

# MEPP Mediation in the 21<sup>st</sup> Century

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During the last three decades, the world witnessed rising hopes for a peaceful resolution of the Palestinian-Israeli conflict. There were many efforts, most of which ended in failure. July 2000 witnessed the most significant attempt at the Camp David summit, where the final-status issues were placed on the negotiations table, but no deal was completed. Since then, violence and instability have escalated in the region, and today a peacefully negotiated deal is definitely far from reality.

Superpower politics is a crucial element in the discussion of the Palestinian-Israeli conflict and peace process. Since 1973, the United States has been acknowledged as the main broker in the Middle East peace process (MEPP), and its role was reinforced after the end of the Cold War. But other international actors also played a role during the history of the peace efforts, such as the United Nations, with of the peace efforts of Folke Bernadotte, Ralph Bunche, and Gunnar Jarring; regional actors, such as Egypt's mediation efforts between Israel and Hamas; and small states, such as Norway's role in the Israeli-Palestinian Oslo process and the German role in negotiating the prisoner exchange between Hezbollah/Lebanon and Israel. The current deep stalemate in the peace process can be defined as a crucial point in this context and provides a timely opportunity for examination and discussion of the intervention and mediation process in the conflict over the years. These questions are related to the discussions in the international relations literature on international intervention – both in general and with regard to great powers in particular – in conflict areas, including military, diplomatic, and economic intervention, and to the

scholarship on international mediation and superpowers as mediators in peace processes.

The question raised here is about the role of third-party mediation in the 21<sup>st</sup> century. It is evident that the Americans have not played the role of honest broker since the early years of the peace process. US mediators applied coercive diplomacy in the service of biased interests toward the Israelis. Under the Trump administration, however, coercive US diplomacy reached an extreme, through dictates and the imposition of new realities on the ground which contravene international law and the peace process terms of reference.

## The US Bias

When violence erupted in the Occupied Palestinian Territories in September 2000, the cause was traced back to the failure of the Camp David summit. The Israeli Government and the US Administration, which had been playing the role of mediator, concluded that the Palestinian rejection of the paper proposed at the summit was the reason for the deadlock. However, research I conducted on Camp David found<sup>1</sup> coercive diplomacy to be the best applicable theory. In addition, it illustrated how the mediators exceeded their mandate by abandoning their impartial role and donning the hats of interveners. The study suggested an appropriate revision of the American mediating approaches toward the Palestinians and, by examining the limitations of coercive diplomacy, it aimed to avoid similar negotiation experiences in the future. Moreover, it provided a greater understanding of ways to avoid future escalation.<sup>2</sup>

Today, US President Donald Trump is not only continuing to act as a biased broker and coercer but is also behaving like a dictator. With its recognition of Jerusalem as the capital of Israel, the US Administration moved from the realm of mediation to that of dictates, attempting to impose peace rather than broker a peace agreement. In his declaration on 6 December 2017, Trump accused previous US presidents of making failed assumptions and adopting failed strategies and claimed that he is correcting their failures by recognizing Jerusalem as the capital of Israel.<sup>3</sup>

Through all of these years, presidents representing the United States have declined to officially recognize Jerusalem as Israel's capital. In

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<sup>1</sup> "Limitations of Coercive Diplomacy: Camp David 2000, a case study" is a research study that I conducted to obtain my Master's degree from Westminster University in London in 2004.

<sup>2</sup> David W. Lesh, *The Middle East and the United States*, West View Press, 3<sup>rd</sup> edition, 2003, pp. 260-263

<sup>3</sup> <https://www.whitehouse.gov/briefings-statements/statement-president-trump-jerusalem/>

fact, we have declined to acknowledge any Israeli capital at all. But today, we finally acknowledge the obvious: that Jerusalem is Israel's capital. This is nothing more, or less, than recognition of reality. It is also the right thing to do.

