACRS agenda. While the planned Tunis plenary had to be postponed, progress was made in the operational basket. The regional communications network began operating in The Hague in March 1995, and a meeting on conceptual issues was held in Turkey the next month.

During a meeting in February in Cairo between President Mubarak and Foreign Minister Peres, Mubarak insisted that Israel commit itself to signing the NPT. Israel countered with what it saw as a concession – two years after the signing of peace agreements with all regional states, Israel would begin discussion of a nuclear weapons free zone, and then consider joining the NPT. This was rejected by Egypt. Egypt's insistence that Israel must agree to the placing of a WMDFZ on the ACRS agenda brought an end to ACRS in the Middle East, as Israel was not willing to accept this conditionality. A final attempt in Amman in September, aimed at discussing the regional security centers, failed when Egypt would not allow forward progress without developments on the nuclear issue. The U.S. assessed that Middle East ACRS had to be suspended, lest it adversely effect Egyptian-Israeli relations.

Egypt sought to use ACRS to limit Israel's nuclear capabilities, and believed it was acting in a traditional role of leadership in the Arab world. It would not be worth restarting these talks unless the nuclear issue could be left off the agenda. Indeed, Egypt continues to press this issue. In November 2009, when the International Atomic Energy Agency censured Iran for withholding information on its nuclear program, Egypt abstained, stressing that the resolution did not mention Israel's "nuclear arsenal."<sup>26</sup>

It should be stressed that ACRS made important gains, such as reaching a draft document within less than four years that was as ambitious as the Helsinki Final Act, an agreement signed in 1975 which set extensive rules for cooperation within the CSCE. Moreover, some of the CSBMs agreed upon extended beyond those adopted at the CSCE Stockholm

Conference on CSBMs, held in 1986. Considering that these were countries with such a long history of war, this was an impressive achievement. But this did not stop the talks from stalling over the nuclear issues.<sup>27</sup>

## **ACRS: Moving Forward**

It is likely that restarting a full-blown, official ACRS process would probably falter on the same issue – Israel's nuclear weapons. A post-Mubarak Egypt is likely to adopt even more hard-line positions in this area, making significant progress hard to imagine. But establishing the regional security center and reestablishing and modernizing the communications hub should be considered.

# Examining the Feasibility of an OSCE Framework for the Middle East

Given the Cold War and post-Cold War successes of the Organization for Security and Cooperation in Europe, it is tempting to try and apply such a framework in the Middle East. Even during the worst times in the U.S.-Soviet relationship, such as following Moscow's invasion of Afghanistan, the CSCE continued to meet. Indeed, as noted above, the multilaterals were partly modeled on aspects of the CSCE.

The establishment of a Middle Eastern version of the OSCE has been proposed numerous times. It was put forward as early as 1976 by Prime Minister Yitzhak Rabin and was raised again by Jordan in 1991.<sup>28</sup> Foreign Minister Shimon Peres raised the issue with U.S. Secretary of State Warren Christopher in late May 1994, and later with President Bill Clinton. Article 4 of the Israel-Jordan Peace Treaty of October 1994 specifically calls for a Conference on Security and Cooperation in the Middle East, modeled on the CSCE. British Foreign Secretary Malcolm Rifkind proposed an OSCE-type Organization for Cooperation in the Middle East in November 1996. Prime Minister Benjamin Netanyahu expressed his support for the British initiative in a speech to the OSCE in December of that year.<sup>29</sup>

As Netanyahu is Israel's current prime minister, the lessons he drew from the OSCE experience in 1996 should bear scrutiny. For Netanyahu, the lessons involve setting "fundamental norms" to accompany negotiations, most prominently the agreement to refrain from the threat or the use of force, amounting to a kind of code of conduct. He stressed that security must be regional, and finally, that even when tension is at its highest, "contact between former adversaries must remain constant." Netanyahu seemed to conceive of an OSCE Middle East as a kind of safety net for the peace process.

