

Testimony of David Makovsky
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“Middle East Peace: Ground Truths, Challenges Ahead”
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Mr. Chairman, Ranking Member Lugar, and Distinguished Members of the Committee:

Thank you for the opportunity to appear before this Committee this morning to discuss a subject whose future holds great importance for U.S. foreign policy.

To date, the Israeli-Palestinian issue has not worked out as the Obama Administration had hoped. The picture is mixed. While the developments on the ground in the West Bank have shown promise and hope, the top-down political negotiations have not only made little progress, but have even regressed. We have gone from a point where Israeli Prime Minister Olmert and Palestinian President Mahmoud Abbas were at advanced stages of negotiations, to a point where there have been no negotiations at all between the parties for nearly a year. There may be several reasons for this, yet as President Obama himself has publicly admitted, it is due in no small measure to an early miscalculation by Washington that triggered a series of events and expectations that could not be overcome during the Administration's first year.

On Wednesday March 3rd, Arab foreign ministers gave their long-awaited support for Abbas to participate in proximity talks, whereby Senator Mitchell will shuttle between Israelis and Palestinians. Such talks must be a transition to direct talks between the parties themselves. In contrast, if these talks become an alternative to direct talks, they will fail. It is impossible for any party or any country to make the most vital decisions possible without the confidence of dealing directly with the other side.

The issue is where to focus on the substance of talks. My point of departure on this issue is that I think the prospect of the Israelis and Palestinians reaching a grand agreement on all the core or so-called final status issues is very unlikely at this time. The four core issues are: the rights of refugees, control of Jerusalem, security and territory/borders. The first two issues seem unlikely to be resolved anytime soon.

Refugees and Jerusalem are narrative issues, and both are tied into the historic connection of the people to this conflict. Jerusalem has both religious and nationalistic dimensions for Israelis and Palestinians and for key constituencies in and outside the region. The refugee issue taps into the self-definition of Palestinians, including many Gazans. Yet, neither Israeli nor Palestinian leaders have conditioned their respective publics to deal with these third rail issues. In the case of refugees, many of the descendants come from Gaza, which is not even under the control of the Palestinian Authority at this time, but

rather is controlled by Hamas. This even further complicates the refugee issue. In short, whenever it is all or nothing in the Middle East, it is always nothing. We should not set ourselves or the parties up for failure. Too much is stake. Hamas rejectionists are waiting in the wings for pragmatists like Abbas to fail. Furthermore, Israel will be facing demographic challenges, which will threaten its goal of ensuring its future as a democratic and Jewish state. With these increasingly high stakes, it is vital that we concentrate our efforts on areas that are amenable to progress.

Instead, we should focus on what is attainable. The issue where the gap between the parties is narrowest is land. This might sound counter-intuitive to some because many think the conflict is only about land, but this is not the case. This is why I have advanced the idea of 'borders first' for the past year, and was delighted to see that Senator Kerry endorsed it in a recent speech in Qatar. In a press conference in November, Senator Mitchell said, "My personal and fervent wish is that we will during this process at some point have a resolution of the issue of borders so that there will no longer be any question about settlement construction, so that Israelis will be able to build what they want in Israel and Palestinians will be able to build what they want in Palestine."¹

In negotiations between Olmert and Abbas in 2008 and 2009, their differences were over only 4.5% of the land. Olmert suggested retaining 6.4% of the West Bank in return for equivalent land inside Israel. In a November 2009 interview Olmert stated, "It might be a fraction more, it might be a fraction less, but in total it would be about 6.4 per cent."² Abbas thought the figure should be 1.9%. Both said any land taken by Israel could be swapped for an equal amount of land inside Israel. The narrow percentage differences coupled with the fact that both parties agreed to the idea of land swaps suggests that the differences regarding land are bridgeable. For example, 80% of all Israeli settlers, which is approximately 240,000 people, live in less than 4.5% of the territory being negotiated, largely adjacent to the pre-1967 boundaries. The remaining 60,000 settlers live in the 95.5% remainder of the West Bank. As these statistics illustrate, the so-called insurmountable obstacle of settlements is actually relatively open to resolution.

