

Middle East Peace: Ground Truths, Challenges Ahead

Testimony by Ambassador (ret.) Daniel C. Kurtzer

Lecturer and S. Daniel Abraham Visiting Professor of Middle East Policy Studies
Woodrow Wilson School of Public and International Affairs, Princeton University
Committee on Foreign Relations, United States Senate

March 4, 2010

Mr. Chairman, distinguished Members of the Committee,

Thank you for the opportunity to testify today about United States policy in the Arab-Israeli peace process. Let me take this opportunity to thank you for the support you gave me during my time as the United States Ambassador to Egypt and Israel. It was a real pleasure to work with you and the Committee.

I have devoted almost forty years to the study and practice of American diplomacy in the Middle East. From this experience, I believe the pursuit of peace between Arabs and Israelis is as important to our country's interests as it is for the parties themselves. I believe peace will enhance Israel's security and well being. And I believe peace will help the United States build stronger relations with our Arab friends in the region.

You have asked this panel to examine ground truths and challenges ahead, and I will address both issues with candor.

Ground Truths

The environment for peacemaking in the Middle East has almost never has been ideal, and it is not ideal today. But, the challenge of leadership is not to await the perfect

circumstances, but to build on the imperfect. Opportunities rarely present themselves; they almost always have to be created. The situation on the ground is hardly ideal, but it certainly is not as bad and the challenges to reviving the peace process are not as daunting as some analysts and pundits would want us to believe.

Today, the Palestinians are divided geographically and politically. Hamas governs Gaza. Palestinian public discourse, including public education, about Israel and Jews is still infused with anti-Semitism, and the infrastructure of terrorism has not been dismantled. In Israel, a right-wing coalition governs, perceived by the Palestinians and others as more interested in enhancing Israel's grip on the West Bank than negotiating a peace settlement based on Resolution 242. Settlement activity continues, despite the highly-conditioned and temporary moratorium on new housing starts. Some Israeli actions in East Jerusalem are provoking Palestinian protests that threaten to upset a relatively calm situation. So, this is not a perfect environment for peace making.

But it is no more challenging an environment than U.S. diplomacy has had to cope with and operate in the past. Creative, active, sustained, bold and determined American diplomacy helped bring Menahem Begin and Anwar Sadat to agreement at Camp David in 1978 and to a peace treaty in 1979. Equally resolute U.S. diplomacy helped bring Yitzhak Shamir and the Syrians, Palestinians, Jordanians, Lebanese and most of the Arab world to the Madrid Conference in 1991 – launching bilateral and multilateral peace negotiations. Indeed, U.S. diplomacy has operated at times within far more complicated and challenging environments than the current situation and has transformed the imperative of peace into progress toward the achievement of peace.

Today, the ground truth in the Palestinian-Israeli arena actually has some important positive elements. Violence is down. According to the Israel Security Agency (www.shabak.gov.il/English/EnTerrorData/Reviews/Pages/terrorreport09.aspx), 2009 saw “a significant decline in the amount of attacks coming from the Palestinian Territories as opposed to previous years.” There were no suicide attacks in 2009. Perhaps most importantly, the Shabak attributes the main reason for the decline in terrorism to “continuous CT (counter-terrorism) activity conducted by Israel and the Palestinian security apparatuses” – i.e., those security forces trained by General Keith Dayton.

President Mahmoud Abbas and Prime Minister Salam Fayyad are making serious efforts to build the institutional infrastructure necessary for statehood. Fayyad announced an expedited program of state-building, something that we and the international community have long advocated. The West Bank economy is in good shape and growing. I saw this first-hand recently in Ramallah.

Public opinion polls in Israel and Palestine still favor a peaceful solution. According to the “War and Peace Index” compiled at Tel Aviv University, as of last October, “about three-fourths of the Israeli Jewish public currently supports holding negotiations between Israel and the Palestinians—the highest level of support registered in recent years.” And, according to noted Palestinian pollster Khalil Shikaki, “a majority of Palestinians (65%-70%) support a two-state solution. Similarly, a majority (75%-80%) supports efforts to negotiate a permanent agreement, a package deal, one that ends the conflict and all claims.” The idea of a one-state solution does not enjoy significant support among Palestinians or Israelis; and proposals for doing nothing –

often couched in language of “managing” the conflict -- will accomplish nothing except to allow the situation on the ground to deteriorate further.

