

Comment

The Abraham Accords and the Economic Dimension of Peace in the Middle East*

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I. Resolving the Centennial Conflict Through Economic Integration?

As this Comment was ready for press, Russia invaded Ukraine. The war reminded the world how quickly regressive developments can capture the international system and, in comparison, how much effort and time should be invested in creating the foundations for an order of peace and security. The Middle East can show Europe how a space of coexistence, cooperation, and integration may be articulated on a regional basis under the most unfavourable circumstances.

On 12 December 2021, Naftali Bennett made the first official visit ever of an Israeli Prime Minister to the United Arab Emirates¹ followed by an official visit on 15 February 2022 to Bahrain.² The two visits constitute steps of consolidation and deepening of the cooperation following the conclusion of the ‘Abraham Accords’ in the second half of 2020, which also included Sudan and Morocco.³ The Accords marked, in the words of Thomas Friedman of the *New York Times*, ‘a geopolitical earthquake’ in the Middle East.⁴ A recent article in the *Foreign Affairs* with the title ‘Axis of Abraham’ confirmed the progress

* I am indebted to Oren Gross for our discussions on the paper. I also thank Armin von Bogdandy, Anne Peters, and Matthias Hartwig for their constructive critique. I obviously bear the full responsibility for any inconsistency, omission, or oversight.

¹ Thomas Grove, ‘Israeli Prime Minister Naftali Bennett Visits the United Arab Emirates’, The Wall Street Journal, 12 December 2021, available at <www.wsj.com>, last access 18 February 2022.

² FAZ, 16 February 2022, 6.

³ For the accords, see ILM 60 (2021), 448-463 (Joel Singer, Introductory Note); see also the website of the US Department of State, <<https://www.state.gov/the-abraham-accords/>>, last access 18 February 2022.

⁴ Thomas Friedman, ‘A Geopolitical Earthquake Just Hit the Mideast’, The New York Times, 13 August 2020, available at <www.nytimes.com>, last access 18 February 2022.

achieved so far and highlighted the road ahead.⁵ The rapprochement between Israel and the Arab states may create a geopolitical centre of gravity in the region, based on common security concerns (Iran, religiously motivated terrorism, disengagement of the United States from the region)⁶ and on a common vision for economic progress and integration.

As shown in the case of post-Second World War Europe, functionalism prioritises economic integration over top-down political decision-making and attempts to offer social-technological answers to governance with the expectation of ‘taming’ the political or at least mollify its sharper edges in the long term. The spill-over of prosperity and cooperation and the transition from cooperation to integration, instead of ‘beggar-thy-neighbour’ policies, can be conducive to peace and to more inclusive transnational identities and cultural patterns.⁷ For obvious reasons, the European integration process cannot be replicated in the Middle East. Nonetheless, it is an open question whether a comparable approach could ‘make a difference’ in this region after the apparent failure of the ‘land for peace’ strategy.

In an article published more than twenty years ago, Oren Gross framed the topic of economic integration as a main avenue for the re-establishment of peace in the Middle East between Israel and its Palestinian neighbours.⁸ These efforts, along with the considerations and discussions on the various economic cooperation and integration models, including a free-trade area, a customs union, or a hybrid model suggested by Gross⁹ were abandoned as a result of the Second Intifada that marked the factual end of the Oslo Process.

The Abraham Accords may offer a new chance to the idea of economic integration as a vehicle for peace and for radical reform in the Middle East. This time it is not new wine in old bottles, but rather new wine in new bottles.

⁵ Michael Singh, ‘Axis of Abraham – Arab-Israeli Normalization Could Remake the Middle East’, *Foreign Affairs* 101 (2022), no. 2, 40-50.

⁶ On the geopolitics of the Abraham Accords, see International Institute for Strategic Studies (IISS), *Strategic Survey 2021 – The Annual Assessment of Geopolitics* (London: Routledge 2021), 283-291.

⁷ See Arne Niemann, Zoe Lefkofridi and Philippe Schmitter, ‘Neofunctionalism’, in: Antje Wiener, Tanja Börzel and Thomas Risse (eds), *European Integration Theory* (3rd edn, Oxford: Oxford University Press 2019), 43-63. On the history of the European integration project, see Jean Monnet, *Memoirs* (London: Third Millennium Publishing 1976).

