

## CONTEMPORARY PRACTICE OF THE UNITED STATES RELATING TO INTERNATIONAL LAW

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## STATE DIPLOMATIC AND CONSULAR RELATIONS

*Trump Administration Brokers Accords to Normalize Relations Between Israel and Six Countries*  
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In September and October 2020, Kosovo, Serbia, the United Arab Emirates (UAE), Bahrain, and Sudan normalized relations with Israel in a flurry of agreements brokered by the United States. President Donald Trump suggested that, in addition to being valuable on their own terms, the agreements were part of a broader diplomatic effort to pressure the Palestinians into negotiating a peace deal with Israel. In December, the White House announced normalization of relations between Israel and Morocco in apparent exchange for U.S. recognition of Moroccan sovereignty over the disputed territory of Western Sahara.

On September 4, 2020, the Trump administration announced that after meetings with U.S. officials, Serbia and Kosovo had “each committed to economic normalization” and that both countries would also take diplomatic steps with respect to Israel.<sup>1</sup> According to the White House, Kosovo “agreed to normalization of ties and the establishment of diplomatic relations,”<sup>2</sup> and Serbia “committed to opening a commercial office” and “mov[ing] its embassy to Jerusalem by July.”<sup>3</sup> President Trump heralded the moves, noting that other countries might follow suit and asserting “I think we’re going to have great peace in the Middle East[,] [a]nd nobody has been able to say that for a long time.”<sup>4</sup>

The European Union (EU), however, warned Serbia and Kosovo that moving their embassies to Jerusalem could undermine their hopes of attaining EU membership.<sup>5</sup> European Commission spokesman Peter Stano said, “[t]here is no EU member state with an embassy in Jerusalem. Any diplomatic steps that could call into question the EU’s common position on Jerusalem are a matter of serious concern and regret.”<sup>6</sup> If the agreement moves forward, Kosovo and Serbia will join the United States and Guatemala as the only countries with embassies in Jerusalem.<sup>7</sup> In a statement, Israeli Prime Minister Benjamin Netanyahu reported, “[a]s I’ve said in recent days, the circle of peace and recognition of Israel is widening and is expected to add additional countries.”<sup>8</sup>

Netanyahu’s comments foreshadowed the announcement on September 15 of formal diplomatic relations between Israel and the UAE and Bahrain, dubbed the Abraham

<sup>1</sup> White House Press Release, Statement by the President Regarding Economic Normalization Between Serbia and Kosovo (Sept. 4, 2020), at <https://www.whitehouse.gov/briefings-statements/statement-president-regarding-economic-normalization-serbia-kosovo> [<https://perma.cc/W72Z-5QAT>]; see also Deb Riechmann, *Serbia, Kosovo Normalize Economic Ties, Gesture to Israel*, ASSOC. PRESS (Sept. 4, 2020), at <https://apnews.com/article/3b7aca39c6829655d43de30f68497ed1>.

<sup>2</sup> White House Press Release, *supra* note 1.

<sup>3</sup> *Id.*

<sup>4</sup> Donald J. Trump, Remarks in a Meeting with President Aleksandar Vučić of Serbia and Prime Minister Avdullah Hoti of Kosovo and an Exchange with Reporters, 2020 DAILY COMP. PRES. DOC. 650, at 1 (Sept. 4, 2020).

<sup>5</sup> Lorne Cook, *EU Warns Serbia, Kosovo Over Israel Embassy Move*, ASSOC. PRESS (Sept. 7, 2020), at <https://apnews.com/article/61cac994c0b1e7a3221ef8ea74d4f9f1>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Riechmann, *supra*, note 1.

Accords.<sup>9</sup> In exchange for Israel suspending annexation of occupied West Bank Territory,<sup>10</sup> the UAE signed a Treaty of Peace, Diplomatic Relations and Full Normalization Between the United Arab Emirates and the State of Israel, which provides that “[p]eace, diplomatic relations and full normalization of bilateral ties are hereby established between the United Arab Emirates and the State of Israel.”<sup>11</sup> Bahrain in turn signed the Declaration of Peace, Cooperation, and Constructive Diplomatic and Friendly Relations, which provides:

Prime Minister Benjamin Netanyahu and Foreign Minister Abdullatif Al Zayani agreed to establish full diplomatic relations, to promote lasting security, to eschew threats and the use of force, as well as advance coexistence and a culture of peace. . . . The Kingdom of Bahrain and the State of Israel have agreed to seek agreements in the coming weeks regarding investment, tourism, direct flights, security, telecommunications, technology, energy, healthcare, culture, the environment, and other areas of mutual benefit, as well as reaching agreement on the reciprocal opening of embassies.<sup>12</sup>