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Scholars who have studied the multilaterals closely and the ACRS in particular differ on the advisability of an OSCE-like system for the Middle East. Dalia Dassa Kaye argues against it, stressing that while the multilaterals appear to lend themselves to a CSCE-like structure, "a CSCE process in the Arab-Israeli arena is too broad and ambitious at this stage of Arab-Israeli relations."<sup>30</sup>

Shai Feldman and Abdullah Toukan propose a Middle East Cooperative Security Framework (MECSF), based on Article VIII of the UN Charter, which calls for the establishment of such regional organizations to maintain peace and security. It would be a security framework for action on conflict prevention, run by the states themselves. They propose that the framework integrate the Regional Security Center (RSC), which the parties agreed in principle to establish in Amman, with branch centers in Doha and Tunisia.<sup>31</sup>

Michael McFaul, professor of political science at Stanford University and currently Special Assistant to the President and Senior Director for Russia and Eurasian Affairs at the National Security Council, has Obama's ear on democracy promotion, including the Middle East. In his *Advancing Democracy Abroad: Why We Should and How We Can*, completed just before entering the administration, McFaul suggests the creation of a Helsinki process for the Middle East, spearheaded by a multilateral security organization similar to the OSCE. Determining membership would be difficult, but to be successful it would have to include

all the Arab countries, Turkey, Iran, and perhaps even Afghanistan and Pakistan. The U.S. and other international actors should also join.

The agenda of the organization, McFaul recommends, should initially focus on “Basket One” of the Helsinki process, namely security. Of course, in the Helsinki process this also included, at the insistence of the Soviet Union, territorial integrity and the recognition of borders – issues still greatly in contention between Israel, the Palestinian Authority, and Syria and awaiting a final resolution. But the sides could commit themselves to these ideals, pending a resolution.

McFaul is aware that his proposal is a long shot, but it is convincing, given the relations that existed in Europe during the period of the CSCE-OSCE. The most compelling part is his idea that the organization would provide an ongoing forum for enemies to meet, forcing them to develop agendas for each meeting. “Moreover, an ongoing Middle East security conference would compel politicians to develop an agenda in preparation for each summit. Institutionalized meetings, rather than ad hoc encounters, have the advantage of set dates and the same actors. A permanent organization also would create bureaucracies and expertise.” Fostering security, he argues, would foster democracy, as it did in the Helsinki process, argues McFaul.<sup>32</sup>

The place to explore ideas put forth by Netanyahu, Feldman and Toukan, and McFaul, after adequate preparatory work, should be the multilateral talks.

## A Way Forward: Restarting the Multilateral Talks

The last attempt to restart the multilaterals was in February 2000, when progress on the Palestinian and Syrian tracks facilitated the convening of a meeting of the Multilateral Track Steering Group in Moscow, the first time it had met since 1995.<sup>33</sup> Venues and dates were set for the reconvening of all the working groups, but momentum was soon lost as the bilateral talks slowed down after the Palestinians rejected Israel's Camp David proposals and embarked on the Second Intifada. But ACRS Track II activity continued apace, reaching by 2001 about eighty workshops.<sup>34</sup>

Admittedly, the multilaterals became bogged down as progress was halted on the bilateral tracks. Yet the present constellation actually presents an opportunity for jump-starting the peace process once again, and the multilateral talks should take the lead.

In fact, today violence is quite low, particularly in the West Bank.<sup>35</sup> Israeli-Palestinian security cooperation has vastly improved, with the help of the United States. While it is true that Gaza is still licking its wounds after Hamas provoked an Israeli attack in late 2008, the West Bank is thriving. In September 2009 the World Bank issued a positive report about Palestinian economic growth. In November 2009 Quartet representative Tony Blair told CNN that West Bank economic growth may have reached double digits.<sup>36</sup> Israel has lifted many checkpoints, initiated a partial (Israel does not consider Jerusalem a part of the West Bank) and limited settlement freeze, and there seems to be a newfound optimism in the West Bank.

The general assessment of most researchers and observers is that the multilateral talks made substantial progress, although few conclusive results were obtained. Nearly two decades have passed since they were initiated. The period of the talks, roughly 1991-1995, saw an expansion of official people-to-people contacts that also yielded hundreds of Track II meetings.