Key leaders have spoken out in favor of the two-state solution. Prime Minister Netanyahu said last June 14, in a major policy speech: “In my vision of peace, in this small land of ours, two peoples live freely, side-by-side, in amity and mutual respect. Each will have its own flag, its own national anthem, its own government. Neither will threaten the security or survival of the other.” On February 2 in Herzliya, Prime Minister Fayyad said the Palestinians want to “live in freedom and dignity in a country of our own, yes indeed alongside the State of Israel, in peace, harmony and security.”

For Israel, in particular, the choices have never been starker. Defense Minister Ehud Barak made this clear when he told the Herzliya Conference on February 2: "As long as in this territory west of the Jordan River there is only one political entity called Israel, it is going to be either non-Jewish or non-democratic. If this bloc of millions of Palestinians cannot vote, that will be an apartheid state."

The situation on the ground is not static. If it does not get better, it will get worse. Absent a dynamic peace process, violence could erupt yet again in the territories. The triggers for such violence are present in the territories, and will become more evident if the two peoples lose hope in the peace making process.

So, the current ground truth in the Middle East is neither a self-evident moment of opportunity, nor what the naysayers and pessimists would have us believe. It is a moment in which deterioration will surely accompany diplomatic stagnation, but also a moment in which strong and determined leadership can move the peace process forward. There is also substantial reason to believe that a most important element of

success will be the role exercised by the United States. Let me then turn to the challenges ahead and the role of the United States.

Challenges Ahead

I speak with great respect for President Obama and Senator George Mitchell, but also great disappointment over what can most gently be described as meager results of American diplomacy this past year. The President got it right, at the outset of the Administration, in declaring that resolution of the Arab-Israeli conflict is a U.S. national interest, not a favor we do for the parties. He got it right when he said that helping to resolve the conflict would be among his Administration's foreign policy priorities. And he got it right when he appointed Senator George Mitchell, a man of great character and integrity and with a proven record in international peace negotiations, as special envoy for the peace process.

From that point on, however, the Administration got everything wrong. In May, Secretary of State Clinton articulated a strong, insistent position on the need for an Israeli settlements freeze: the President, she said, "wants to see a stop to settlements – not some settlements, not outposts, not natural growth exceptions. We think it is in the best interests of the effort that we are engaged in that settlement expansion cease. That is our position. That is what we have communicated very clearly, not only to the Israelis but to the Palestinians and others. And we intend to press that point." And yet, some months later, after prolonged discussions that resulted in a suspension of some Israeli settlement activity in only some part of the West Bank and for only a limited period of time, Secretary Clinton hailed this achievement as "unprecedented." The fact is that

settlement construction activity has not stopped for even one day in the West Bank or East Jerusalem. And Israel has even expanded economic benefits to out of the way settlements as a kind of “compensation” for the government’s decision not to make new housing starts in settlements for ten months. The U.S. diplomatic volte face was surprising enough in its own right; however, it also left the Palestinians in a lurch. President Mahmoud Abbas summed it up recently when he said that Palestinians could demand no less than the U.S. on settlements, and thus the U.S. abandonment of a total settlements freeze cut the legs out from under the Palestinians.

The Administration also tried to elicit confidence building measures from the Arabs, in particular to gain the agreement of Saudi Arabia for the overflight of Israeli civilian aircraft. The President sought this gesture from the Saudis with apparently no groundwork having been done in advance. The President traveled to Saudi Arabia, asked for the confidence building step and was turned down. I want to make clear that I do not understand why, in 2010, the Saudis do not allow normal Israeli civilian air traffic over its territory. Boycotts and similar actions against Israel are unacceptable. But how did this issue rise to the level of personal Presidential attention? Why was there no preparatory work done to see how the Saudis would react and to condition the Saudis to be more receptive? Why wasn’t this issue packaged as part of a larger strategy, instead of being advanced as a stand-alone measure?