⁸ Gross emphasised that the economic dimension of peace was already part of the initial UN Partition Resolution for the government of Palestine and this idea was later adopted by the Declaration of Principles of the Oslo Accords of September 1993 and the Paris Protocol of April 1994: see Oren Gross, ‘Mending Walls: The Economic Aspects of Israeli-Palestinian Peace’, *Am. U. Int’l L. Rev.* 15 (2000), 1539-1626 (1540-1541, 1556 ff.). Gross was a member of the Israeli delegation in an informal joint Israeli-Palestinian team that adopted a draft proposal for an ‘Economic Permanent Status Model’ in 1998, Gross, 1610.

⁹ Gross (n. 8), 1598-1626.

It is not any more a bilateral Israeli-Palestinian project, but a multilateral vision for a new Middle East, in which four Arab states have concluded bilateral agreements with Israel underpinned by similar considerations.

There are numerous obstacles in such project, in particular the reluctance or open hostility of several of the regional protagonists. The main challenge remains, as it were in the late 1990s, whether the underlying political conflicts, including the Palestinian issue, the distrust of large segments of the Arab societies to cooperation with Israel, and the volatility of the region, would enable the functionalist experiment to succeed and in what degree.

II. The Legal Framework of the Abraham Accords

The legal framework of the Accords can be conceived as a system with its own logic and its own objectives, composed of Declarations, Joint Statements, and one formal Peace Treaty (Israel-UAE). Despite the differences in style and the choice of terms and forms, the agreements have a common orientation, which is the normalisation of the diplomatic relations between the contracting Arab states and Israel, and the development of economic cooperation and integration in the region. There are two interlinked pillars in the Accords, political and economic, which define the nature of the framework.

There are elements of both bilateralism and multilateralism in the Accords. The Accords were concluded in the form of bilateral agreements between Israel and the respective Arab countries. In addition, a third actor, the United States, has played the role of facilitator and is a third contracting party within the broader contractual relationship, by offering inducements to the Arab parties and thus motivating and securing their rapprochement with Israel.¹⁰

Already the involvement of the United States in a process with multiple partners and inducements is a strong indication for a broader regional process that goes beyond the formal bilateral character of the agreements. The

¹⁰ The United States recognised, for instance, Morocco's sovereignty over Western Sahara, see Kristen E. Eichensehr, 'Contemporary Practice of the United States Relating to International Law – United States Recognizes Morocco's Sovereignty Over Western Sahara', *AJIL* 115 (2021), 318-323. With regard to Sudan, the Joint Statement with the United States and Israel of 23 October 2020 was followed by the Certification of Rescission of the Determination regarding the Government of Sudan of 26 October 2020, according to which Sudan was not to be considered a State-sponsor of terrorism any more, see <<https://trumpwhitehouse.archives.gov/presidential-actions/certification-rescission-determination-regarding-government-sudan/>> last access 18 February 2022. The United States also promised the UAE a potential deal for selling F-35 fighter aircraft and MQ-9 Reaper drones that has stalled for a variety of issues. See more in Grant Rumley, 'Unpacking the UAE F-35 Negotiations', PolicyWatch 3578, The Washington Institute for Near East Policy, 15 February 2022, available at <<https://www.washingtoninstitute.org/policy-analysis/unpacking-uae-f-35-negotiations>>, last access 18 February 2022.

normative complex of the Abraham Accords has created a network of contractual obligations with the purpose of overcoming decades of hostility between Israel and the Arab states. Thus, the Accords would create a centre of gravity that could help pacify the Middle East & North Africa (MENA) region and offer other countries a successful model for economic development. Every bilateral step leads the whole process forward.

The Abraham Accords and the relevant Declarations and Joint Statements contain elements demonstrating the breadth of the ambition of the parties. Israel and the Emirates agreed to engage in diplomacy, ‘increased economic integration, and closer security coordination’.¹¹ Therefore, they introduced a distinction between ‘integration’ in the economic area and ‘coordination’ in security. The terminology used implies that the parties may choose to deepen their economic ties as far as they wish, not excluding the creation of a common economic space of some sort, and they will coordinate their security in areas of common concern.

