1980

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M. Cherif Bassiouni

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An Analysis of Egyptian Peace Policy Toward Israel: From Resolution 242 (1967) to the 1979 Peace Treaty*

by M. Cherif Bassiouni**

I. INTRODUCTION

HISTORY WILL NO doubt record that the most propitious opportunities for an overall peace in the Middle East occurred after the October 1973 war and after President Sadat's Jerusalem visit of October 1977. The first opportunity resulted in a limited agreement on the disengagement of forces between Egypt and Israel in May of 1974. This was followed in September of 1975 by the Sinai Interim Agreement between Israel and Egypt, although there was no similar agreement between Syria and Israel. The second opportunity yielded even more tangible results between Egypt and Israel in the form of the 1978 Camp David Agreements, and the 1979 Peace Treaty between the two countries. Despite common belief, these post-1973 developments were not an innovation in Egyptian peace policy toward Israel. This article will explore Egypt's peace policy as it unfolded over more than a decade.

II. EGYPT'S GENERAL POLICY FRAMEWORK: 1967-1978*

Since 1967, Egypt's policy toward Israel has been aimed at achieving an overall peaceful political settlement of the issues involved in the Arab world's conflict with Israel. More specifically, Egypt has predicated its peace policy on five substantive principles. The first calls for complete Israeli withdrawal from all Arab territories occupied since the 1967 war, subject to effective reciprocal security guarantees. The second recognizes the Palestinians' right to self-determination, including the establishment...
of a Palestinian State on the West Bank and Gaza Strip. The third principle designates the Palestine Liberation Organization (P.L.O.) as the representative of the Palestinian people. The fourth mandates the recognition of Israel. The fifth requires the conclusion of a permanent peace treaty between all parties concerned in the Arab-Israeli conflict.

These fundamental principles derive from those enunciated in U.N. Security Council Resolution 242 which was accepted by Egypt and Israel, and was subsequently embodied in Security Council Resolution 338, and from other prior General Assembly Resolutions. The main tenets of these two resolutions are the return by Israel of “occupied territories” in the 1967 conflict; the resolution of the Palestinian “refugee problem”; rec-

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ognition of the “political independence and territorial integrity” of all parties; and the establishment of a “just and lasting peace” between Israel and the Arab parties to the conflict.

Since 1967, Egypt has considered the principles of Resolution 242 as its basic negotiating framework though, in certain respects⁶, it is ambiguous. For example, in its statement of principles, the resolution emphasizes that territorial acquisition by force is not permissible, and then the resolution in its operative paragraph refers to the withdrawal from occupied territories without specific reference to all territories occupied since 1967. This has given rise to divergent interpretations. The resolutions are also ambiguous in that they fail to give a timetable for the return of the territories. Furthermore, the rights of the Palestinians are recognized only in terms of their refugee status and not as a national entity with the right of self-determination. Finally, the language “just and lasting peace” is equivocal and lends itself to multiple contextual interpretations.

The examples enumerated above typify the vagueness and ambiguity which permeate Resolution 242. This can be attributed in a large part to the desire of the drafters of the Resolution to use language conducive to a negotiated peace. Unfortunately, this poor draftsmanship has led to conflicts with other related U.N. Resolutions. Thus, while Resolution 242 refers to Palestinians as refugees, Resolution 25357⁷ and Resolution 3236⁸ (as well as others) refer to the Palestinians’ “inalienable right to self-determination.”⁹

Moreover, it became evident that Egypt’s actual policy principles were and continue to be contrary to Israel’s interpretation of Resolutions 242 and 338 regarding the return of occupied territories, which Egypt considered as being unequivocally all territories, and concerning the right of the Palestinians to self-determination, which Egypt interpreted as including the right to establish an independent state on the West Bank and Gaza Strip though conceding the need for an interim “autonomy” stage.

In 1976, Egypt sought to clarify the ambiguities of Resolution 242. It joined other states in sponsoring a draft resolution amending Resolution 242¹⁰ before the Security Council debate on the Middle East Question in

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The proposed resolution dealt forthrightly with both the territorial and Palestinian issues. As to the first, it sought to clarify that Israel must withdraw from "all territories occupied in the 1967 war." As to the Palestinian issues, it sought to harmonize Resolution 242 with Resolutions 2535 and 3236. The latter Resolution recognized the Palestinians' "inalienable right to self-determination" in Palestine, and therefore to remove from Resolution 242 the reference to the Palestinians as "refugees." The proposed 1976 Resolution was, however, vetoed by the United States.

In 1977, diplomatic efforts were renewed to achieve the same objective. The United States proved amenable to such a resolution, provided that the P.L.O. would accept a new formula whereby Israel would be recognized as a sovereign state and the 1964 Palestine National Covenant would be amended to conform to that new perspective. Because the P.L.O. refused to agree to this, as did Israel, that effort failed as had the previous one. Egypt was left with no other alternative than to try to negotiate its way out of these inconsistencies.

In attempting to clarify Resolution 242, Egypt focused its diplomatic efforts on removing any question about ultimate Israeli withdrawal from all occupied territories, on obtaining a definitive recognition of the Palestinians' right to establish a state on the West Bank and Gaza Strip, and on designating the P.L.O. as the legitimate representative of the Palestinian People.

Subject to these clarifications, Egypt has accepted the above described framework for a peaceful political settlement since the late President Nasser accepted Resolution 242 in 1967. Nasser later affirmed this framework for peace in 1970 when he accepted the Jarring Mission, and the Rogers' Peace Plan. President Sadat followed the Rogers Plan until the United States dropped it in response to negative reactions by Israel.

Clearly, President Sadat's efforts to secure peace with Israel have been consistent with the general framework accepted by Nasser, though only after a "war of attrition" which lasted close to two years. As will be shown later in this article, Sadat designed the October 1973 War to accelerate the tempo of the political settlement and to provide the impetus for

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13 See A. SADAT, IN SEARCH OF IDENTITY (1978). See also, Heikal, Egyptian Foreign Policy, 56 FOREIGN AFF. 714 (1978).
a Sinai disengagement agreement; a goal accomplished in 1974. Sadat continued his peace efforts in 1977 by traveling to Jerusalem, and by concluding the Camp David Agreements. Thus, the October 1973 War notwithstanding, Egypt has sought a peaceful political settlement with Israel since 1967 under a consistent framework of principles.