While the talks lost momentum when trouble arose on the bilateral tracks, it is now time for another serious look at multilateral talks precisely because the bilateral tracks are heading nowhere for the time being. Restarting the talks will deal with real problems of the region, which are not all connected to the Arab-Israeli conflict. With the exception of ACRS, which would probably continue to falter because of the nuclear issue, all other working groups could be reconstituted. But two accomplishments of ACRS, the Regional Security Center and the communications network, which began operating in March 1995 using a portion of the OSCE network, could be reconstituted and modernized, and even expanded to include the agreed-upon permanent hub in Cairo.<sup>37</sup>

This renewed multilateral framework would meet regularly, even during times of tension, as a kind of safety net for the peace process. These would be regular meetings, with mandatory attendance, as was the case during the Helsinki Process.<sup>38</sup> This would add a degree of permanence to the arrangement, as well as making it politically safe for Jordan and Egypt to continue their relations with Israel.

Such a step requires a mature realization on the part of regional and world leaders that the peace process needs to be nurtured, even in its most difficult moments. The United States and Russia (or perhaps the Quartet) need to seriously explore the restarting of the talks. This kind of exploration needs to be done quietly. For President Obama in particular, this offers the prospect of reorienting and reinvigorating his Middle East policy in a more realistic direction, and offers the further possibility of real achievement. But he would have to bring his personal prestige and that of his office to bear in order for this work.

One advantage of a reconvening of the multilateral talks is that they would not really need any new concessions, as the framework has already been set up. President Obama's first attempt at Middle East peace-making foundered when he tried to exact normalization gestures from the Gulf states, and particularly Saudi Arabia. But in the case of relaunching the multilaterals, there would be no need for such steps because the parameters of the talks have already been agreed upon, and Saudi Arabia has taken part. There would be no need to reopen negotiations about the subjects to be discussed or aspects of representation, since these were settled long ago.

As part of the new arrangement and to get the talks started, the Arab states which previous had diplomatic relations with Israel and broke them off should reestablish them at the previous existing levels. These states are Mauritania, Tunisia, Morocco, Oman, and Qatar. Bahrain did respond positively to President Obama's calls for normalization with Israel in July 2009, with a *Washington Post* op-ed by the Crown Prince, Sheikh Salman bin Hamad Al Khalifa, in which he called for better communication between Arabs and Israelis. The Crown Prince was echoing a call his foreign minister made in October 2008 for a regional organization in the Middle East, "even if we don't recognize each other."<sup>39</sup> Bahrain should therefore be encouraged by Washington to take the extra step of establishing diplomatic relations with Israel.

In order not to abandon the Israeli-Palestinian track entirely, the idea of a long-term interim agreement should once again be considered. Raised in the past by former Prime Minister Ariel Sharon and Foreign Minister Avigdor Lieberman, the agreement would concentrate on security and economic prosperity. As Robert Malley and Hussein Agha argue, "if an end-of-conflict settlement is out of reach and the status quo out of the question, options that fall somewhere in between deserve at least serious exploration."<sup>40</sup>

If the multilaterals improve the atmosphere, they might facilitate the conclusion of a bilateral agreement. Internal Palestinian documents leaked to al-Jazeera revealed a more progressive Palestinian position in private than the one stated in public. Boaz Ganor of the Interdisciplinary Center Herzliya (IDC) makes the point that an agreement has been foiled not so much by the distance between the parties, but because both sides fear that an agreement would be highly unpopular at home.<sup>41</sup> The right-of-center Yisrael Beitenu Party, led by Foreign Minister Avigdor Lieberman, holds the keys to Netanyahu's coalition. Mahmoud Abbas is fearful of Hamas' reaction, and the reaction of the substantial refugee population. Ganor proposes that both sides initial an accord, but make its acceptance conditional upon a referendum that would ratify the agreement.