The only way to deal with the settlement issue is to render it moot by subsuming it into peacemaking efforts and heading straight into the final negotiations on territory. There are three distinct advantages to focusing the negotiations on territory now. First, this approach allows the Palestinian Authority to tell its people that it has obtained the equivalent of 100% of the land to be part of a contiguous Palestinian state. As such, negotiations and not Hamas terrorism will be vindicated. The Palestinians can say they obtained what Anwar Sadat received in peace talks with Israel – full withdrawal. Second, Israelis will have something to gain and not just to give. Until now, no Israeli leader has succeeded in legally annexing a single settler, let alone a large majority of them. This approach would give many of the settlers who live in the major blocs a stake in being part of the solution, rather than being part of the problem. They would have their legal status

¹ From Senator Mitchell's press conference on Nov. 25th, 2009; found at: <http://www.america.gov/st/texttrans-english/2009/November/20091125160029ihecuor0.3026021.html>.

² From Ehud Olmert's interview with The Australian, published November 28th, 2009; found at: <http://www.theaustralian.com.au/news/opinion/ehud-olmert-still-dreams-of-peace/story-e6frg76f-1225804745744>.

normalized as part of Israel and they would no longer live in legal limbo, where they have been human bargaining chips for several decades. Their status will be clarified. Finally, for the United States, after many years, the settlements issue would no longer be a thorn in U.S.-Israel relations.

This approach alone will not guarantee successful resolution of the Jerusalem and refugee issues. After success on land, these issues will have to be addressed and a timetable set. At that time, a conscious effort must be made by all parties, including Arab states, to condition public opinion to deal with the remaining contentious issues. Over time, Israel will need to make concessions on Jerusalem, and the Palestinians will need to concede that refugees can only return to the Palestinian state and not to Israel.

The prioritization of land negotiations is not without its problems. I would like to address some of the challenges to this idea. One such challenge is Jerusalem. A Palestinian may ask if by deferring Jerusalem, one is actually conceding this issue. This is a fair question. Obviously nobody wants to trade a political conflict for an incendiary religious one. Moreover, no border can be complete without dealing with Jerusalem. Yet having written a book about the origins of the Oslo accord in 1993, it is not coincidental that Article V of the Declaration of Principles signed on the White House lawn and sealed with a famous handshake listed Jerusalem as a separate category from the issues of borders and settlements.³ The municipal border should be the line until an agreement on Jerusalem is ultimately reached. To allay Palestinian concerns about the changing character of the city, there should be a baseline agreement between the parties, perhaps with the assistance of the United States, whereby it is understood that Jewish and Arab neighborhoods in East Jerusalem will not expand into each other. A strict freeze has shown to be impractical, but a no-expansion approach into the neighborhood of the other is something that should be attainable. An assurance that Jerusalem will be addressed in the future would be an important sign of confidence.

Another challenge will come from some Israelis who may ask whether such an approach will minimize their leverage in future talks, since they are playing their 'land card' now, so to speak. Clearly, if a grand deal on all of the core issues could be struck it would be preferable, yet privately, many of the same hesitant Israelis are extremely dubious that a grand deal is achievable. Moreover, it is hard to escape the idea that there will be trade-offs between the narrative issues anyway. In other words, it is unlikely that playing a 'territorial card' will obviate the need of addressing Jerusalem.

A third set of challenges will be the timetable of when a borders first approach will be implemented. This could be left to the parties. Some may say that a full agreement on the core issues is within reach and therefore, implementation should happen all at once. Others say full agreement will take considerable time, and therefore, it is best to implement the territorial dimension now. This second approach will create considerable

³ The Oslo Declaration of Principles, Article V, Provision 3 states: "It is understood that [permanent status] negotiations shall cover remaining issues, including: Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbors, and other issues of common interest." Full text can be found at:

<http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Declaration+of+Principles.htm>.

political pain for Israel as it may mean Israel evacuating –many forcibly -- at least 60,000 settlers when there is no guarantee of a peace treaty. (To give one a sense of context, this would be more than seven times the number of settlers who were withdrawn from Gaza in 2005. Moreover, the withdrawal would be taking place in the West Bank, which Jews deem as the heart of biblical patrimony.) In this context, it may be advisable to have not just a non-belligerency agreement, but also a statement by both sides that would have resonance. It would be useful for each side to agree in the borders negotiations that they recognize one other. Specifically, Israel would accept the idea of a Palestinian state as a homeland for the Palestinian people and Palestinians would accept the idea of Israel as a homeland for the Jewish people. Each has a historic claim to the land, but it must be shared for the benefit of each. Neither party should be seen as prejudicing in any way the full civil rights of any citizen of either country, nor should it prejudice negotiations over refugees.