II. THE BASIS OF EGYPT'S POLITICAL SETTLEMENT PEACE POLICY

After the 1967 War, Egypt's military capabilities were almost totally destroyed. At that point, Egypt was faced with the task of developing a realistic policy for peace with Israel. Three separate policy options were considered: the first was a military option, the second was a no war-no peace option, and the third was a political settlement option. It should be noted at the outset that while the first and second options are not necessarily inconsistent, the third option is incompatible with the other two. Thus, Egypt had an irreversible choice to make.

After careful pragmatic analyses, Egypt concluded that a political settlement was the only viable policy approach to achieve peace with Israel. What follows is a description of the three policy alternatives considered and the rationale behind the conclusions ultimately reached.

A. The Military Option

In making such a choice, Egypt had to assess its military capabilities in relation to those of Israel. Between 1967 and 1971, Egypt's capabilities were extremely limited, but between 1971 and 1973 they grew sufficiently to support a limited military operation of short duration. After 1973, Egypt's capabilities reverted to their post-1967 level. This post-1973 military imbalance was caused by substantial increases in United States supplies to Israel, coupled with a virtual shutoff of Russian supplies to Egypt. President Sadat concluded then that U.S.S.R. support would not be forthcoming. In addition, Syria continued to receive Russian supplies, but could neither share them with Egypt, nor develop on its own a military capability sufficient to offset Israel's.

Shortly after the 1973 war, Israel was in a position to easily overcome the combined military forces of Egypt and Syria. Furthermore, it was clear that air supremacy, as in the wars of 1948, 1956 and 1967, was outcome-determinative in any military confrontation with Israel. In that respect, it was unquestionable that every city and industrial site in Egypt and Syria was vulnerable to attacks by Israel's superior Air Force.

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The defensive and offensive capabilities of Israel, when weighed against those of Egypt and even those of other combined Arab states, were overwhelmingly in its favor. The likelihood of redressing this imbalance was very improbable in light of the United States strong commitments to Israel. It was also apparent to all concerned that the U.S.S.R. would not engage in an arms race to supply Egypt or Syria, and that the United States might directly intervene in a war which turned against Israel's favor. This latter possibility was supported by the fact that the United States flew supplies and equipment directly to the Sinai front during the 1973 war, while the U.S.S.R. did not intervene on behalf of Egypt or Syria, regardless of Israel's military successes. The position of the U.S.S.R. derived essentially from the implications of "détente" and its own strategic priorities which did not call for any form of direct intervention in the Middle East which it considered up to now of tactical importance only.

Thus, the conclusion was reached that an all-out military option was inconceivable for Egypt. This meant that only a limited military operation could be contemplated. Such an approach, however, raised two interrelated questions: first, what would be its strategic objectives and second, what would be its potential for tactical success?

The strategic objectives of any such plan would be to set in motion the process of a negotiated political settlement, and to acquire a favorable military position. The potential for success was essentially a question of tactics and effective implementation. However, achievement of the desired strategic objective would depend upon the complete or substantially complete tactical success of the limited military operation. Any lesser degree of success would not only cause its tactical and strategic failure, but would be counter-productive in every respect.15

B. The No War-No Peace Option

The essence of the no war-no peace approach is the combination of a variety of pressure-building strategies designed to erode the military, economic, political and psychological capabilities of a given target. Its success depended upon the ability to drain an opponent's resources, while avoiding the same deleterious effects on one's own resources. The no war-no peace option is therefore an intermediate strategy designed to pave the way either to an all-out military policy, or to a political settlement. Since Egypt had decided against an all-out military approach, only the political settlement option could be the objective of such a strategy. Therefore, the key factor was Egypt's ability to drain the resources and staying power of Israel faster than Israel could sustain them, while maintaining its own economic, social and political stability at the same time.

15 M. H. Heikal, The Road to Ramadan (1975).
In this context, a no war-no peace option would require that Egypt and Syria continue to build up military strength in such a way as to maintain constant military, political, diplomatic, economic and psychological pressure on Israel without giving it the opportunity to justify or carry out a preemptive military strike. The success of such an approach, would depend on several other factors. First, Egypt and Syria would have to develop a credible military strike capability, forcing Israel to increase its own capabilities in order to maintain an effective deterrent against an Arab attack. Second, American military and economic assistance to Israel would have to remain the same, thereby making the costs of such preparedness more burdensome to Israel's weakened economy. Third, Egypt and Syria would have to be able to meet their own needs for economic development and social progress, while sustaining high military expenditures. Finally there would have to be a certain unity among other Arab states to maintain a variety of economic, political and diplomatic pressures on Israel through Israeli supporters, the least of which is not the oil weapon.\footnote{See Paust & Blaustein, The Arab Oil Weapon—A Threat to International Peace, 68 Am. J. Int'l L. 410 (1974), and contra, Shihata, Destination Embargo of Arab Oil: Its Legality Under International Law, 68 Am. J. Int'l L. 591 (1974).}

Realizing that all of the above conditions were not likely to occur, Egypt decided not to pursue a no war-no peace strategy. The critical question for Egypt in reaching this decision was the extent to which its internal economic and social structure could withstand the exigencies of such a strategy. A complex set of answers tended to show that Egypt was not internally strong enough to pursue this strategy. Its population was increasing at an exponential rate, which could not be contained or matched by the existing or reasonably foreseeable rate of economic growth. Certainly, the likelihood of the massive infusion of foreign capital and technology necessary to produce the economic growth needed to keep pace with the increasing needs of the country was remote in the context of ongoing war and large scale military preparedness. Furthermore, Arab military and economic assistance was not adequate even to maintain the status quo; nor could the badly needed changes in social, economic and governmental structures required to stimulate foreign investments in capital and technology be achieved under conditions of war.

Above all may be the fact that the ability of the Egyptian people to withstand the tensions and pressures necessitated by this type of strategy was eroded by the preceding phases of this costly conflict. After years of Nasser's regime, Egypt's social and economic structures had become stultified by a rigid, inefficient and somewhat corrupt bureaucratic system. Against this background, the no war-no peace option had to be ruled out both as a policy objective, as a strategy and as a tactic whether before or after the 1973 war.