## A Code of Conduct

One way of enabling all sides to climb down from their respective trees would be to determine an agreed-upon "Code of Conduct" for the negotiating process that would bind all concerned, satisfy their requirements in general terms, and hence obviate the need to impose individual and partisan preconditions. This could enable each side to proceed within the confines of the agreed code. Alan Baker, Director of the Institute for Contemporary Affairs at the Jerusalem Center for Public Affairs, is former Legal Adviser to Israel's Foreign Ministry and former Ambassador of Israel to Canada, and participated in the negotiation and drafting of the various agreements comprising the Oslo Accords. He has proposed the details of such a code based on the following principles, equally applicable to all:

1. All negotiating parties acknowledge and reaffirm the continued validity and relevance of previous agreements between them, and specifically reaffirm the preambular paragraphs of those agreements by which they recognize their "mutual legitimate and political rights."
2. Within the context of the negotiations, and with a view to ensuring a positive ambiance, the representatives of all negotiating parties will refrain from expressing any reservation or threat regarding the subject matter of negotiations, their continuation, the anticipated outcome of any topic, or the negotiations in general.
3. All negotiating parties will refrain from dictating preconditions for entry into, continuation of, or completion of negotiations on any topic.
4. All negotiating parties, when discussing any specific issue, will refrain from actions related to that issue that could influence the outcome of negotiations on that topic, or on the negotiations in general.
5. All partners to the negotiating process will seek, as partners, through their public statements and interviews, to ensure ongoing public support for and encouragement of the negotiating process, as well as a positive negotiating ambiance, and to this end will refrain from derogatory statements regarding other parties to the negotiation or their representatives.
6. With a view to maintaining a constructive negotiating atmosphere, the parties will refrain from initiating or supporting actions in international or nongovernmental organizations, or in foreign countries, directed against another party or its representatives, leaders, or officials.
7. With a view to maintaining a bona fide negotiating atmosphere, the parties will refrain from initiating, organizing, or supporting economic or other sanctions of any kind on another party, its representatives, or commercial enterprises.

8. Negotiating parties will ensure freedom of movement by representatives of the other negotiating parties to all locations in which negotiations are being conducted.
9. Every effort will be made to avoid unilateral cessation of the negotiations, and any issue that could cause such cessation will be discussed and clarified through open diplomatic and other contacts.<sup>42</sup>

Dennis Ross, U.S. envoy to the Middle East from 1988-2000, and now Special Assistant to the President and Senior Director for the Central Region, also calls for a “code of conduct” between the contesting parties which would rule out the “bad behaviors” each side finds objectionable. He argues forcefully for a major expansion in “people-to-people” programs to decrease public incitement.<sup>43</sup>

The idea of a “Code of Conduct” could go beyond the bilateral negotiations and encompass those countries signing on to the multilateral track. It would be based on the code of conduct embodied in the Helsinki Final Act of 1975.<sup>44</sup> The CSCE which it established began to operate despite the enormous political gaps between NATO and the Warsaw Pact countries on such sensitive issues as borders. Israel and Jordan are already committed in their 1994 Treaty of Peace to establish a Middle Eastern version of such a framework. While not every aspect of that code is applicable to the current Middle East situation, points could include refraining from the threat or use of force; the peaceful settlement of disputes; non-intervention in internal affairs; respect for human rights and fundamental freedoms, including freedom of thought, conscience, religion, or belief; and fulfillment in good faith of obligations under international law.

Subscribing to this code of conduct could also facilitate the advancement of democracy in those Arab countries currently undergoing turmoil. The head of the Israeli parliamentary opposition to Netanyahu, Tzipi Livni, has proposed a “universal code for participation in democratic elections” that is worth considering:

This would include requiring every party running for office to embrace, in word and deed, a set of core democratic principles: the renunciation of violence and the acceptance of state monopoly over the use of force, the pursuit of aims by peaceful means, commitment to the rule of law and to equality before the law, and adherence to international agreements to which their country is bound.<sup>45</sup>

## Conclusions

Although the world is focusing on the “Arab Spring,” the Palestinian Authority is working to drum up support for a resolution at the UN General Assembly in September that would recognize a Palestinian state in the territory captured by Israel in the 1967 War. “We are facing a diplomatic-political tsunami that the majority of the public is unaware of and that will peak in September,” Israel’s Defense Minister Ehud Barak said in March.<sup>46</sup> Restarting the multilateral and bilateral Palestinian-Israeli talks along the lines discussed above would ameliorate the possible derailing of the peace process as a result of the unilateral Palestinian initiative.<sup>47</sup> Agreeing on a code of conduct for the multilateral and bilateral tracks would facilitate cordial relations and offer the possibility of Arab countries developing in a more democratic direction. In this manner, the “Arab Spring” might actually bear fruit.