It would have made far more sense, in my view, for the President to talk to the Saudis about the Arab Peace Initiative, the Saudi-inspired plan that offers peace, security and recognition to Israel in return for Israel’s withdrawal from the territory

occupied since 1967, the creation of a Palestinian state with Jerusalem as its capital and an agreed resolution of the Palestinian refugee problem. This statement of Arab policy – which need not be seen as the basis for negotiations and does not have to be formally endorsed by the United States or Israel – represents a major advance in Arab thinking. And yet almost nothing has been done, by either the Arabs or us, to use it as a supportive element in the peace process. It seems to me the President should have had a deep discussion with the Saudis about their policy and ours, rather than ask for a single Saudi gesture.

The Administration also hastily arranged a trilateral meeting in New York in September with Netanyahu and Abbas, out of which nothing emerged and which sent Abbas home empty-handed. Since then, the Administration has been trying to arrange proximity talks based on general terms of reference. The very idea of proximity talks is odd and disappointing. After twenty years of direct, face to face Israeli-Palestinian negotiations, is this the best the U.S. can do? Equally, the absence of detailed terms of reference is also problematic. After Prime Minister Olmert and President Abbas have noted publicly that their talks in 2008 advanced peace issues rather substantially, are general terms of reference the best the U.S. can do? Indeed, from press reports, it appears that these terms of reference are based on statements made by Secretary Clinton to the effect that the United States would seek "an outcome which ends the conflict and reconciles" two competing visions: "the Palestinian goal of an independent and viable state based on the 1967 lines, with agreed swaps, and the Israeli goal of a Jewish state with secure and recognized borders that reflect subsequent developments and meet Israeli security requirements." Also, as the Secretary has said, the United

States believes “that it is possible to realize the aspirations of both Israelis and Palestinians for Jerusalem, and safeguard its status as a symbol of the three great religions for all people.”

These are not terms of reference. These don’t reflect a U.S. vision of what needs to be done. These don’t articulate a strategy for moving forward. They don’t send a message to the parties that the U.S. is determined to try to make this effort a success. Strong terms of reference can help shape the negotiating process. They can define what needs to be done and can provide a specific set of guidelines and a compass for arriving at the sought-after destination. Combined with a determined leadership role by the United States, strong terms of reference can make the difference between negotiations that simply get started and negotiations that have a chance to end with success.

A Policy and a Strategy for the United States

To meet the challenges ahead, the United States must adopt a sound policy and commit to sustained diplomacy. We have known for years that interim, incremental or step by step approaches will no longer work. We know that confidence building measures, in a vacuum, do not work and instead inspire lack of confidence. We know that building peace from the ground up, while important, cannot work in the absence of serious negotiations within which this edifice of peace will fit.

There are, in my view, two critical ingredients for American policy -- a clear vision of how the peace process should end, i.e., a U.S. view on the core issues in the negotiations; and a multi-pronged strategy for trying to achieve that vision. Even with

these, we cannot assure success, but we would have a policy and a strategy which are sound, strong and sustainable. I do not favor and my views do not imply a U.S. “plan” that would be imposed on the parties. Rather, the process needs a U.S. substantive set of ideas to get the parties focused on what we will support and what we will not support.

First, the U.S. should articulate its own views on the shape and content of a final peace settlement. Our policy will not be a surprise to anyone, and many of our views will in fact reflect the positions of the parties themselves. These U.S. positions would constitute the substantive core of strong terms of reference:

- ❑ A territorial outcome based on the 1967 lines that results in a 100 percent solution, that is, Israel would retain a limited number of settlements in the major blocs (consistent with President Bush’s 2004 letter to Prime Minister Sharon) and would swap territory of equal size and value to the Palestinians in a manner that assures the territorial contiguity and viability of the State of Palestine. Borders would be demarcated to reflect these minor territorial adjustments, in a manner that would also optimize security and defensibility for Israel and Palestine.
- ❑ All Israeli settlements and settlers will be evacuated from the area agreed as constituting the State of Palestine. The Israeli army will be evacuated consistent with the timetable and other provisions of the final agreement.
- ❑ In Jerusalem, outside the walls of the Old City, a division of the city along demographic lines that will result in two capitals for the two states. The border in

Jerusalem, outside the Old City, should be demarcated to reflect sensitivity to religious and security issues affecting both sides.