C. The Political Settlement Option

By eliminating the all-out military option and the no war-no peace
option, the political settlement option was deemed the only viable alternative. Hence, President Nasser endorsed Ambassador Jarring’s United Nations mediating mission in 1969, and in 1970 he accepted United States Secretary of State Rogers’ peace plan. In 1971 President Sadat followed that policy, designing the 1973 war as an instrument thereof. Subsequently, the political settlement option was the clear focal point of mediation efforts by the United States, and of the diplomacy of Secretary of State Kissinger.16

The political settlement which Egypt sought could have been implemented by a step-by-step approach, or through an overall multilateral effort. Initially, President Sadat favored the latter approach, and had urged the convening of a peace conference in Geneva. However, at the insistence of both the United States and Israel, Egypt ultimately accepted the step-by-step plan, to be mediated by Henry Kissinger.17 More specifically, this approach was to lead to an interim agreement between Egypt and Israel, which would be followed by a similar agreement between Syria and Israel. These interim agreements would later be developed into an overall settlement, involving Jordan and the Palestinians. This approach, in fact, led to the 1975 Disengagement Agreement between Egypt and Israel, but it failed to yield any other results.

The advantages of this approach, as perceived by Egypt in 1975, were numerous. Primarily, it would demonstrate to the world Egypt’s reasonableness, good will and peaceful intentions; perhaps increasing Israel’s diplomatic isolation. It might also secure the return of some occupied territory to Egypt, which would be a precedent for similar results in the future. It would also provide substantial foreign currency income to Egypt from use of the Suez Canal without endangering the canal from Israeli-held positions in the Sinai. And, in a broader sense, this peace approach would hopefully stimulate foreign investments and economic development. And there was the prospect of oil in the Gulf of Suez.

A further consequence of the step-by-step plan was the possibility that the United States might gradually reduce its economic and military assistance to Israel, and even increase that given to Egypt. Certainly, the continued burden on Israel to maintain its military strength in the midst of its highly inflationary economy was seen as a benefit by Egypt.

However, as the first Arab state to arrive at an interim agreement with Israel, Egypt perceived several disadvantages to the step-by-step plan. A significant detriment, for example, was the creation of divisions in the once unified Arab front, and Egypt’s increased political isolation in the Arab world. Concurrently, this plan generated dissent within certain

16 See Quandt, Kissinger and the Arab-Israeli Disengagement Negotiations, 29 J. Int’l Aff. (Spring 1975) and e.g., H. Kissinger, White House Years 558-93 (1979).
sectors of the Egyptian public and military establishment.\(^{18}\) Finally, Egypt had placed itself in a position of exclusive reliance on the United States, and lost any support possible from the Soviet Union. For the purposes of the following discussion, these considerations will be analyzed separately under the rubrics of “inter-Arab politics” and “super-power politics.”

1. Inter-Arab Politics

Egypt’s analysis of inter-Arab politics focused on the Arab “rejectionist front,” and on Palestinian politics. In essence, the rejectionists’ position centered on the rejection of Israel as a sovereign Jewish state and calls for its substitution by a Palestinian-Arab secular, democratic state. The logical implication of this position is that no agreement can take place with Israel which would give it legitimacy or recognition in and by the Arab world. Egypt concluded that such a position was inflexible and incompatible with the political settlement option which Egypt had chosen to pursue.

To some extent, the rejectionists were then considered to have developed a certain tolerance for divergent policies because of their belief that the ultimate destruction of the State of Israel made everything else “historically irrelevant.”\(^{19}\) (A position which has changed since Camp David). At worst, their reaction to a political settlement plan was expected to take the form of verbal criticism and rhetorical attacks centering on President Sadat and only peripherally on Egypt for a short period of time. On its face an anti-Sadat and anti-Egypt campaign would appear harmful, but the rejectionist policy could be skillfully turned into an asset since it would enhance Egypt’s credibility as a peace-seeking country in the eyes of world public opinion. The same policy could also cause a counterreaction in Egyptian public opinion, causing the Egyptian people to rally behind Sadat.

Having reached this conclusion, Sadat turned to consider the extent to which the choice of a political settlement might be accepted throughout the Arab world and whether opposition to that policy could develop into detrimental anti-Egyptian policies by other Arab states.\(^{20}\) Egypt concluded that, while certain governments supported the rejectionist position, few would seriously oppose Egypt over its divergent policy. In addition, Egypt assumed that Syria would actively join in the pursuit of a

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\(^{19}\) Statement attributed to President M. Kadhafi of Libya and echoed by some P.L.O. leaders in some arabic newspapers of Libya and Lebanon in October 1975.

\(^{20}\) See e.g., B. Boutros-Ghali, Studies in Arab Diplomacy (in Arabic-1973), a book he wrote before becoming Minister of State for Foreign Affairs.
political settlement approach shortly after indications of success. Egypt expected a period of stress and pressure, but only between the time of Egypt's acceptance of an interim agreement and Syria's subsequent acceptance of a similar one. After that, Egypt believed that the Arab world would come to accept the *fait accompli*.

2. Super-Power Politics

Two basic assumptions were accepted by Egyptian policymakers in 1975 as fundamental. The first was that detente was more important to the United States and the U.S.S.R. than were their respective Middle Eastern policies and commitments. The second assumption, a consequence of the first, was that the U.S.S.R. would not provide Egypt or Syria with the military capacity to defeat a United States-backed Israel. The conclusion was that neither the United States nor U.S.S.R. would do anything, or permit others to do anything, which would significantly alter the military balance of power in the area.

The only question then left for Egypt in 1975 was to determine the extent to which it would keep up good relations with the U.S.S.R., while tilting its position toward the United States. President Sadat chose to forsake the U.S.S.R. for the United States, thereby giving up a known but limited source of military supplies for a potentially abundant source of economic and technical assistance in the form of foreign aid and private investment.

Egypt saw no reason why it should not place its political settlement option fortunes in the hands of the United States. Nevertheless, the process through which it reached that decision was based on an appraisal of a certain number of factors, among which was Secretary Kissinger's formula for a step-by-step approach, which was not favored by Egypt.¹ President Sadat's final decision was predicated on six basic assumptions: (1) that Syria would soon enter into a similar agreement with Israel; (2) that no unforeseen events would drastically alter the existing negotiating climate between the parties to the conflict and between the United States and the U.S.S.R.; (3) that Israel would develop more flexible responses toward an overall political settlement compatible with the mainstream of Arab positions; (4) that a workable formula would be developed to involve the Palestinians in an ultimate peaceful settlement, acceptable to them and to the Israelis and which would ultimately lead to the establishment of a Palestinian state on the West Bank and Gaza; (5) that the internal Egyptian situation would remain stable; and, (6) that no events

¹ But see, Heikal, *supra* note 13, at 726-727 for a discussion of the opposing argument that Egypt can not negotiate peace with Israel in isolation from the rest of the Arab world.
would occur in the Arab world to drastically change the then prevailing balance.