This will enable an Israeli leader who will lead such a very difficult withdrawal to tell the settlers that their mission is completed as there will be an acknowledgment of a historic Jewish connection to the land. (Some have argued that the settlers on the wrong side of the line should be allowed to stay within Palestine. This has surface appeal, but it will run into a host of problems. The government of Israel will not want to leave behind settlers whom it cannot protect with its own security forces, especially given the trauma between the Palestinians and settlers over the last four decades.)

A fourth set of challenges will be the issue of security. At the Camp David II talks in 2000 led by President Clinton, this was the most straight-forward issue that was technical in character. Much has happened subsequently. Security cooperation crashed in the second intifada between 2000 and 2004. Hamas came to power in Gaza, stand-alone rockets became a factor, and the idea of borders management after Israeli withdrawal has been undermined by the expansion of cross-border tunnels under Gaza for rocket smuggling. Many Israelis see the Gaza withdrawal in 2004 as triggering thousands of rockets which culminated in the Gaza war of 2008-2009. Therefore, as part of the growing cynicism of publics on both sides about the very enterprise of peacemaking, Israelis increasingly equate withdrawal with vulnerability and not security. (Palestinians and Israelis are equally jaded about the idea of grand peace conferences that do not yield results.) Therefore, the security dimension needs to be considered very carefully.

A fifth set of challenges are not unique to a borders first approach, but will be present in any serious peace effort. These challenges are related to Iran's quest for a nuclear weapon. I recently wrote a book with Dennis Ross, who is currently a senior White House official in the Obama Administration, entitled *Myths, Illusions and Peace*. In this book, we deal with the issue of linkage. There are no strict linkages between the Palestinian and Iranian issues. Regardless of progress on peace, Iran will seek a nuclear weapon. Moreover, senior Arab security officials say privately that they do not see progress on peace as decisive in influencing Arab efforts to halt Iran in any way. The Arabs face many problems, including domestic challenges, in this regard. However, a change in climate could at the margins make it somewhat harder for Iran to exploit this issue. Yet, if it is clear that Iran will have a nuclear weapon, the prospects for the Middle East peace process are very bleak. Rejectionists will be emboldened and moderates will

be intimidated. Alternatively, there is no doubt that if the Israelis and the Palestinian Authority did not think Iran was on its way to being a nuclear problem and a regional power in a manner that will boost Hamas, their evaluation of risk would certainly drop.

These challenges lead many to believe the current proximity talks will fail. In order for the talks to succeed, it is important that they are not pro-forma and not just a means for the Palestinians to force the US to put forward its own plan. Historically, the Arab states and the Palestinians have always hoped that the US would "deliver" Israel, but this has virtually never materialized. Last summer, the Obama Administration raised Arab expectations that it would deliver a settlement freeze, but it fell short. Obama did not even mention these negotiations in the State of the Union. The US is smarting from the fact that the Arab states were supposed to match Israeli moves on settlements with gestures towards Israel, but failed to do anything. The Arab states may say that the settlement moratorium is not 100 percent of what they would like. No negotiation is what one side wants. Yet, even if they think Netanyahu only moved 70%, they have responded with zero percent reciprocity. It is unlikely the US will go down this road again.

There is a big difference between the US imposing a solution on the parties and the US putting forward a bridging proposal after direct negotiations have brought the parties closer to a deal. It is possible to bridge over a river, but not over an ocean. A US bridging proposal may occur, but only after direct negotiations have been tried in earnest. The Palestinians need to be careful what they wish for. If the Palestinians want the US to be explicit in its views regarding the final disposition of Jerusalem, they will get a US that is every bit as explicit about the Palestinian refugees returning to Palestine, and not to Israel.