- ❑ In the Old City of Jerusalem, the two sides should agree to withhold claims of sovereignty and develop a common approach to the management of the city that protects the claims of the two parties and the interests of all stakeholders in the city.
- ❑ Palestinian refugees will be permitted to exercise their “right of return” to the new State of Palestine, consistent with the laws of that state. Israel will decide on how many refugees will be permitted to move to Israel under family reunification or humanitarian hardship considerations. The two parties will establish a claims commission to reach agreement on compensation for refugees whose status resulted from the conflict. The two sides should examine whether a special commission should be established to study the historical grievances of the two peoples. The international community should establish a fund to help the parties deal with claims.
- ❑ In the negotiations, priority should be given to security concerns and measures that address the needs of both sides. The parties should consider the range of mechanisms available to assist this process, including international or multilateral peacekeepers, observers and monitors; intelligence cooperation; liaison mechanisms; and the like.

These positions and others to be decided by the Administration would constitute the vision of the United States regarding a final peace settlement. They would flesh out

the ideas first enunciated by President Bush in 2004 and repeated by President Obama in 2009. They would represent a sound policy basis for our country.

Once having decided on this vision, the Administration should develop a strategy for trying to realize its vision of peace. This strategy will need to be multi-dimensional, and our diplomats will need to “walk and chew gum” simultaneously. This should also be incorporated into the operational part of the terms of reference.

1. The United States should lay out a substantive negotiations agenda, drawn from the results of previous negotiations, that defines where the negotiations should begin and channels the negotiations toward possible agreements. This would constitute an action-focused negotiating framework that would launch negotiations from where they left off and avoid having the parties start from scratch.
 - a. The U.S. should consider starting negotiations on borders, since an agreement on borders would frame and resolve many other issues.
 - b. If the U.S. decides on a borders-first approach, it should lay out the following principles to underpin the negotiations:
 - i. A borders/territory agreement should reflect the equivalent of 100 percent of the territory occupied in 1967.
 - ii. There should be territorial swaps of equal size and quality based on a 1:1 ratio.
 - iii. There should be equitable sharing/allocation of shared resources (water, minerals, etc.).

- iv. The negotiations on territory should focus on a narrow definition of settlement blocs which hold the largest concentration of settlers.
 - v. The negotiations should avoid as much as possible impacting on Palestinian daily life, should ensure territorial contiguity and the viability of Palestinian state, and should not include population swaps.
 - vi. Borders-first negotiations will need to be complemented by simultaneous final status negotiations on Jerusalem
2. Throughout the negotiations process, the U.S. would need to decide on a pro-active, interventionist U.S. role in order to narrow gaps and bridge differences.
 3. The U.S. and others should work cooperatively to build regional and international support structures and “safety nets” for the process. In the region, the Arabs should be encouraged to activate the Arab Peace Initiative, to transform it from an outcome of successful negotiations into a living catalyst and support mechanism during negotiations. Outside the region, the U.S. should work closely with the many special envoys and international elements interested in supporting negotiations, so as to minimize duplication of effort and maximize benefits to the parties themselves.
 4. The U.S. should revive and restructure multilateral discussions on issues such as economic development, regional infrastructure, health, water, environment, security and arms control, and the like. These discussions should be led by strong chairs, involve primarily regional parties, and have action- and goal-oriented agendas.

5. Palestinian state-building activities need to be encouraged and accelerated, using Prime Minister Fayyad's two-year plan as basis. The U.S. and others should increase resources directed to building up Palestinian security capacity, and Israel should take steps to facilitate these efforts.
6. Firm U.S. diplomacy should seek a complete cessation of Israeli settlement activity and sustained Palestinian action against terrorist infrastructure and incitement. The Administration and the Congress should reach understanding on a set of calibrated consequences should one or both parties continue activities seen by the U.S. as inconsistent with the peace process.