Of course, the inarticulated premise was that the United States would continue its mediation efforts without favoring Israel over Egypt. Sadat further assumed that after signing an interim peace agreement with Israel, the situation in the Middle East would remain stable while interim agreements between Syria and Israel and between Jordan and Israel would be worked out. In an event, by signing an interim agreement with Israel, Egypt ruled itself out of the state of war with Israel, including economic and maritime blockades, as discussed below.

III. IMPACT OF THE 1975 SINAI DISENGAGEMENT AGREEMENT ON EGYPT'S SUBSEQUENT PEACE POLICY

Perhaps the greatest side effect of the 1975 Sinai interim Agreement between Egypt and Israel was that it demonstrated that negotiation was the most viable approach to peace. It also showed that Arab resilience was possible even in the face of divergent inter-Arab policies, and it created a challenge for Arab and Israeli critics to offer positive alternatives. Indeed, prior to September 1975, the various anti-political settlement forces in Israel and the Arab rejectionists, including the P.L.O., had been unwilling to compromise, but the Agreement was expected by Egypt to be an incentive for an overall settlement.

Egypt suffered no political or economic setbacks by entering into the 1975 Agreement and, in fact, benefited from it in terms of increased United States aid and foreign investments. Additionally, many of Egypt's expectations were fully realized even though at the time of the decision they were tenuous. For example, Syria and the P.L.O. opposed the interim Agreement and denounced Egypt for executing it, but did not break their relations with Egypt. In time, their opposition waned. Concurrently, Egypt's popularity increased among Israelis and the United States began to regard Egypt, and particularly President Sadat, as reliable participants in the peace process.

In sum, the 1975 interim Agreement had softened the psychological and political positions of the parties to the conflict, even though it did not per se lead to any further agreements either with Egypt or with Syria, Jordan or the Palestinians. The agreement became a fait accompli in the Arab world and by the end of 1976 opposition to the Egyptian policy of a political settlement all but disappeared. Nevertheless, Egypt became increasingly skeptical about the step-by-step approach developed by Secretary Kissinger. Thus, President Sadat argued more forcefully with the

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311 For a discussion of Arab opposition to Sadat's policies see, F. Ajami, Between Cairo and Damascus, 54 FOREIGN AFFAIRS 444 (1976).
United States that the next phase of the peace process should be an overall settlement; one that would include Syria, Jordan and the P.L.O.

Between 1976 and 1977, a vacuum developed in which President Sadat pressed for a multilateral peace conference. When that effort failed, he took the initiative and shifted his strategy to a bilateral Egypt-Israel negotiating framework.

A. The Bilateral Approach

For the purpose of clarity, analysis of the bilateral approach is divided into two categories; the first being the direct Egypt-Israel negotiation, and the second being the United States mediation of Egypt-Israel negotiations.

1. Direct Egyptian-Israeli Negotiations

By the summer of 1977, President Sadat concluded that a totally independent course of conduct was necessary. Thus in October of that year he journeyed to Jerusalem. This dramatic gesture did not, however, signify any change in Egyptian policy. While Egypt's basic peace policy remained essentially the same since 1967, the means of implementation had been altered. Specifically, President Sadat's sense of personal commitment to peace became more intense; and with the support of the Egyptian people, Sadat changed the style and manner in which he carried out his policy decision.

In October 1977 President Sadat went to Jerusalem convinced that he would return with a peace agreement or at least with an agreement on the basic principles to which Egypt, Syria, Jordan and the P.L.O. could later adhere to. His speech to the Knesset stressed the fact that only an overall settlement could bring about peace in the region. Unfortunately, Sadat was unable to secure either one of his objectives with Prime Minister Begin during that trip. Nevertheless, he had begun a new chain of events and created a new psychological framework for peace.

Subsequent peace initiatives on the bilateral level soon led to a dead end. Israel came to the Mena-House (Cairo) meetings at the ambassadorial level which lasted a few weeks and failed. The summit meeting at

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22 See generally M.C. Bassiouni & M. Kaplan, A Mid-East Peace Proposal (The University of Chicago Center for Strategic Studies 1975, 2d rev. ed. 1977), in 5 Den. J. Int'l L. & Pol'y 401 (1975). The United States under the Carter Administration also favored this position, but it failed to convince Israel to reconvene a Geneva Conference set up by the U.N. under the joint chairmanship of the U.S. and the U.S.S.R. in 1975 which led to the 1975 Sinai Disengagement Agreement between Egypt and Israel. Similarly, Egypt failed to obtain Syria's agreement to the formula which was presented.

23 Sadat describes this in his autobiography supra note 13, at 271-313.
Ismailia between Sadat and Begin followed, yielding two committees; the military committee in Cairo which accomplished many gains, and the subsequent political committee meeting in Jerusalem, which soon failed. Throughout the process, Egypt had invited Syria, Jordan and the P.L.O. to participate and, in particular, to attend the Mena-House (Cairo) meetings. But the invitation was ignored. Thus Sadat’s efforts to involve other Arab participants in the process failed (as did the efforts of the United States).

2. The United States Mediation of Egyptian-Israeli Negotiations

When direct Egypt-Israel negotiations failed, the United States regained the initiative and acquired a renewed prominence in the peace process. After months of stalemate between January 1977 and July 1978, a meeting was arranged by the United States at the foreign minister’s level and was held in July 1978 at Leeds Castle in England. A few weeks prior to that meeting, Egypt developed some new peace proposals which added negotiating flexibility, but Israel rejected them before the Leeds meeting took place. With that rejection there was nothing left to discuss, so Egypt left the initiative with the United States once more. The United States had the task of initiating both substantive and procedural formulas. While still acting as a mediator, it became more actively involved, and was drawn into the vacuum left by the failure of the previous negotiations. This led to the Camp David negotiations and finally to an agreement.

