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Biden and Correcting the Course of Relations with Palestine

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Introduction

Palestinians let out a collective sigh of relief following confirmation that former Vice President Joe Biden won the US presidential election. Though the Palestinian Authority (PA) leadership waited a day to send congratulations to the president-elect, it wasted little time in signaling to him and his foreign policy team that it is keen to reestablish bilateral relations with the United States. The gestures included one toward Israel, to allow the resumption of security cooperation; another was regarding the PA's legal reforms of its social welfare payment system to prisoners and to families of those killed in political violence. Biden's foreign policy team is also keen to restore diplomatic channels with the PA and to support humanitarian relief and other economic assistance.

Laying the Groundwork before a Biden Victory

A month ahead of the US presidential election, when it seemed likely that Biden might win the presidency, the PA sent a letter to the head of Israel's military administration in the occupied West Bank about resuming coordination. In the letter, the PA asked for assurances as to whether Israel would recommit to the Oslo Accords, which had established the architecture for Palestinian-Israeli security cooperation and placed the responsibility on Israel for collecting PA clearance taxes. The Israeli military commander responded to the October letter of inquiry (but only after the election was called for Biden), pointing out that it was the Palestinians who had stopped implementing the agreement. In fact, Palestinian President Mahmoud Abbas had announced in May 2020 that Palestinians would no longer be bound by the Oslo Accords because Israel's new governing coalition had agreed to move forward with officially annexing parts of the West Bank. The Israeli commander's positive reply regarding the effectiveness of the prior agreements means security coordination will resume and clearance revenues—which the PA had refused to accept in June, also due to Israel's looming annexation—would be delivered to the PA even if Israel is likely to continue to make deductions from the total it owes.

There is no doubt that the incoming Biden Administration will welcome a return of Palestinian-Israeli security cooperation. It will also be pleased to know that the PA's financial health is on the mend, given the financial collapse it was facing after months of forgoing the clearance revenues, which amount to approximately 60-65 percent of its budget. Perhaps even more welcome was the PA announcement that it intended to amend the Prisoners and Freed Persons' Law¹ and related decrees and regulations that guaranteed social welfare payments and benefits for current Palestinian prisoners and those released from Israeli jails as well as to the families of those killed in political violence. The revisions to the laws establishing the welfare system are meant to bring the PA into compliance with various pieces of US federal legislation that required the cessation of US assistance to Palestinians. This also triggered jurisdiction for previously dismissed civil damage claims against the Palestine Liberation Organization (PLO) and the PA related to political violence dating back to the second intifada.



Restoring Relations in the Shadow of Trump and Arab Normalization

Certainly, Palestinians are justified in feeling that they averted a disaster with the election of Joe Biden. A second-term Trump Administration would have continued to seriously challenge the Palestinian national movement and compromise the PA's capacity to govern, particularly as the COVID-19 cases are now breaking records in the West Bank and Gaza, eroding the Palestinian economy and bringing the health care system to its knees. Normalization deals between Israel and the Arab and Muslim worlds would have proceeded expeditiously, with the United States providing diplomatic or financial incentives or, in the case of the Emirati-Israeli normalization, offering commercial sales of sophisticated weapons previously reserved in the region only for Israel.

Moreover, the Trump Administration would have maintained pressure on Gulf Arab countries to withhold assistance to the PA, including budgetary support and loans. The administration's policies of delegitimizing Palestinian nationhood and sovereignty on the land and those aimed at blurring distinctions between Israel and the occupied Palestinian territory would have also continued. The rush by the outgoing administration to get certain high value items crossed off its Israel to-do list is notable: US-Israel bilateral cooperation agreements may now be applied in the West Bank settlements; civil society-led efforts to challenge Israeli human rights violations are now officially designated as anti-Semitic; and Israeli settlement products produced on Palestinian land and/or with expropriated Palestinian natural resources may be labeled "Made in Israel."

Further, the Trump Administration would have pressed forward with the economic component of the Peace to Prosperity plan and encouraged bilateral business deals between Israel and Arab countries. These would have integrated Israel and its settlement enterprise into the region and stepped over the national aspirations of Palestinians. The "Abraham Fund," a direct product of United Arab Emirates-Israel normalization which envisions the United States, Israel, and the UAE mobilizing a \$3 billion private sector-led fund toward joint ventures and regional economic cooperation, mirrors the Peace to Prosperity plan's economic component. The difference, however, is that it does not mention Palestinians or bother to even pay lip service to their state-building efforts. Given that the UAE has concluded trade deals with Israeli settler enterprises in the Syrian Golan Heights, it is unlikely to be deterred by international law in conducting business with West Bank settlers involved in exploiting occupied Palestinian land or natural resources.

The Promise and Potential of a Biden Administration

But would the Biden Administration be the life preserver that the Palestinian national movement and the PA need or want? The answer is maybe. The Biden campaign has promised to prioritize reopening a PLO mission in Washington, DC and a consulate in Jerusalem to deal with Palestinian affairs, one not controlled by the US embassy in Israel and that provides some affirmation of Palestinian national aspirations and rights in Jerusalem.



The PLO and the PA have been in conversation with Biden's advisors and are interested in putting together a team to work with the administration to get around US restrictions, following the void left by the passing of Chief Negotiator Saeb Erekat who had maintained close relationships forged over decades with US officials and interlocutors. Immediate measures that the incoming administration can take are restoring aid to the United Nations Relief and Works Agency, which recently announced it had run out of money, and encouraging—rather than discouraging—Arab countries to resume assistance to Palestinians.