In short, the US can supplement negotiations but cannot substitute for them. Speaking at the Washington Institute for Near East Policy last Friday, Israel's Defense Minister Ehud Barak said that Abbas should "test" Netanyahu's sincerity instead of pre-supposing any outcome. Netanyahu feels he has traversed an ideological distance over the last year as he overturned his own opposition to a Palestinian state.

For all the problems of restarting peace talks during 2009, there was an important bright spot between Israelis and Palestinians. There were signs on the ground in the West Bank of economic progress, as well as heightened security cooperation between Palestinians and Israelis. Of course, economic development is not a substitute for political progress, but it is a key component that could facilitate steps forward and moderation. Economic progress enables the public to gain faith that the future can be better, and it creates political space for the leadership to gain more political capital with success. The hope is that economic improvement facilitates political moderation as people develop a stake in success. Palestinian polls consistently show that Gazans living under Hamas and West Bankers alike would prefer to live in the West Bank where there is economic progress, rather than living under the repressive hand of Hamas in Gaza.

International Monetary Fund officials report that economic growth in the West Bank is making major strides despite a world-wide recession. They say that growth could reach as much as 7-8 percent in 2010 if Israel continues its current policy of relaxing security

restrictions, most notably the removal of roadblocks. It is estimated that Israel has removed all but a dozen of the 45 roadblocks that were in place to prevent suicide bombers. Among the benefits of the relaxation of restrictions is that it enables Israeli Arabs to enter the West Bank, engage in commerce and generate jobs. Unemployment in the West Bank may be high by American standards, but it has been cut by a third in the last few years.

The following examples of growth provide a glimpse of the changes occurring in the West Bank. There have been an approximately 2,000 new Palestinian small-businesses and other companies registered with PA since 2008. A second new cell phone company in the West Bank, Wataniya Palestine, was recently launched. The introduction of this second mobile phone company is expected to inject US\$700 million investment into the Palestinian Territory and to generate \$354 million in fiscal revenue for the PA. It will also create thousands of jobs. Another project underway is Rawabi, or “hills” in Arabic, which will be the first-ever planned Palestinian city. Located about five miles north of the Palestinian provisional capital of Ramallah, it is expected to have 40,000 residents at its formation. In Bethlehem, the rise of tourism has already yielded 6,000 new jobs, and tourists are filling up hotels in the city, marking a significant change. Previously, due to an uncertain security situation, tourists feared staying overnight in the West Bank, but the security is indeed improving. Palestinian security forces have been trained with American and European money and guidance. In 2002, it is estimated that 410 Israelis were killed in attacks emanating from the West Bank. In 2009, the figure was five.

Barak has publicly stated that a key factor in this improved situation is Israeli-Palestinian security cooperation. This dramatic drop in deaths from attacks originating in the West Bank has allowed Israel to take more risks than it would have even two years ago. The improvement in security has not just facilitated economic progress, but has meant that chaos no longer reigns in the West Bank. In a sharp departure from the past, Palestinian polls show that most Palestinians feel safe in their towns. For the first half of the decade, Israeli and Palestinian officials shot at each other, but now they are working together to prevent Hamas from expanding a foothold in the West Bank. Beyond the security establishments of both sides, there are other factors at play. Palestinian President Mahmoud Abbas and Palestinian Prime Minister Salaam Fayyad have set an anti-violence tone. Fayyad has worked very closely with his commanders on the ground to ensure coordination with Israeli counterparts. Added special mention should be given to the excellent work of US Lt.-General Keith Dayton and his team. Dayton has spearheaded the training of over 2,000 Palestinian troops in a bid to professionalize the Palestinian security services. Netanyahu also deserves credit in prioritizing economic growth by lifting some key restrictions. Israeli military officials say that their cushion to lift such restrictions as West Bank roadblocks is a function of the Israeli security barrier, which limits the amount of suicide bombers who can penetrate into Israel.