President Mahmoud Abbas of the Palestinian Authority, denounced the normalization agreements as a “violation of the Arab Peace Initiative, and the terms of reference of a comprehensive, lasting and just solution in accordance with international law.”<sup>13</sup> The Arab Peace Initiative, unanimously adopted in 2002 by the Arab League, of which the UAE and Bahrain are members, promises Israel full diplomatic relations with all Arab League states in exchange for the establishment of a Palestinian state based on boundaries established in 1967 prior to the Six-Day War.<sup>14</sup> Despite agreeing to normalize relations with Israel, both the UAE and Bahrain affirmed their commitment to the Arab Peace Initiative hours before signing the Abraham Accords.<sup>15</sup>

In October, Sudan took steps to formally recognize Israel,<sup>16</sup> doing so as part of a U.S.-brokered deal in which Sudan also agreed “to provide \$335 million in compensation for victims

<sup>9</sup> The Abraham Accords Declaration, Bah.-Isr.-U.A.E.-U.S., Sept. 15, 2020, available at <https://www.state.gov/wp-content/uploads/2020/10/Abraham-Accords-signed-FINAL-15-Sept-2020-508-1.pdf> [<https://perma.cc/DZ7B-UFY8>].

<sup>10</sup> Mohamed Bin Zayed (@MohamedBinZayed), TWITTER (Aug. 13, 2020, 11:00 AM), at <https://twitter.com/MohamedBinZayed/status/1293925353560461312>.

<sup>11</sup> White House Press Release, Abraham Accords Peace Agreement: Treaty of Peace, Diplomatic Relations and Full Normalization Between the United Arab Emirates and the State of Israel (Sept. 15, 2020), at <https://www.whitehouse.gov/briefings-statements/abraham-accords-peace-agreement-treaty-of-peace-diplomatic-relations-and-full-normalization-between-the-united-arab-emirates-and-the-state-of-israel> [<https://perma.cc/VF4V-TELL>].

<sup>12</sup> White House Press Release, Abraham Accords: Declaration of Peace, Cooperation, and Constructive Diplomatic and Friendly Relations (Sept. 15, 2020), at <https://www.whitehouse.gov/briefings-statements/abraham-accords-declaration-peace-cooperation-constructive-diplomatic-friendly-relations> [<https://perma.cc/68CL-UE6C>].

<sup>13</sup> Statement of H.E. President Mahmoud Abbas President of the State of Palestine UN General Assembly General Debate of the 75th Session (Sept. 25, 2020), available at [https://estatements.unmeetings.org/estatements/10.0010/20200925/3Yf6QppA2Nrl/TNW70VITvwUN\\_en.pdf](https://estatements.unmeetings.org/estatements/10.0010/20200925/3Yf6QppA2Nrl/TNW70VITvwUN_en.pdf) [<https://perma.cc/W3U8-KTK2>].

<sup>14</sup> Israel Min. For. Aff. Press Release, Beirut Declaration on Saudi Peace Initiative (Mar. 28, 2002), at <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/beirut%20declaration%20on%20saudi%20peace%20initiative%20-%202028-.aspx>.

<sup>15</sup> Jacob Magid & Rachel Ahren, *UAE, Bahrain Back Arab Peace Initiative After Spurning It to Ally with Israel*, TIMES OF ISRAEL (Sept. 15, 2020), at <https://www.timesofisrael.com/uae-bahrain-back-arab-peace-initiative-after-spurning-it-to-ally-with-israel>.

<sup>16</sup> White House Press Release, Joint Statement of the United States, the Republic of Sudan, and the State of Israel (Oct. 23, 2020), at <https://www.whitehouse.gov/briefings-statements/joint-statement-united-states-republic-sudan-state-israel> [<https://perma.cc/L6KR-KVCJ>].

of terrorism, which will be released to the United States following the rescission of Sudan's State Sponsor of Terrorism designation and the enactment of [U.S.] legislation that would restore its immunities to those of a country not so designated."<sup>17</sup> Since longtime President Omar al-Bashir's removal from power in April 2019, Sudan has been governed by a transitional government,<sup>18</sup> which has pressed for better relations with the West and economic aid.<sup>19</sup> According to the International Monetary Fund, removing Sudan "from the [State Sponsor of Terrorism list] eliminates one of the hurdles toward possible . . . debt relief."<sup>20</sup> Omar Gamareldin, Sudan's acting foreign minister, noted, however, that an "agreement on normalisation with Israel will be decided after completion of the constitutional institutions through the formation of the legislative council,"<sup>21</sup> which will not exist until national elections in 2022.<sup>22</sup>