IV. The 1978 Camp David Agreements

The Camp David Agreements consist of two documents executed on September 17, 1978. One is entitled “A Framework for Peace in the Middle-East.” Its preamble states: “The agreed basis for a peaceful settlement of the conflict between Israel and its neighbors is United Nations Security Council Resolution 242, in all its parts.” “[T]o achieve a relationship of peace in the spirit of Article 2 of the United Nations Charter, future negotiations between Israel and any neighbors prepared to negotiate peace and security with it, are necessary for the purpose of carrying out all the provisions and principles of Resolutions 242 and 338.” To the extent that the Camp David Agreements incorporate Resolutions 242 and 338, it can be said that Egypt has followed a consistent peace policy. However, there are several indications that the Camp David Agreements are in fact a shift in Egypt’s earlier policy principles.

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24 For the text of the Agreements, see 14 Weekly Comp. of Pres. Doc. (no. 38) 1519-1528 (Sept. 25, 1978).

First, there is some question whether the separation of Egypt's territorial claims from those of the other interested Arab nations is not itself a departure from Egypt's prior policies. Second, the absence of a specific reference in the framework agreement to Syria and its territorial claims raises the question whether Egypt thereby relinquished its solidarity with Syria and whether the omission constitutes an omission of substance. Third, there is a question as to whether the autonomy language of the agreement regarding the West Bank and Gaza precludes ultimate Palestinian statehood or is merely a preparatory step leading to it. Finally, is the prospect of elected officials from the West Bank and Gaza which are ostensibly to become the recognized leadership of these territories incompatible with Egypt's 1974 Rabat Summit commitment to recognize the P.L.O. as the "sole legitimate representative of the Palestinian People"?

These questions raise issues with respect to Egypt's existing legal commitments, under its mutual defense agreements with Syria and Jordan. These mutual defense agreements might be incompatible with a separate peace agreement by any party thereto, so long as the other is still subject to the occupation of its national territories. It may be argued that Egypt is released from any further obligation if Israel's commitment to the principles of "nonacquisition of territories by use of force" and "the return of occupied territories" embodied in the Camp David Agreements is sufficiently legally binding. But what if it is not fulfilled? Egypt's obligations remain. Furthermore, Egypt's repeated and deliberate attempts at having Syria and Jordan join the negotiating process might be claimed as a release from any obligation to adopt the same posture as Syria and Jordan, particularly since they had committed themselves to a peaceful political settlement, which could only be accomplished through some form of negotiating process. Egypt further justifies its position with regard to any possible breach of the Egyptian-Syrian Defense Treaty on the principle of rebus sic stantibus, which allows a party to alter its commitments when circumstances which were the basic premise of the original undertaking change.

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26 Joint Defense Treaty, Nov. 4, 1966, Egypt-Syria. The Treaty entered into force on Mar. 9, 1967, in effect for five years subject to renewal, renewed in 1972. A question arises as to its continued effectiveness and whether its non-renewal terminates any obligations Egypt may have under it.

27 Joint Defense Treaty, May 30, 1967, Egypt-Jordan. The Treaty entered into force on June 1, 1967, in effect for five years subject to renewal, renewed in 1972. A question arises as to its continued effectiveness and whether its non-renewal terminates any obligations Egypt may have under it.

The above arguments may not provide Egypt with a complete justification for its unilateral action in the Camp David Agreements with regard to Syria and other Arab concerns. Egypt’s action can be questioned in that the framework agreement virtually sidesteps the issue of recognizing the P.L.O. as the sole representative of the Palestinian people. Also, the agreed upon autonomy of the West Bank and Gaza which is to be negotiated with Israel seems to skirt the issue of Palestinian self-determination.

The only concrete step toward some manifestations of self-determination implicit in the agreement is the procedure for community leadership elections. However, this scheme represents a weakening of Egypt’s prior commitment to P.L.O. representation. In all other respects, Israel is only bound to negotiate over the autonomy question with Egypt, and there is nothing in the Framework Agreement which guarantees the implementation of autonomy for the Palestinian people.

Along the same lines, the P.L.O. has claimed that the Camp David Agreements condone the Israeli settlements in occupied territories of the West Bank and Gaza, and that the municipal leadership scheme for autonomy will prevent the establishment of a sovereign Palestinian state in that area. In addition, the P.L.O. feels that a five year transition period will erode the political will and ability of the Palestinian people to achieve their goal of statehood.

The Egyptian response to these charges is that they are merely speculative and that the dismantling of the Israeli military government on the West Bank and Gaza, the interim autonomy and the development of elected municipal leadership are logical and necessary prerequisites for permanent autonomy of the Palestinians. In that respect Egypt advances that nothing precludes a meaningful role for the P.L.O. The assumptions of President Sadat were that autonomy will set in motion certain developments on the West Bank and Gaza which will provide those territories with the governmental infrastructure so necessary to statehood. Further, the transitional period of five years is deemed necessary in order to dampen Israel’s suspicions and apprehensions about the creation of a Palestinian State which is now unacceptable to a portion of the Israeli body-politic. For Egypt the question of Palestinian statehood is merely one of strategy and tactics within the political settlement approach which the P.L.O. rejects. It must be noted that the apparent position of the P.L.O. does not necessarily correspond to what it is likely to accept given the offer of Palestinian statehood. The P.L.O.’s dilemma as indicated earlier

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29 The problems of internal political struggles and ideological factionalism have existed within the P.L.O. since its early days and have increased as the organization becomes more
is that as a liberation organization it cannot abandon its claim to armed struggle and maintain its credibility and leadership without having first secured Israel's commitment to Palestinian statehood. Similarly, Israel's dilemma in that respect is that it cannot make such a priori commitment without negotiating in order to insure its own future security.

The second agreement, entitled Framework for the Conclusion of a Peace Treaty Between Egypt and Israel also states: "[a]ll of the principles for U.N. Resolution 242 will apply in this resolution of the dispute between Israel and Egypt." The reiteration of Resolution 242 emphasizes Egypt's continuity in policy though subject to the ambiguities of the Resolution as discussed above.