The Abraham Accords Declaration of 15 September 2020 is more explicit on the peace-making ambition of the United States, Israel, the United Arab Emirates (UAE), and Bahrain to advance ‘the interests of lasting peace in the Middle East and around the world’.¹² Indeed, the very name given to the agreements – the Abraham Accords – is indicative of their underlying philosophy. The Preamble of the ‘Abraham Accords Peace Agreement’ between Israel and the UAE recognises ‘that the Arab and Jewish peoples are descendants of a common ancestor, Abraham, and inspired, in that spirit, to foster in the Middle East a reality in which Muslims, Jews, Christians and peoples of all faiths, denominations, beliefs and nationalities live in, and are committed to, a spirit of coexistence, mutual understanding and mutual respect’.¹³

This marks a moment of huge cultural shift and constitutes a foundational moment for the creation of a resilient geopolitical and geo-economic core in the Middle East. The Peace Treaty goes beyond the idea of conferring rights to the contracting parties, by radically challenging the narratives of enmity and by creating the counter-narrative of common ‘ancestry’ for the three monotheistic religions. This is the cultural foundation of the Accords¹⁴ and the prerequisite for a ‘warm peace’ between the contracting parties (Israel, UAE, and Bahrain, in the first place), instead of the ‘cold peace’ of Israel with Egypt and Jordan.

Furthermore, the Peace Agreement devotes a chapter to peace and stability as ‘a fundamental pillar of [the parties’] relations and as a means for enhanc-

¹¹ See the initial Joint Statement of the United States, the State of Israel, and the United Arab Emirates, 13 August 2020, para. 6.

¹² The Abraham Accords Declaration, para. 3.

¹³ Abraham Accords Peace Agreement, para. 8 of the preamble.

¹⁴ See also *infra* IV.

ing those spheres in the Middle East as a whole'.¹⁵ Another chapter expresses the preparedness of the parties to develop, together with the United States, the so-called 'Strategic Agenda for the Middle East' in order 'to advance regional security and stability, pursue regional economic opportunities, promote a culture of peace across the region, and consider joint aid and development projects'. The plan for the Strategic Agenda is also an invitation to other interested states or other actors to promote the cause of peace ('committed to work together, and with the United States and others, as appropriate, [...]').¹⁶ The Annex to the Peace Agreement includes areas of cooperation and economic integration that would be further specified by the parties through bilateral agreements.

The Declaration of Peace of 15 September 2020 and the Joint Communiqué of 18 October 2020 between Israel and Bahrain are less detailed, but their spirit is nonetheless similar. The parties commit themselves to lasting security, coexistence, a culture of peace, eschewing threats and the use of force, and developing further their relations in a broad area of issues. The Joint Statement of Israel, Sudan, and the United States of 23 October 2020 is also linked to providing support to that country to fully integrate in the international community in the era of democratic transition. At the core it is again about the economy, alleviation of debt, food security, and strengthening of the country's economic potential. The transactional element was the promise of the United States to restore Sudan's sovereign immunity over its assets.¹⁷ However, the recent intervention of the military has derailed the democratic process and destabilised the country with unforeseeable consequences for its international relations.¹⁸

More reserved in style is the Joint Declaration between the Kingdom of Morocco, the United States, and Israel and transactionalism is more pronounced as a constituent element of the Declaration. The Declaration mentions in detail the proclamation of the United States on the recognition of Moroccan sovereignty over Western Sahara, whilst the King 'reiterated the coherent, constant and unchanged position of the Kingdom of Morocco on the Palestinian question'.¹⁹ The Joint Declaration mentions areas of economic, but not security, cooperation, and confirms the commitment of the parties to promote peace and stability in the Middle East.

¹⁵ Abraham Accords Peace Agreement, para. 4.

¹⁶ Abraham Accords Peace Agreement, para. 7.

¹⁷ Para. 2 of the Joint Statement. See also *supra* n. 10.

¹⁸ Abdi Latif Dahir, "Democracy Is Life": The Grass-Roots Movement Taking On Sudan's Generals', *The New York Times*, 7 February 2022, available at <www.nytimes.com>, last access 18 February 2022; Declan Walsh, Abdi Latif Dahir and Simon Marks, 'Sudan's Military Seizes Power, Casting Democratic Transition Into Chaos', 25 October 2021, available at <www.nytimes.com>, last access 18 February 2022.