The deal with Israel has frayed ties among Sudan's coalition transitional government.<sup>23</sup> Former Prime Minister Sadiq al-Mahdi, who leads one of Sudan's largest political parties, noted that "normalization opens risks to our fragile transitional situation . . . and can easily result in the collapse of this government."<sup>24</sup> The leader of Sudan's transitional council, General Abdel Fattah al-Burhan, however, heralded the agreement saying it could improve the Sudanese economy.<sup>25</sup> He stated, "if the candidate [Trump] wanted some gains, we also wanted some gains. . . . We are more winners than any other party."<sup>26</sup>

Commentators suggested that the White House normalization initiatives were "timed conspicuously . . . [for President Trump's] reelection campaign in need of evidence of his success as a statesman."<sup>27</sup> Nonetheless, some foreign policy experts like Aaron David Miller, a

<sup>17</sup> U.S. Dep't of State Press Release, U.S.-Sudan Signing Ceremony on Bilateral Claims Agreement (Nov. 2, 2020), at <https://www.state.gov/u-s-sudan-signing-ceremony-on-bilateral-claims-agreement> [<https://perma.cc/A8QC-VW6L>]; see also Lara Jakes, Declan Walsh & Eric Schmitt, *State Dept. to Remove Sudan From List of Terrorist States*, N.Y. TIMES (Oct. 19, 2020), at <https://www.nytimes.com/2020/10/19/world/africa/sudan-trump-israel-terrorism.html> [<https://perma.cc/UBS5-H5E5>].

<sup>18</sup> Muhammed Osman & Max Bearak, *Sudan's Omar Hassan al-Bashir Is Ousted by Military After 30 Years in Power*, WASH. POST (Apr. 11, 2019), at [https://www.washingtonpost.com/world/africa/sudans-military-expected-to-announce-overthrow-of-president-following-months-of-popular-protests/2019/04/11/bedcc28e-5c2b-11e9-842d-7d3ed7eb3957\\_story.html](https://www.washingtonpost.com/world/africa/sudans-military-expected-to-announce-overthrow-of-president-following-months-of-popular-protests/2019/04/11/bedcc28e-5c2b-11e9-842d-7d3ed7eb3957_story.html) [<https://perma.cc/YVU9-S5HY>].

<sup>19</sup> Jason Burkey & Zeinab Mohammed Salih, *Sudan-Israel Deal Depends on Legislative Approval, Minister Says*, GUARDIAN (Oct. 24, 2020), at <https://www.theguardian.com/world/2020/oct/24/sudan-israel-deal-depends-on-legislative-approval-minister-says> [<https://perma.cc/L4U2-3NCU>]; Nicholas Bariyo, *Israel Peace Deal Shakes Sudan's Fragile Transition*, WALL ST. J. (Oct. 31, 2020), at <https://www.wsj.com/articles/israel-peace-deal-shakes-sudans-fragile-transition-11604140200> [<https://perma.cc/ANA4-7CDA>].

<sup>20</sup> *U.S. Removal of Sudan from "Sponsors of Terrorism" List Is Step Toward Debt Relief: IMF*, REUTERS (Oct. 23, 2020), at <https://www.reuters.com/article/us-usa-sudan-imf/u-s-removal-of-sudan-from-sponsors-of-terrorism-list-is-step-toward-debt-relief-imf-idUSKBN2782YA>.

<sup>21</sup> Burkey & Salih, *supra* note 19.

<sup>22</sup> UN Security Council Press Release, Sudan's New Transitional Government Presents Chance to Restore Long-Term Stability in Darfur, United Nations, African Union Officials Tell Security Council, UN Press Release SC/13929 (Aug. 26, 2019), at <https://www.un.org/press/en/2019/sc13929.doc.htm> [<https://perma.cc/XH33-GP9V>]; Burkey & Salih, *supra* note 19.

<sup>23</sup> Bariyo, *supra* note 19.

<sup>24</sup> *Id.*

<sup>25</sup> Samy Magdy, *Sudan's Leader: Israel Deal "Incentive" to End Pariah Status*, ASSOC. PRESS (Oct. 26, 2020), at <https://apnews.com/article/donald-trump-bahrain-israel-united-arab-emirates-sudan-6bf51ca3924404b78d385b1cab41572b>.