The question thus remains whether legally Egypt's peace settlement with Israel is a severance of its solidarity with Syria, Jordan and the P.L.O. or merely tactical diplomacy, without a substantive shift in policy. Such a shift in tactical approach is not new to Egypt. Separate peace initiatives including acceptance and participation in the U.N.'s Jarring Mission, the Rogers' Peace Plan which spanned a period from 1967 to 1970, and the 1974 and 1975 Disengagement of Forces Agreement, have been taken by Egypt. Nevertheless the basis for all such prior initiatives was that resolution of the conflict would also be pursued on a multilateral overall settlement basis. Diplomatic and negotiation strategies have moved in the direction of a bilateral agreement with Israel after failure to gain Syria and Jordan's participation in the multilateral process. Egypt maintains however, that while its peace initiatives with Israel are bilateral in form, their substance remains multilateral because they are based on Resolutions 242 and 338 which are multilateral principles to which Egypt has remained faithful. Thus, Egypt argues that its diplomatic strategy and the form of its agreements with Israel are to be considered in light of its substantive policy which remains unchanged. If that distinction is accepted, then Egypt has remained consistent in its political settlement approach to the resolution of its conflict with Israel and vis à vis other Arab participants.

As a result of the Camp David Agreements, Egypt may peacefully regain territories lost in the 1967 war, and establish the basis for Palestinian autonomy on the West Bank and Gaza. The former was Egypt's primary goal. The latter represents only a step in the direction of its other goal, that of supporting Palestinian statehood. But in entering into this

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agreement, Egypt has made the Arab-Israel conflict divisible. Further, the agreement de-emphasizes the nature and extent of the conflict, giving Israel a legitimacy which other Arab participants either deny in principle, or regard as a bargaining chip for the ultimate resolution of all aspects of the conflict. Nevertheless, Egypt has demonstrated that the peaceful political process accomplishes those results which other more costly and dangerous means have heretofore failed to accomplish.

V. THE 1979 PEACE TREATY BETWEEN EGYPT AND ISRAEL

On March 26, 1979 Egypt and Israel signed a peace treaty in Washington D.C. The Treaty was predicated on the two Camp David Agreements of September 17, 1978. Between September 1978 and March 1979 Egypt and the United States sought but failed to obtain support from Syria, Jordan, the P.L.O. and municipal leaders from the West Bank and Gaza for the Camp David Peace Plan. The expectations which led Egypt to the conclusion that it was in its best interest to enter into the 1975 Sinai Disengagement Agreement had been fulfilled by 1979. Thus the same reasons that had motivated Egypt in 1975 led it to pursue its peace policy toward Israel in 1979. The difference between 1975 and 1979, however, was that the earlier Agreement was an interim disengagement of forces, the later one, a full-fledged Peace Treaty, political in nature. Though apparently bilateral, the Treaty has multilateral features. The Treaty was witnessed by the United States. It refers to the U.N. peacekeeping forces and additional documents referring to it commit the United States to certain undertakings. Thus, the Treaty embodies certain multilateral aspects which tend to give it a sui generis multilateral character even though it is labelled a bilateral agreement between Egypt and Israel. Several questions arise with respect to the Treaty and Egyptian policy principles.

Since the Treaty provides for the return of all Egyptian occupied territories, Egypt achieved its national policy objectives of total withdrawal from its territories. This return of territory vindicates its consistent interpretation of Resolution 242 as calling for total withdrawal from occupied territories in contrast to Israel's interpretation of the Resolution which

\[\text{\cite{Trety_1979}}\]

The U.S. has undertaken several related obligations in separate Agreements with Egypt and Israel which refer to the Treaty, see Middle East Peace Package: Hearings on S.B. 1007, Senate Comm. on Foreign Affairs, 96th Cong., 1st Sess. (1979).
does not. Article I(2) of the Treaty requires that Israel withdraw military as well as civilian settlements established in the Egyptian Sinai. The Treaty's reciprocal military security conditions, use of U.N. peace-keeping forces, and forms of observation and verification are in keeping with Resolution 242 and are consistent with Egyptian policy on the subject. All other terms and conditions relating to military security arrangements in the Agreement and supplemental documents relating thereto are compatible with the principle of total withdrawal. These arrangements are not inconsistent with Egypt's policy principles and the objectives it has pursued since 1967.

The Treaty's implications with respect to Egypt's Arab commitments fall into three categories:

1. The legal obligations assumed by Egypt toward Syria and Jordan by virtue of the respective mutual security agreements with these two states.

2. A legal obligation not to enter into a separate peace agreement with Israel in accordance with the League's Pact, its Joint Defense Treaty and a resolution of the League of Arab States of 1950, explicitly and implicitly reiterated in similar resolutions since then.\(^{32}\)

3. A political and moral obligation to the Palestinian people not to settle separately with Israel while the Palestinian's right of self-determination and national independence in Palestine is unfulfilled and a political commitment to the P.L.O. at the 1974 Rabat Summit Conference to rec-

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\(^{32}\) **League of Arab States Resolution of April 13, 1950:**
First: To reaffirm the decision taken by the Political Committee on April 12, 1948, with the unanimity of Member States, which provides that the entrance of the Arab armies into Palestine for its rescue should be regarded as a temporary measure without occupation or partition significance, and that following its liberation, Palestine should be handed over to its owners so that they may rule it in the way they wish.

Second: To consider this decision as effective and expressive of the present policy of the Arab States in this respect.

Third: Should any Arab State violate this decision, it shall be considered as having repudiated its obligations as well as the provisions of the Pact in accordance with Article 2, paragraph 1, of the Pact, and the Special Annex regarding Palestine.

Fourth: In the event of such violation, the Political Committee shall be convened and take the necessary measures in accordance with the Provisions of the Pact.

See, H. Hassouna, The League of Arab States and Regional Disputes; A Study of Middle East Conflicts 33-43 (1975), discussing the then prevailing problem with Jordan, against which the resolution was drafted, because of that country's indications that it might enter into a separate peace with Israel. See also e.g., M.F. Anabtawi, Arab Unity in Terms of Law (1975); al-Khadem, The Role of the League of Arab States in Settling Inter-Arab Disputes, 32 Egypt Rev. Int'l L. 1 (1976). Note that art. 7 para. 1 of the Pact of the Arab League makes the Resolution mandatory and the League's Joint Defense Treaty, art. 2 also precludes a “separate peace.”
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recognize only the P.L.O. as the “sole legitimate representative of the Palestinian people.”

As to the first of these categories, the same arguments mentioned previously regarding Egypt’s entering into the 1978 Camp David Agreements apply because of references in these agreements and in the Treaty to the prospects of an overall peace settlement of all other issues in the conflict by peaceful means and on the basis of Resolutions 242 and 338.