Perhaps the most exciting idea that emerged from the West Bank in 2009 is Fayyad’s idea of state-building or creating institutions as a precursor to Palestinian statehood. Fayyad has won over the international community during the last few years with his focus on transparency and his opposition to corruption. He has a doctorate in economics, and excelled at the World Bank/International Monetary Fund before first becoming

Palestinian finance minister and now prime minister. The US Congress, which was reluctant during the Arafat period to give any money to the PA, no longer worries that its financial assistance will go to private coffers. This is a tribute to the stature of Fayyad.

Fayyad's idea of state-building is a departure from the approach favored by his predecessor Yasser Arafat. Fayyad's approach is nothing short of a new paradigm for Palestinian nationalism. Arafat always defined Palestinian nationalism in revolutionary terms – physical defiance, armed resistance, while Fayyad seems to be identifying institution building as the ticket to statehood.

There are profound implications to these very different approaches. Arafat viewed the Palestinian condition as guaranteeing a sense of victimhood and entitlement – Palestinians were responsible for nothing. The world owed them. In contrast, Fayyad seems to see institution building as a way of creating a culture of accountability among Palestinians. In the Arafat era, airports, railroads and sea ports seemed like adornments of a sovereign state, not central vehicles to achieving statehood. In contrast, Fayyad has said that building the PA institutions is important “to gain the international community's respect and pass its unjust test of building these institutions under occupation.” While Fayyad has yet to fully elaborate about how state-building would be accomplished beyond using donor aid from around the world to assist the formation of legal, economic and security institutions, he wants to maintain the momentum of his previous economic plans until a political breakthrough occurs. This way he can keep his security plans in place during a time of political void that might devolve into unpredictable violence.

It is said that after George Bush visited Israel for its 60th anniversary in May 2008, Fayyad told him that he should look to the example of the Zionists, meaning to point out that the Israelis built the institutions of their state for 30 years before they declared it. While Fayyad certainly would not accept that timetable, he accepts the principle that statehood should be earned. In general, these economic and security developments provide hope of a brighter future for both peoples in 2010.

While my remarks make abundantly clear that I have a favorable view of Prime Minister Fayyad for the important new elements that he has introduced to the political equation, I would be remiss if I did not voice caution about two sets of relationships that will be important to focus on in the future. One is the Abbas-Fayyad relationship. On one hand, Abbas's veteran credentials in the Fatah party provide cover for Fayyad as he pursues his course. Yet, there have been clear differences between the two over appointment of personnel and even a sense that Abbas may be somewhat envious at times of the international attention showered on Fayyad.

The second set of relations that merits attention is Fayyad's relations with Israel, which have cooled somewhat of late. Specifically, Israel is unsure if Fayyad's focus on non-violent protest will spillover in an unintended violent direction. Moreover, in a bid to cool episodic tensions on the ground, Fayyad has on several occasions in the last few months visited families of Palestinians whose sons have been involved in fatal violent actions against Israel. Israelis see this behavior as sending the wrong signal to the Palestinian people especially because it is coming from someone identified with non-

violence. At least, in one of the two incidents Palestinians claim the violence was not premeditated. Finally, the third source of concern in the Fayyad-Israel relationship is his sense that institution building is a unilateral enterprise that is part of a two year sprint towards statehood. Israelis suspect that this bottom-up state-building is a unilateral move coming at their expense. The irony is that the only way for Fayyad to deliver on institution-building is by working with Israel, given the security dimension of proposed projects and Israel's control over West Bank land. A good working relationship is key for the Fayyad plan to succeed. In short, there are no substitutes for negotiations.

This is precisely why the bottom-up approach cannot substitute for top-down negotiations. The two must go together. Without a top-down approach, the bottom-up approach will be unsustainable over time. Palestinian soldiers will think security cooperation is designed to make Israeli control more palatable, and Israelis will harbor doubts about Palestinian state-building intentions.

While there have been important signs of progress on the ground in the last few years, one must be careful not to extrapolate too much in looking ahead. Much is at stake. If moderates on the Palestinian and Israeli sides do not come together, it will not be surprising if the extremists discredit the moderates and exploit time for their own benefit.