¹⁹ Joint Declaration of 22 December 2020, paras 3 and 4 of the Preamble.

The Peace Agreement between Israel and the UAE is the most robust and detailed of all and therefore serves as the centrepiece and ‘locomotive’ of the system. It is legally binding and has to be ratified by the parties according to their respective domestic procedures,²⁰ it has to be registered under Art. 102 United Nations (UN) Charter,²¹ and any disputes relating to the interpretation and application of its provisions should be resolved either by negotiation, or, ‘subject to the agreement of the Parties’, by conciliation or arbitration.²²

The agreements with Bahrain, Sudan, and Morocco are rather informal, but are based on the same rationale and include equivalent commitments. Thus, the system of the Abraham Accords should be interpreted holistically in a harmonised manner. There may be differences in the implementation of the main agreements, depending on whether the parties may decide to proceed more quickly or more cautiously taking into account the acceptance of the process by their peoples. Yet, the basic principles are similar and implementations steps or interpretive gaps in the agreements of Israel with Bahrain, Morocco, and Sudan might be filled by analogy through recourse to the principles of the Israel-UAE legal framework. The parties should also act in their international relations so as not to undermine the object and purpose of the system of the Accords.

Finally, there are two interlinked features of the Accords that deserve attention. The first is the limited institutionalisation of the system, and the second the ambition to establish peace in the Middle East through the avenue of economic integration. The limited institutionalisation means that the parties do not currently envisage any supranational authority,²³ because it would overburden their relationship, but endorse softer forms of step-by-step rapprochement, to be undertaken with bilateral agreements whenever politically opportune and advisable. The selection of the path of economic integration implies that their ambition to achieve peace has a chance only if the resolution of the most political issue, the Palestinian question, is deferred for the future and is removed as a precondition of peace between Israel and the Arab parties. The contracting Arab countries made a radical break from the consensus that they had reached through the Saudi-led ‘Arab Peace Initiative’. This was an Arab political process that established in 2002 the principle that the withdrawal of Israel to the June 1967 borders and the two-State solution

²⁰ Abraham Accords Peace Agreement, para. 10.

²¹ Abraham Accords Peace Agreement, para. 12.

²² Abraham Accords Peace Agreement, para. 11.

²³ See Achilles Skordas and Luke Dimitrios Spiker, ‘Supranational Law’, (last updated January 2021), in: Anne Peters and Rüdiger Wolfrum (eds), *MPEPIL* (online edn, Oxford: Oxford University Press 2021), <www.mpepil.com> last access 18 February 2022.

were the preconditions for the normalisation of the relations between Arab states and Israel.²⁴

Thus, the process offers a new integrative political-economic vision for peace while enabling the respective parties to incrementally enhance their relations. The detailed contours of the roadmap are to be constructed along the way. Regardless, measures of economic integration are expected to be conducive to the restoration of peace and stability in the region.

III. From Cooperation to Integration

The Peace Agreement between Israel and the UAE includes a list of fifteen areas of functional cooperation.²⁵ In the Annex, the Agreement specifies further the modalities for these areas and provides for bilateral agreements that will further foster cooperation and integration in these fields. As the ‘secondary’ normative framework evolves, more spaces for autonomous entrepreneurial activities are available and the process of network-building takes hold. Some examples from the Annex suffice to demonstrate the parties’ intent and desire for economic integration.

The parties prioritise their collaboration in finance and investment and express their commitment to ‘market integrity and financial stability’ and declare their goal ‘to advance regional economic development and the flow of goods and services’. The latter is typical for an integration project. They also express their will to promote tourism, thus, the movement of persons and the respective services, including tourism from third countries through the encouragement of tourist operators. The terminology used by the parties for innovation, trade, and economic relations also signifies the path towards deeper economic integration. Israel and the UAE recognised ‘that the principle of the free and unimpeded flow of goods and services should guide their relations’ and emphasised that they intend to cooperate in order to reduce trade barriers.