Although Trump stated that the move was in the interests of the pursuit of peace, it is likely to have the opposite effect. Previous US presidents may have made failed assumptions or worked failed strategies, as Trump mentioned in his speech; however, by relocating the US Embassy from Tel Aviv to Jerusalem, declaring Jerusalem the capital of Israel, cutting UNRWA funding, and recognizing Israeli sovereignty on the Golan Heights, the US Administration created new facts on the ground. Without consulting the Palestinian partners, the Trump administration introduced a change to the status quo on Jerusalem.<sup>4</sup> Moreover, Trump chose to inaugurate the embassy on 15 May 2018, the date marking the 70<sup>th</sup> anniversary of the *Nakba*<sup>5</sup>, a



*President Donald Trump holds a proclamation recognizing Israel's sovereignty over the Golan Heights as he is applauded by Israel's Prime Minister Benjamin Netanyahu and others during a ceremony in the Diplomatic Reception Room at the White House, March 25, 2019.*

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<sup>4</sup> Distinction between *Verständigungsfriede* (peace by mutual consent) and *Diktatfriede* (imposed peace)

<sup>5</sup> The *Nakba* represents a series of collective tragedies which resulted in the destruction of at least 500 villages and the forced displacement of 70 percent of the Palestinian people.

catastrophe that continues to this day through the ongoing Israeli occupation of Palestinian land and the resulting system of oppression.

Trump's act is illegal; it is a breach of the 1995 Interim Agreement and, more specifically, Chapter 5-Miscellaneous Provisions, Article XXXI of Oslo 2 Agreement. The international community and the official EU position hold that Jerusalem is a Palestinian-Israeli issue and that the two parties should determine the final-status issues alone; thus, Trump's unilateral move is a violation of all UNSC and UNGA resolutions that safeguard the Palestinian rights to the 1967 lands and occupied Jerusalem, namely Resolutions 242, 267, 298, 476, 478 and 2334.<sup>6</sup>

The EU has publicly opposed the Trump administration's positions in several statements and press releases. The EU position on the Palestinian-Israeli peace process is consistent with its advocacy for the two-state solution based on the 1967 borders. Trump committed a strategic failure greater than those of previous presidents, all of whom preserved the role of the US Administration as a third party accepted by both the Israelis and the Palestinians; today, this is no longer the case. Therefore, it is indeed necessary for the resumption of any peace talks that a new mediator takes charge.

## A Mediation Consortium

There have been public calls from the Palestinian leadership for a consortium act of mediation. Indeed, it is time for an international consortium, a multiparty group acting collectively as a third party to guarantee non-biased and more neutral approaches. The inclusion of major international powers in the mediation process is crucial to guarantee that tension will not explode in the region. Germany, which generously pledged 180 million euros last year to balance the US aid cuts to the PA, which played a successful mediation role in negotiating the prisoner release between Israel and Hezbollah, which has always played a major role in European integration, and which is viewed by Israel as a close and trusted ally, is most suitable to lead the EU in reviving Middle East peace talks. Furthermore, the role played by the international community must more impact. The permanent-status agreement must not be a document that declares general political principles but rather a comprehensive instrument that spells out

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<sup>6</sup> December 2017 marked the first anniversary of the passage of UNSC Resolution 2334, which defines the settlements as illegal; this explains the commitment of 128 UN member states that rejected the US decision, declared it illegal or unacceptable, and abstained from moving their embassies to Jerusalem. For UNSC 2334 Resolution, please see [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2334%282016%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2334%282016%29)

the details, modalities, maps, and timetables for ending the Palestinian-Israeli conflict in accordance with international law, and it must be backed by clear international implementation guarantees in order to be effective.

Mediation is experiencing phenomenal growth as a dispute resolution mechanism. As the mediator interacts with the parties to help them recognize that their problem is not a struggle between “good” or “right” and “bad” or “wrong,” the mediator is expected to lead the resolution process by developing understanding between the parties to the dispute.<sup>7</sup> The mediator plays a transformative role by helping the parties contemplate the possibility of a solution neither has thought of. Critical variables have much influence. Dean Acheson advanced the theory of “the missing component,” arguing that problems will be solved if policy makers discover the “missing component” by mastering knowledge of all potential elements in a particular situation and determining whether adding new increments can make a critical difference. Perhaps the time has come to figure out the missing component in the Israeli-Palestinian conflict.