<sup>26</sup> *Id.*

<sup>27</sup> Ishaan Tharoor, *The Mirage of Trump's "Peace" Deals*, WASH. POST (Sep. 15, 2020), at <https://www.washingtonpost.com/world/2020/09/15/trump-deals-bahrain-uae-kosovo-serbia> [<https://perma.cc/N2G7-5T98>].

longtime Middle East peace negotiator, said the agreements were “significant and redemptive” and that Trump administration officials “deserve credit, even though they jumped on a bus that had already left the station.”<sup>28</sup> Martin Indyk, former special envoy for Israeli-Palestinian negotiations under President Barack Obama, however, wrote, “the breakthrough looks more like the latest in a long chain of unintended consequences.”<sup>29</sup> In an interview, he said “[i]t gets Trump out of the corner he was in having agreed to legitimizing the [annexation of the West Bank] and then discovering that the Arab world had a problem with that. Now he’s got something he can claim credit for.”<sup>30</sup>

For his part, President Trump acknowledged that brokering normalization agreements between Israel and other states was part of a broader diplomatic effort to press the Palestinians to negotiate a peace deal.<sup>31</sup> When asked whether he intended to “put pressure on the Palestinians to come to the table,” Trump replied, “yes, you could say that’s certainly a piece of it. The ultimate piece is it’s good for us to have, and it’s good for Israel. But certainly, that’s a piece of it.”<sup>32</sup>

The White House’s efforts continued after the election, resulting in an announcement in December that Morocco and Israel had reached a peace agreement and would normalize relations.<sup>33</sup> In exchange, the Trump administration announced that the United States would recognize Morocco’s sovereignty over the long-disputed territory of Western Sahara and open a consulate there.<sup>34</sup> Morocco’s King Mohammed VI reportedly assured Palestinian leader Mahmoud Abbas that Morocco’s “commitment ‘to the Palestinian cause . . . remains unchanged.’”<sup>35</sup>

<sup>28</sup> Karen DeYoung & Steve Hendrix, *Trump Critics Hail Accords Between Israel and Arab Countries Even as Original Goal of Palestinian Peace Remains Unmet*, WASH. POST (Oct. 31, 2020), at [https://www.washingtonpost.com/national-security/trump-middle-east-accords/2020/10/31/f0585dec-19fc-11eb-aec-b93bcc29a01b\\_-story.html](https://www.washingtonpost.com/national-security/trump-middle-east-accords/2020/10/31/f0585dec-19fc-11eb-aec-b93bcc29a01b_-story.html) [<https://perma.cc/EJD6-Z7QP>].

<sup>29</sup> Martin Indyk, *Trump’s Accidental Diplomacy in the Middle East*, FOR. AFF. (Aug. 19, 2020), at <https://www.foreignaffairs.com/articles/middle-east/2020-08-19/trumps-accidental-diplomacy-middle-east> [<https://perma.cc/68KP-MVXR>].

<sup>30</sup> Peter Baker, Isabel Kershner, David D. Kirkpatrick & Ronen Bergman, *Israel and United Arab Emirates Strike Major Diplomatic Agreement*, N.Y. TIMES (Aug. 13, 2020), at <https://www.nytimes.com/2020/08/13/us/politics/trump-israel-united-arab-emirates-uae.html> [<https://perma.cc/YLV2-ARQN>].

<sup>31</sup> *Trump on Israel-UAE Peace Deal: Everyone Said This Couldn’t Happen*, FOX NEWS (Sept. 15, 2020), at <https://video.foxnews.com/v/6190940309001#sp=show-clips>.

<sup>32</sup> *Id.* at 4:36.

<sup>33</sup> See Donald J. Trump (@realDonaldTrump), TWITTER (Dec. 10, 2020, 11:10 AM), at <https://twitter.com/realDonaldTrump/status/1337067073051238400?s=20>; White House Fact Sheet, President Donald J. Trump Has Brokered Peace Between Israel and the Kingdom of Morocco (Dec. 11, 2020), at <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-brokered-peace-israel-kingdom-morocco> (“Morocco and Israel agreed to make peace, normalize their relations, and in the coming weeks will resume full diplomatic relations.”); see also Lara Jackes, Isabel Kershner, Aida Alami & David M. Halbfinger, *Morocco Joins List of Arab Nations to Begin Normalizing Relations with Israel*, N.Y. TIMES (Dec. 10, 2020), at <https://www.nytimes.com/2020/12/10/world/middleeast/israel-morocco-trump.html>.

<sup>34</sup> White House Fact Sheet, *supra* note 33; White House, Proclamation on Recognizing the Sovereignty of the Kingdom of Morocco over the Western Sahara (Dec. 10, 2020), at <https://www.whitehouse.gov/presidential-actions/proclamation-recognizing-sovereignty-kingdom-morocco-western-sahara>.

<sup>35</sup> Jackes, Kershner, Alami & Halbfinger, *supra* note 33 (quoting Moroccan foreign minister Nasser Bourita).