However, a juridical issue arises as a result of the conflict between the Treaty’s obligations and Egypt’s obligations toward Syria and Jordan under their respective mutual security agreements. Egypt’s separate Peace Treaty with Israel precludes Egypt’s resorting to force against Israel in support of its allies Syria and Jordan whose occupation of some territories may be deemed an act of continued aggression. This constitutes a direct conflict with Egypt’s prior obligations toward Syria and Jordan. To avert this problem, Egypt sought to insert ambiguous language in Article VI of the Treaty, particularly a reference to the U.N. Charter’s Article 103. This allows Egypt to interpret the Treaty as not superseding other agreements, such as the mutual security agreements with Syria and Jordan. The language, ambiguous as it is, can however only be interpreted, with reference to prospective changing conditions and not to past ones. Thus, Article VI would apply to Egypt’s other Treaty obligations as to the future and not past conditions. A continuing illegal territorial occupation could be deemed a past condition as well as a future one. In that respect Egypt could still assert that its mutual security agreements with Syria and Jordan could prevail over the Treaty.

Egypt’s position is that the Treaty has to be read as a whole and that Israel’s undertakings to settle peacefully its disputes with the other Arab participants on the basis of Resolution 242 requires its total withdrawal from these territories. Egypt thus maintains that it has secured a promise from Israel equivalent to Egypt’s obligation under the mutual assistance treaties and has thus discharged its legal obligation to assist Syria and Jordan in the return of their occupied territories. Furthermore, Egypt asserts that should Israel not fulfill that obligation its continued occupation of these territories would be in violation of the U.N. Charter which in any event supersedes the Treaty. In such a case Egypt could claim that Article VI of the Treaty could be invoked to resume support for Syria and

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33 The U.N. has given the P.L.O. official observer status in G.A. Res. 3237 (1974).
Jordan. While this argument could be advanced with respect to Syria, it could not be advanced with respect to Jordan because Egypt's agreement to a negotiated autonomy of the West Bank does not contemplate the return of the West Bank to Jordan as its mutual security agreement with Jordan would call for. However, Egypt argues that this outcome is not a foregone conclusion since the future of the West Bank is to be negotiated and Jordan has been invited as a participant in that process. But to fulfill the obligation to Jordan, namely the return thereto of the West Bank, Egypt could be violating its pledge to Palestinian self-determination—a typical "Catch 22" situation.

The second category, Egypt's obligation under the 1950 Arab League Resolution which prohibits entry into a separate peace with Israel, has been patently breached. But is such a resolution a legally binding obligation on Egypt or a mere political declaration? Under the League's Pact the Resolution could be interpreted as legally binding and thus, Egypt's membership in the League was suspended in 1979 and the League's headquarters moved from Cairo to Tunis. Egypt's position, however, is that Israel's commitments to settle territorial and other issues with the other Arab participants on the basis of Resolutions 242 (accepted by these Arab states) relieves it from the obligation of the 1950 Resolution, and to that extent does not make the Treaty a wholly separate peace. This argument is supported by the Camp David Agreement, section C, paragraph 1, "Associated Principles," which refers to the applicability of principles of peace to other non-participating Arab states (though Egypt had no authority whatsoever to act on anyone's behalf or behest).

The third category concerns two separate duties owed by Egypt. The first is Egypt's obligation toward the Palestinian people to sustain their claim to self-determination and national independence in Palestine. The second is its undertaking at the Rabat Summit Conference to recognize the P.L.O. as the "sole legitimate representative of the Palestinian people," a position recognized by the U.N.

There are two positions with respect to the first duty. One is that Egypt sees the establishment of autonomy on the West Bank and Gaza as compatible with the ultimate goal of Palestinian self-determination and national independence of a portion of what was Palestine. The argument is that statehood, the ultimate goal of the autonomy scheme, is left open for future negotiations. Autonomy is the first step toward statehood. The opposing argument is that this implicitly recognizes Israeli settlements in these territories and Israel's right to be the negotiating partner as to the future of these territories and the fate of its people which is contrary to the objective of Palestinian statehood on the West Bank and Gaza.  

55 It is also contrary in spirit to numerous U.N. resolutions on the rights of the Palestinian People. There were two U.N. Resolutions passed in light of the Camp David Agree-
Egypt's explicit recognition of the legitimacy, sovereignty, territorial integrity, and independence of Israel is contrary to the Palestine National Covenant of 1964, amended in 1968. The Covenant states that one of the aims of the Palestinian people is the reconstitution of Palestine as a "secular, democratic state" which opposes the existence of an exclusively Jewish state in Palestine and thus opposes the State of Israel.\footnote{See text in \textit{The Arab-Israeli Conflict} 1085 (J. Moore, ed. 1974).}

The Palestinian's right of return, self-determination, and national independence are at the basis of the Arab critique leveled against Egypt for entering into the Camp David Agreement and the Peace Treaty with

\begin{itemize}
\item \textit{Declares} that the validity of agreements purporting to solve the problem of Palestine requires that they be within the framework of the United Nations and its resolutions on the basis of the full attainment and exercise of the inalienable rights of the Palestinian people, including the right of return and the right to national independence and sovereignty in Palestine, and with the participation of the Palestinian Liberation Organization.

\item \textit{Reaffirms} that until Israel withdraws from all occupied Palestinian and other Arab territories, until the Palestinian people attains and exercises its inalienable national rights, a comprehensive, just and lasting peace in the Middle East, in which all countries and peoples in the region live in peace and security within recognized and secure boundaries, will not be achieved;

\item \textit{Calls anew} for the early convening of the Peace Conference on the Middle East, under the auspices of the United Nations and the co-chairmanship of the Union of Soviet Socialist Republics and the United States of America, with the participation on an equal footing of all parties concerned, including the Palestine Liberation Organization in accordance with General Assembly resolution 3375 (XXX) of 10 November 1975;

\item \textit{Urges} the parties to the conflict and all other interested parties to work towards the achievement of a comprehensive settlement covering all aspects of the problems and worked out with the participation of all parties concerned within the framework of the United Nations;