What is less clear is what President Biden's position will be on some of the byproducts of Arab-Israeli normalization which threaten to undermine the United States' preferred political outcome of a negotiated, two-state solution. The Biden campaign has promised to urge Arab states to take "bolder steps" toward normalization with Israel. But how bold might these "bolder steps" be? Biden supported the UAE-Israel normalization deal while also giving credit to the Obama-Biden Administration for its efforts to advance Israel's integration into the region. However, Antony Blinkin, head of the Biden campaign foreign policy team tapped to be secretary of state, expressed concern about some aspects of the deal but left uncertain how a Biden Administration will view Arab states conducting business with the illegal Israeli settlements. Besides trading with Israeli settlement companies in the occupied Syrian Golan Heights, an area that the Trump Administration has recognized as Israeli sovereign territory, the so-called Abraham Accords have spurred the UAE to join Israel in a project in the Wadi Joz neighborhood of occupied East Jerusalem, one that would force out Palestinian businesses in favor of developing a "Silicon Wadi" and touristic projects. The UAE has also invited settlers from the occupied West Bank to join the first commercial flight from Tel Aviv to Dubai to establish trade ties; in addition, Israeli and Emirati chambers of commerce are in the process of conducting a joint study on how to expand these relations.

The principal motivating force for Israel in normalizing with the Arab world is clearly neither the need for security cooperation against common adversaries like Iran nor a desire to make peace after years of war. Israeli-Arab cooperation against Iran has been ongoing for some time and Israel was never in a state of belligerency with Gulf Arab countries—they did not need peace agreements with Israel. What is fundamentally animating the normalization efforts is an Israeli desire to integrate a territorially aggrandized Israel into the fabric of the Middle East and, in the process, ensure Arab quiescence regarding the marginalization of Palestinian national aspirations.

Though the UAE is ground zero for testing Israel's normalization agenda, Saudi Arabia is the latter's crown jewel for determining success. The kingdom figured prominently in the economic component of the Trump Administration's Peace to Prosperity plan in terms of securing Bahrain as the site for the plan's grand unveiling, defining the specific projects for regional integration, and serving as a funding source. But even prior to the plan's release, Saudi Arabia had shown openness to having Israeli businesses involved in its futuristic Neom city and 2030 development plans. The audacious though unconfirmed meeting between Israeli Prime Minister Benjamin Netanyahu and Crown Prince Mohammed bin Salman in Neom signals that both sides want to move forward and will not be deterred much longer by Arab public opinion opposing their initiative.



Recommended Actions for a Biden Administration

How will the Biden Administration reconcile its support for Israeli-Arab normalization if it will come at the cost of Palestinian-Israeli peace? No doubt, balancing support for normalization between Arab countries and Israel while also supporting the prospects for a two-state solution will be challenging. The incoming administration should act swiftly to restate its commitment to international law with respect to Israeli settlement construction and to UN Security Council resolutions, and particularly Resolution 2334, which calls on third-party states to differentiate in their dealings between Israel and the occupied territories. The Obama Administration abstained from using its veto to kill the resolution toward the end of its term. Given the state of the Palestine/Israel peace file in 2020, Biden should affirmatively assert his support.

The administration should also recommit to the 1978 State Department legal opinion of the Carter Administration, which Secretary of State Mike Pompeo disavowed in 2019, stating that settlements in the occupied territories are inconsistent with international law. Further, it should conduct an interagency assessment of US compliance with the legal opinion in bilateral agreements with Israel and in federal law and administrative rules and regulations. Any recommitment to international law would require the new administration to reverse both the recent extension of the US-Israel bilateral cooperation agreements to the occupied West Bank and the labeling of products from Israeli settlements from the West Bank's Area C as "Made in Israel." But the administration should also act to amend the Clinton Administration's extension of the US-Israel Free Trade Agreement to the West Bank and Gaza so that Israeli settler products do not enjoy duty-free treatment in the United States.

The incoming administration can also use its influence with others to help restore respect for international law and multilateral institutions while also voting in favor of UN resolutions that uphold human rights and call on Israel to refrain from conduct contravening its obligations as an occupying power. It should make clear to Israel, and to Arab governments wishing to engage in regional economic development projects with it, that US political and material support for such endeavors will depend on their compliance with the rights of Palestinians, the extent to which they differentiate between Israel and occupied territories, and if they further Palestinian-Israeli peace. Washington should also work with allies and multilateral mechanisms to ensure that development assistance to Palestinians and agreements with Israel properly distinguish between Israel's sovereign territory and the land its military occupies. Similarly, any federal legislation to provide grants and/or loans for joint enterprises between Israelis and Palestinians should be restricted so that Palestinian land and natural resources are not exploited by settlers and settlement enterprises are not allowed to benefit.



An Opportunity Ahead

The Biden Administration has an opportunity to reset US-Israeli bilateral relations and reimagine peacemaking in 2021 after a Trump Administration legacy that sought to marginalize international law and multilateral institutions. Constructive engagement will demand a paradigm shift in how the United States deals with Israel and the Palestinians, and especially in the extent to which it upholds international law.

Biden's efforts to support economic development, humanitarian relief, and national rights for Palestinians while facilitating further normalization for Israel with other Arab states will determine the success of his administration's engagement with the Palestine/Israel long running peace project.