Equally important is the focus on science, technology and the outer-space. The cooperation of the Emirates with Japan in matters of space (including

²⁴ See the full text of the Arab Peace Initiative, adopted at the Arab summit in Beirut, 27–28 March 2002, available at <https://www.kas.de/c/document_library/get_file?uuid=a5dab26d-a2fe-dc66-8910-a13730828279&groupId=268421>, last access 18 February 2022; on the complexities of the Arab Peace Initiative, see Joseph Kostiner, ‘Saudi Arabia and the Arab-Israeli Peace Process: The Fluctuation of Regional Coordination’, *British Journal of Middle Eastern Studies* 36 (2009), 417–429; see also UNSC Res 1397/2002, endorsing the two-State solution.

²⁵ (i) Finance and investment, (ii) civil aviation, (iii) visas and consular services, (iv) innovation, trade and economic relations, (v) healthcare, (vi) science, technology and peaceful uses of outer-space, (vii) tourism, culture and sport, (viii) energy, (ix) environment, (x) education, (xi) maritime arrangements, (xii) telecommunications and post, (xiii) agriculture and food security, (xiv) water, and (xv) legal cooperation (para. 5 of the Agreement).

the Mars exploration)²⁶ is an example of the country's technological ambition. Cooperation with Israel could create a research hub in the region that could attract scientists from other parts of the world, as well. The contracting parties also expressed the will to strengthen the already existing cooperation with regard to COVID-19 and expand it in the areas of health systems, digital health and artificial intelligence.

Of particular significance is the chapter on maritime arrangements and the recognition of 'the right of vessels of the other Party to innocent passage through its territorial waters in accordance with international law'. This activity has enormous economic and geopolitical significance, as it greatly facilitates commercial exchanges and guarantees the right of vessels under Israeli flag to sail in the Persian Gulf. The last field is legal cooperation. Here, too, the focus on economic integration is pronounced, as the parties did not stress the criminal law aspects of legal cooperation, but rather prioritised legal assistance in civil and commercial matters.

A critique to the economic integration process led by the Abraham Accords might be that projects with such an ambition cannot thrive in the volatile environment of the Middle East. However, the practice of the Accords offers good reasons for optimism. The integration process has started immediately upon the signature of the Abraham Accords and has advanced considerably. Here are some of the developments: On 18 October 2020, Israel and Bahrain signed eight Memoranda of Understanding on a variety of economic issues and on foreign affairs.²⁷ Two days later, on 20 October, Israel and the UAE concluded a Bilateral Investment Treaty (BIT).²⁸ On 1 June 2021, the two countries concluded a tax treaty.²⁹ In November 2021, Israel, the UAE, and Jordan agreed to carry out a major project on alternative energy.³⁰ Most importantly, on 16 November 2021, Israel and the Emirates initiated negotiations for the conclusion of a Free-Trade Agreement (FTA)³¹ that might prove to be a truly revolutionary step towards economic

²⁶ <<https://www.dw.com/en/uae-mars-mission-launches-from-japan/a-54237026>>, last access 18 February 2022.

²⁷ <https://www.gov.il/en/departments/news/event_bahrain_joint_statement181020>, last access 18 February 2022.

²⁸ <<https://investmentpolicy.unctad.org/international-investment-agreements/treaties/bilateral-investment-treaties/4964/israel-united-arab-emirates-bit-2020>>, last access 18 February 2022.

²⁹ <<https://www.timesofisrael.com/israel-uae-sign-tax-treaty-to-encourage-investment-boost-economic-cooperation/>>, last access 18 February 2022.

³⁰ <<https://www.axios.com/israel-jordan-uae-huge-solar-farm-deal-45f39405-ef50-4a53-962b-882624a03f95.html>>; see also <<https://www.axios.com/saudis-uae-solar-farm-israel-d836a165-b901-4cc7-a929-377555784ec6.html>>, both last access 18 February 2022.

³¹ <<https://www.reuters.com/world/middle-east/israel-uae-launch-free-trade-agreement-talks-bilateral-trade-rises-2021-11-16/>>, last access 18 February 2022.

integration and prosperity in the region.³² The future will show, how far the functionalist experiment can go.

IV. On Self-Determination

Even though the Palestinian question has lost the significance for international relations that it had in the past, without self-determination for the Palestinian people there can be no lasting peace in the Middle East, as the International Court of Justice and the UN Security Council have ruled.³³ The Abraham Accords could be a bridge over the divide between the yet unfulfilled promise of Palestinian statehood and the necessity for the region to go forward offering new avenues for rapprochement.