\* \* \*

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# Notes

\* The author would like to thank Jonathan Fluger for his thorough research assistance and incisive comments.

- 1 During talks with Palestinian Authority President Mahmoud Abbas in 2008, Israel offered more on the key issues (borders, refugees, Jerusalem, settlements) than any previous Israeli administration. For details of the offer, see Bernard Avishai, "Olmert's Unprecedented Offer," May 4, 2009, [talkingpointsmemo.com](http://bit.ly/5gN6N9), <http://bit.ly/5gN6N9>; Greg Sheridan, "Ehud Olmert Still Dreams of Peace," *The Australian*, November 28, 2009; Aluf Benn, "Olmert's Plan for Peace with the Palestinians," *Ha'aretz* (English), December 17, 2009 (includes a map).
- 2 Jackson Diehl, "Abbas' Waiting Game," *Washington Post*, May 29, 2009.
- 3 Josh Rogin, "Revisiting Obama's Riyadh Meeting," *The Cable*, ForeignPolicy.com, July 17, 2009; Dion Nissenbaum, "Despite Obama's Appeal, Saudis Unlikely to Push Mideast Talks," *Miami Herald*, July 26, 2009; Glenn Kessler, "No Incremental Steps for Peace, Saudi Says," *Washington Post*, August 1, 2009; Turki al-Faisal, "Land First, Then Peace," *New York Times*, September 13, 2009.
- 4 Dalia Dassa Kaye, *Beyond the Handshake: Multilateral Cooperation in the Arab-Israeli Peace Process* (New York: Columbia University Press, 2001), p. 47.
- 5 James Baker, *The Politics of Diplomacy: Revolution, War and Peace, 1989-1992* (New York: G.P. Putnam, 1995), pp. 115-116. Baker had made an earlier effort in 1990 with the Shamir government and the PLO, but according to Baker it failed because of PLO terrorist attacks and Israeli recalcitrance. Baker, pp. 128-132.
- 6 Baker, pp. 414-417.
- 7 Kaye, p. 50.
- 8 Baker, p. 459-460.
- 9 The fate of the bilateral negotiations is well known. Israel's talks with Syria and Lebanon stalled, and the talks with the Palestinians were superseded by the Oslo negotiations, which culminated in the Oslo Accords of 1993. Jordan and Israel signed a peace accord in 1994.
- 10 This analysis draws on two excellent websites on the multilaterals: The Middle East Multilateral Negotiations website of the University of California's Institute on Global Conflict and Cooperation (<http://bit.ly/6p35Lu>), and the site maintained by Israel's Ministry of Foreign Affairs (<http://bit.ly/7W1w1e>). The most authoritative scholarly take on the multilaterals is Dassa, *Beyond the Handshake*.
- 11 Dassa, p. 52.
- 12 Cited in Dassa, pp. xiii-xiv.
- 13 Dassa, p. 236.
- 14 This section draws on the Israeli MFA website, as well as that of McGill University's Palestinian Refugee ResearchNet (<http://bit.ly/8tPrvU>).
- 15 Rex Brynen and Jill Tansley, "The Refugee Working Group of the Middle East Multilateral Peace Negotiations," *Israel-Palestine Journal*, vol. 2, no. 4 (Autumn 1995).
- 16 "Canadian FM to Peres: Canada is willing to renew the multilateral refugee committee under Canadian auspices," IMRA, October 21, 2009, <http://bit.ly/4uzoJA>.
- 17 See MEPP Multilateral Negotiations Working Group on the Environment, a website on the EWG run by the Japanese Ministry of Foreign Affairs (<http://bit.ly/8PiP1E>).
- 18 For a full list, see EWG Projects and Programs, Japanese Foreign Ministry, at <http://bit.ly/8ws84Z>.
- 19 For the full text, see <http://bit.ly/54VLeT>.
- 20 For the full text, see <http://bit.ly/6t3xKB>.
- 21 See the MEDRC website at [www.medrc.org](http://www.medrc.org).
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