This vision and this strategy will put the Administration's policy on strong footing. They are not a guarantee of success, and the diplomacy of getting the parties to the negotiating table will be arduous. But we have the diplomatic experience and expertise to make it work.

As we engage in the period ahead, several contextual issues will need to be addressed. Some analysts believe that the U.S. should engage Hamas now and thereby help Palestinians achieve political reconciliation. I disagree. There is no evidence that I have seen indicating any change in Hamas' firm rejection of a negotiated settlement of the dispute or willingness to reconcile with Israel. There is no reason now to reward this radical behavior and ideology. To be sure, if an agreement is reached between Israel and the PLO, there will need to be a method for validating this outcome among Palestinians, for example, a referendum or a new election. At that time, against the

backdrop of a successful negotiation, Hamas will have an opportunity to argue its views before the Palestinian public and before world public opinion.

A second issue relates to U.S.-Israeli bilateral relations which have been strained during the past year. The Obama Administration, and the President himself, need to do a better job of talking to the Israeli people. We need to explain our policies better, and we need to give Israelis a chance to see who our leaders are and how they think. Israelis need to feel confident that Americans will stand by Israel to assure its safety and well-being. At the same time, Israelis would be advised to dismiss the curious idea that Obama is not a friend of Israel's. He is, and he is a supporter of the idea of peace. Better dialogue and communications should remove this irritant from the atmosphere.

Third, there is no reason for humanitarian stress to persist in Gaza or for the people of Gaza to suffer because of the misdeeds of Hamas. Both Israel and Egypt need to be encouraged to open Gaza's borders to necessary humanitarian relief and to the requirements of normal life, such as building materials and the like. Neither Israel nor Egypt needs to sacrifice its security interests in this regard, but they must apply those interests in a manner that don't further exacerbate the humanitarian distress of Gaza's population.

Finally, there are two critical populations which have essentially been excluded from the peace process but whose views are critical for the process's success – namely, Israeli settlers and Palestinian refugees. There is little that the Administration can do to persuade these constituencies of the long-term value of peace. But we can support Track II and people to people activities that encourage refugees and settlers to talk

among themselves about these issues. Both of these communities need to move from the unrealities that they cling to and begin thinking about pragmatic outcomes that serve the best interests of their respective peoples.

Israel and Syria

Before concluding, let me share one thought with respect to the situation between Israel and Syria. The ground truth on the Syria-Israel front is equally complex but not a reason to avoid peacemaking. Syria continues to support terrorist groups, including Hezbollah, and has joined with Iran in threatening Israel's security and well-being. The Syrian alliance with Iran – which Syria argues helps to serve important Syrian interests – also poses challenges for the United States, for example with respect to Syrian behavior in Iraq and Syrian activities in Lebanon. Syria is also improving relations with Turkey at a time when Israeli-Turkish ties have become more complicated.

However, there is no substitute for peace in breaking out of this negative downward spiral. At the Herzliya Conference several weeks ago, Defense Minister Barak emphasized that the failure to demarcate Israel's borders represents a bigger threat to Israel than Iran, and Barak warned against complacency in this regard lest the process of delegitimizing the State of Israel gain momentum.

The time to act, therefore, is now. The four issues that divide Israel and Syria – borders, security, political relations and water – are not irresolvable. When the two sides last negotiated, indirectly under Turkish auspices, it was believed that further progress was made in narrowing differences.

To be sure, I am not entirely persuaded that either party really wants to conclude negotiations, for the status quo, however fraught it is with the possibility of small actions escalating into large confrontations may be easier for both sides to handle than the ultimate concessions that would be necessary for peace. But this should be tested through quiet but sustained diplomacy. If it becomes clear that either or both are unwilling to proceed, then the U.S. can turn its attention elsewhere. Until that point, the Syrian-Israeli issues ought to figure prominently in our peace process strategy.