Studying the Israeli-Palestinian peace process and realizing how disastrous the situation has become, teaches us that both sides need not only enthusiasm but also a realistic approach to facilitate reaching a compromise. The conflict cannot be treated like a zero-sum game. Mediation is ineffective

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in situations where any solution would require one side to abandon its main objective and receive little in return. The gulf between the respective Palestinian and Israeli positions is not too wide to be bridged, but mediation is subject to the same limitations as other means of dispute settlement; mediation can be only as effective as the parties wish it to be. Today’s mediation is about applying

international law and universal civil rights. It is not about positions and interests as much as compliance with the internationally agreed terms for the long overdue two-state solution to be translated on the ground. As a result, a well-timed offer of mediation has to be presented rather than an open negotiating session, and there must be greater independence for EU-led decision making.

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<sup>7</sup> Julie Macfarlane, *Rethinking Disputes: The Mediation Alternative*, Cavendish Publishing Limited, 1997, p. 303

## Two Factors Influencing Mediation

Twenty-eight years after the Madrid Peace Conference and 26 years after the signing of the Oslo Accords in Washington, the urgency of a new mediation effort is clear. Following are two important factors that any mediator must take into consideration.

The first is the two-state solution. All international actors repeatedly reconfirm their commitment to the two-state solution. The State of Israel, however, has been recognized at large since 1948 and recognized by the PLO, the sole legitimate representative of the Palestinian people, since 1993, while the State of Palestine has yet to receive international recognition. The Israelis repeat their commitment to a peaceful settlement, but neither the prime minister nor any Israeli official dares mention the State of Palestine or the right of the Palestinian people to self-determination. Meanwhile, settlement expansion continues, rendering the possibility of a Palestinian state on the 1967 borders almost impossible.

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Loss of hope will only lead to extremism and violence; therefore, it is time for all the parties involved to demonstrate their commitment to the two-state solution by recognizing the long overdue Palestinian state. If they fail to do so, they should contemplate the reality of one racist state. A picture of what this reality would look like can be found in the Knesset's passage of the Nation-State Law, which sees the State of Israel as the homeland of the Jews exclusively and ignores the rights of any other minority groups.<sup>8</sup> Such a state won't be accepted by citizens and states of good conscience, but the other option of one democratic state for the Jews and the Palestinians won't be accepted by Israel. If states don't act soon, however, there may be no choice but to opt for the one-state solution: one democratic state with equal rights for all, regardless of religion or race.

The second is the notion of a regional settlement. Israeli Prime Minister Benjamin Netanyahu has been lobbying for a regional settlement, but the question is: What kind of regional settlement does he envision? Following Netanyahu's shuttle diplomacy efforts around the globe, it is evident that he is lobbying for a regional settlement that accommodates his interests. Israel is putting every effort possible into convincing the whole

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<sup>8</sup> Almost 2 million Palestinians are Israeli citizens, but the law totally neglects their rights. <https://knesset.gov.il/laws/special/eng/BasicLawNationState.pdf>

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world that a Middle Eastern alliance that brings together Israel and all the Sunni Arab and Islamic countries in the region against Iran should be their primary objective. Such a regional framework would definitely serve Israel's interests, especially against Iran, which Netanyahu views as the source of terror and fear in the region, but shifting world attention to the threat coming from Iran is, in fact, undermining the efforts to achieve a

final peace settlement between Palestine and Israel. A regional approach that could succeed is one inspired by the Arab Peace Initiative of 2002, which proposed full normalization between Israel and all the Arab states in return for an independent Palestinian state on the 1967 borders, with East Jerusalem as its capital, and a fair and just solution to the issue of refugees. This new approach would start by identifying the borders of the State of Israel and recognizing the State of Palestine on the 1967 borders, as agreed internationally. It would guarantee Israel peaceful and normalized relations with its Arab neighbours and would bring security to the region, opening the door to additional regional reconciliation efforts.

Some may disagree with some of what I have tried to illustrate, but it is too early to write a definitive history of every aspect of this conflict. What is important is to learn the lessons of recent history, and these lessons are drawn from plausible objective interpretation of previous mediation attempts. As Jacob Burckhardt points out: "*It is the historian's function, not to make us clever for the next time, but to make us wise forever.*"<sup>9</sup>

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<sup>9</sup> Quoted in *The Limits of Coercive Diplomacy*, p. 251