The principle of self-determination has three dimensions: political, economic, and cultural.³⁴ Instead of beginning with the charged and seemingly intractable political dimension, the Palestinians could focus on economic and cultural self-determination and defer the political ‘basket’ for the future. The possibilities to be discussed here are not currently available to the population of the Gaza Strip, who are subordinate to the brutal rule of the terrorist organisation Hamas.

Thus, one possibility might be for the Palestinian Authority to ‘swallow the bitter pill’ and express its interest in joining the Abraham Accords via an agreement with Israel and with the facilitation of the United States and of one or more Arab states. Such a proposal would have to be accepted by all parties to the system of the Accords, a development which is not at all guaranteed. If the Palestinian leadership could provide the required assurances that they would comply with the rules of the game, this would be a major step towards the implementation of the right of the Palestinian people to economic self-determination. In turn, the right to a decent life in a modern and solid economic order can guarantee further peace and social welfare.

In a parallel step, the Palestinian society would also need to discuss the meaning of cultural self-determination from the perspective of the ‘Abraham links’ with Israel. This is a broader discussion that has to take place within the Arab and Muslim world. The definition of Arab identity is not only a

³² On the potential welfare benefits from the creation of bilateral or plurilateral FTAs between Israel and its Arab partners of the Abraham Accords or with other Muslim countries, see Daniel Egel, Shira Efron and Linda Robinson, ‘Peace Dividend – Widening the Economic Growth and Development Benefits of the Abraham Accords’, RAND Corp., March 2021, available at <www.rand.org>, last access 18 February 2022.

³³ See ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, 184, para. 122; UNSC Res 2334/2016, referring to the above Advisory Opinion.

³⁴ See common Art. 1 of the two UN Covenants.

matter of historical interpretations, but mainly a matter of how to design and configure the future. In that configuration, past and entrenched hatreds are roadblocks on the path to progress and peace. Opponents of the Accords, such as the late Saeb Erekat, leading diplomat of the Palestinian Authority, used, for instance, the term 'Arab Zionists' in a derogatory manner against the Arab supporters of the Accords,³⁵ whilst the term 'Arab Zionists' is increasingly used in the UAE and Bahrain to connote a positive meaning that demonstrates the will of progressive Arabs to build strong societies and successful economies in cooperation with Israel.³⁶

If accession of the Palestinian Authority to the system of the Abraham Accords proves illusory, Israel and its partners might still try to improve the situation of the Palestinians by unilaterally offering Palestinian businesses benefits accruing to their nationals from the Accords, depending on the circumstances. This would signal to the Palestinians that the economic integration project under way between Israel and its partners may offer them entrepreneurial possibilities if they engage with it. There is also the possibility that should the Palestinians persist in their rejection of Israel and thus also in their denial of the benefits of peace, they would simply be left behind with Israel and its new partners moving forward nonetheless.

V. Conclusion

The collapse of large parts of the Middle East, triggered by the combination of external intervention, revolution, political Islam (Muslim Brotherhood and its offshoots), sectarian violence, terrorism, and dictatorship is not the only face of the region. Side-by-side there are signs of deep and peaceful change, hope, and creativity, and the real possibility that the modernising core of the Middle Eastern space may even find itself at the forefront of technological advancement, economic achievement, and social and political transformation in the post-American era. The path may be rocky, the parties may take their time and there may be setbacks, but there is a sense that the transnational networks established through the integration process are resilient enough to withstand moments of crisis and carry out the vision of transformation of the Middle East.

Achilles Skordas

³⁵ 'PLO's Erekat: The UAE-Israel Deal Has Created Arab Zionists', *Jerusalem Post*, 1 September 2020, available at <<https://www.jpost.com/middle-east/plos-erekat-the-uae-israel-deal-has-created-arab-zionists-640748>>, last access 18 February 2022.

³⁶ See for instance, Einat Wilf, 'Goldman Lecture – "Arab Zionism and the Path to Peace"', 8 December 2021, <https://www.youtube.com/watch?v=YZOlC_p6tRw>, last access 18 February 2022.