\item \textit{Requests} the Security Council, in the exercise of its responsibilities under the Charter, to take all necessary measures in order to ensure the implementation of relevant resolutions of the United Nations, including General Assembly resolution 33/28 and the present resolution, and to facilitate the achievement of such a comprehensive settlement aiming at the establishment of a just and lasting peace in the region.
\end{itemize}
Israel, though the same arguments are also relied upon *inter alia* for a political critique. Concerning the legal issues of self-determination, the question is simply whether an argument in favor of Israel’s *ab initio* illegitimacy makes all of the territory which was once Palestine subject to the rights of the original residents of that territory at the time of the transformation of Palestine into Israel and their descendants as the only group capable of determining its future, or is there an equitable analysis that would allow for other outcomes. In other words do the Palestinians exercise their right of self-determination and national independence on all or part of what was once Palestine? The legal and political positions differ on that issue, and the United Nations has somewhat perpetuated this ambiguity in that none of its resolutions on Palestine ever explicitly resolved that issue. In fact no U.N. resolution on Palestine has ever stated whether the Palestinians’ right of self-determination is to be implemented in all of what was once Palestine. It is an obvious conclusion if one examines these resolutions in *pari materia* and contextually, that the U.N. intended in 1947 (see partition resolution) and since then, that there be two states in Palestine. In fact in its latest report on that issue it states so under the heading: “VI. Two states in Palestine with rights and obligations for each.” Thus in light of this, Egypt has taken the legal and political position that the recognition of the State of Israel does not

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38 See Abdel-Malek, The Ocultation of Egypt, 1 Arab Studies Quarterly 177 (1979), who claims that the peace process, which is a reflection of internal conditions, severs Egypt from its political ideology opposing “Zionism and imperialism.”


42 THE RIGHT OF RETURN OF THE PALESTINIAN PEOPLE, supra note 41, at 45. E.g., Bassouini, supra note 8. See also, The Origins and Evolution of the Palestine Problem Part II: 1947-1977, U.N. Pub. ST/SG./SER.F/1 (1979) at 94 which states that the Palestinian people have the inherent right to self-determination, national independence and sovereignty in Palestine. It does not say *all or part* thereof.

43 W.T. Mallison and S.V. Mallison, AN INTERNATIONAL LAW ANALYSIS OF THE MAJOR UNITED NATIONS RESOLUTIONS CONCERNING THE PALESTINE QUESTION, 55 U.N. Pub. ST/SG/SER. F/4 (1979) (Study prepared at the request of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. The views expressed are those of the authors.)
violate the Palestinians' right of self-determination which can still apply on those portions of what was once Palestine and is now part of Israel, the West Bank and Gaza.

The second duty owed by Egypt to the P.L.O. is subject to the same arguments mentioned earlier in connection with the 1978 Camp David Agreement. The objection is that Egypt has departed from the commitment it made to the P.L.O. at Rabat. Egypt claims, however, that the exclusion of the P.L.O. during the stage of autonomy negotiations does not preclude its future role as the representative of the Palestinian people. Because the P.L.O.'s temporary exclusion from a given stage of the process is not definitive, Egypt has not breached its political commitment to the P.L.O. but has merely delayed its applicability. To emphasize its Palestinian commitment Egypt introduced a requirement of linkage between its Treaty with Israel and the Palestinian question, but only as to the extent of Israel's fulfillment of the scheme of autonomy and the development of local municipal leadership. But during the 1980 negotiations on autonomy which had clearly stalled, it became evident that Egypt's posture on Palestinian autonomy was not weakening. Rather, quite to the contrary, it even appeared to link progress on that subject to normalization of relations between the two countries.

The political judgment question remains whether the 1979 Treaty and the 1978 Camp David Agreements, all of which are to be construed in pari materia, are susceptible of being interpreted only as a stage in the process of fulfilling Palestinian self-determination and national independence or do they foreclose this possibility. The answer depends on whether the creation of new conditions on the West Bank and Gaza could ripen into a sovereign Palestinian state, or whether such conditions would in fact preclude such a possibility. Existing conditions cannot produce the intended effect Egypt had in mind when entering into the Treaty.

Egypt's dilemma on the P.L.O.'s representative role remains the same since Camp David. Israel and the United States would not accept the P.L.O., a condition Sadat was unable to impose, and the P.L.O. would not yield to the precondition of Israeli recognition as imposed by the United States. These positions were intractable and Sadat accepted this reality, but left the opportunity for change open. In fact, while nothing in the Treaty and its related documents refers to the P.L.O., nothing excludes them either.

VI. Conclusion

Substantively, Egypt's position with respect to its national policy principles and objectives has not changed. In fact Egypt has succeeded in one respect by regaining its occupied territories, some of which have already been returned. However, its position vis a vis Syria, Jordan and the P.L.O. has changed. A position that Egypt does not entirely concede but recognizes that a new situation has developed. See the WORKING PAPERS OF MOHAMMAD ANWAR AL-SADAT: EGYPT AND THE NEW ARAB REALITY (in arabic), Department of Information (released in 1980).
a binding peaceful solution to the Arab-Israeli and Palestinian-Israeli conflicts, other than through vague and ambiguous references. Egypt has, however, unwillingly shifted the conflict from the arena of military confrontation between states, to the arena of urban guerilla warfare for the Palestinians and to that of economic and political warfare between some Arab states and Israel. But the Peace Treaty between Egypt and Israel has introduced a new dimension of conflict into inter-Arab relations, likely to escalate should the autonomy scheme for the West Bank and Gaza develop along lines not likely to ripen into the creation of a sovereign Palestinian state. United States failure to produce that result would accelerate radical trends in the Arab world and cause it long-term damage of untold consequences.  

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The autonomy talks can be said to have reached a dead-end. A European initiative is underway to amend Resolution 242 in order to establish the Palestinians’ right of self-determination, possibly also including a mention of their right to national independence as part of the territory that was once Palestine in peaceful co-existence with Israel, and recognition once more that the P.L.O. is the “sole legitimate representative of the Palestinian People.” The United States has indicated its opposition to such an approach in response to Israeli pressures. Egypt has indicated that it would welcome it. This signifies the end of the Camp David Peace Process which has now served its historic usefulness. Thus, new initiatives must be forthcoming, and Egypt’s role in representing the Palestinians and other Arab interests is over. The P.L.O., Syria and Jordan are the new protagonists with whom the United States and Israel must deal. After that there will still be Jerusalem, an issue still left to be addressed.  

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45 A prospect discussed in E.M. FISHER & M.C. BASSIOUNI, STORM OVER THE ARAB WORLD (1972).