

Rule of Law Is Key to Future Israel-Syria Peacemaking

by [Andrew J. Tabler \(/experts/andrew-j-tablet/\)](/experts/andrew-j-tablet/)

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ABOUT THE AUTHORS



[Andrew J. Tabler \(/experts/andrew-j-tablet/\)](/experts/andrew-j-tablet/)

Andrew J. Tabler is the Martin J. Gross fellow in the Geduld Program on Arab Politics at The Washington Institute, where he focuses on Syria and U.S. policy in the Levant.



Brief Analysis

Beginning on June 12, U.S. Middle East envoy George Mitchell will make his long anticipated first trip to Damascus. During the two-day visit, Mitchell will focus on reinvigorating Israeli-Syrian peace negotiations and cajoling Damascus to engineer a Fatah-Hamas reconciliation. According to media reports, he will also roll out a roadmap for improved relations between Washington and Damascus. Although it is unclear if U.S. peacemaking can succeed, Syria's current fiscal crisis, combined with questions over its nuclear activities and recent twists in the investigation of former Lebanese prime minister Rafiq Hariri's assassination, may provide a rare opportunity for Washington. A focus on rule of law -- a necessary prerequisite for potential U.S. future investment -- could help the United States tame some of the al-Asad regime's excesses in the short term while building a foundation for cooperation in the long term.

Background

Although relaunching peace talks between Israel and Syria might seem easier than those between Israel and the Palestinians, the deep-seated relationship between Syria's longstanding state of war with Israel and the al-Asad regime's thirty-nine-year grip on power complicates matters. Following independence in 1946, Syria was one of the world's most unstable countries, suffering countless coup d'etats. So when Alawite officers loyal to the Baath Party seized power in a military coup in March 1963, they declared a state of emergency to stabilize Syria's domestic scene. This allowed the junta to arrest individuals and hold them indefinitely without charge, putting Syria on the road to becoming one of the Arab world's most repressive countries.

After consolidating power over Baathist opponents in November 1970, the late president Hafiz al-Asad built his regime by placing minority Alawites, Druze, Christians, and Shiites in key positions in the armed forces, security services, and bureaucracy. With the advent of the region's 1973 war, al-Asad quickly switched his justification for the emergency law to the state of war with Israel. The regime also used the threat of war as an excuse to delay passing and implementing legal reforms to accommodate economic, social, and political change in Syria. To clear new endeavors with the regime, citizens were forced to bribe the minority networks that dominate Syria's security services and bureaucracy. This corruption quickly became the mortar that held Syria's minority-led regime together.

Following al-Asad's death in June 2000, his son and successor, Bashar, issued hundreds of pieces of legislation in the name of reform. Unfortunately, however, most of it was simply grafted onto existing laws or never followed up by executive instructions. The regime also ignored reform of Syria's antiquated court system (despite extensive help from the French government), leaving interpretation of the law up to the minority-dominated bureaucracy. Not surprisingly, regime corruption skyrocketed. Over the last five years, Syria has slipped from 66 to 147 on Transparency International's Corruption Perception Index, placing it among the world's top thirty most corrupt countries. According to the World Bank's Investment Climate Assessment, corruption is one of the primary reasons why Syria now has one of the Arab world's poorest investment environments. The countries most willing to invest in this murky climate are Syria's political allies, Qatar and the Islamic Republic of Iran. Last year, the latter claimed it extended \$3.5 billion in "technical assistance" to Damascus.

The Regime's Predicament

The good news for U.S. peacemakers is that the al-Asad regime is facing a trilogy of daunting challenges, largely of its own making, and is seeking Western help through talks with Israel.

Finance. For two decades, the al-Asad regime has relied on oil proceeds to finance annual budgets. Production, however, has declined 30 percent in the last five years and domestic demand has increased sharply. In 2006, Damascus announced it had become a net oil importer, nearly five years ahead of analysts' expectations. The Syrian regime insists it has arrested the production decline through new oil discoveries and enhanced recovery from existing wells. But those projects have largely boosted production of heavy oil, which sells for considerably less on the international market than does Syria's standard light sweet crude. As a result, Syria's budget deficit this year is expected to reach \$5.2 billion, accounting for approximately 10 percent of GDP and a quarter of Syria's estimated \$20 billion hard currency reserves.

This crisis coincides with the flooding of the Syrian job market with record numbers of youth born during the 1980s and 1990s, when Syria was among the fastest growing populations in the world. Unable to invest enough of its own money to create jobs for Syria's demographic wave, the Syrian regime is now actively seeking foreign direct investment (FDI). Due to rampant corruption, however, official FDI inflows in 2008 were only around \$1.1 billion. While such amounts are a substantial increase over just a few years ago, Syria is still one of the lowest FDI recipients in the Arab world.

Nuclear activities. During a visit to Syria in June 2008, International Atomic Energy Agency (IAEA) inspectors found traces of uranium and graphite at al-Kibar, the site in eastern Syria bombed by Israel in September 2007 that U.S. officials now believe was a clandestine nuclear reactor. Last week, the IAEA reported that it also found uranium particles "not included in Syria's inventory of declared material" at the country's IAEA-declared research reactor. If Damascus continues to refuse IAEA follow-up inspections, the nuclear watchdog could demand a "special inspection" of the sites, which if refused could lead the IAEA Board of Governors to refer Syria to the UN Security Council for further action, potentially including the use of force under Chapter VII of the UN Charter.

Lebanon. The recently established international tribunal investigating the assassination of former Lebanese prime minister Rafiq Hariri is preparing indictments. Should Syrians be indicted or called to testify and Damascus refuses the tribunal's requests, the matter is likely to be referred to the Security Council. If the tribunal fingers Syria's Lebanese ally Hizballah (as reported in a recent article by Der Spiegel), pressure would mount on Damascus to break ranks with the group -- a choice that would enhance prospects for peace with Israel.

Utilizing U.S. Economic Leverage

Syria's problematic finances and its potential confrontations with the IAEA and the Hariri tribunal provide Washington with leverage that it can incorporate into its diplomacy with Syria to break the status quo. Exploiting

pressure from the IAEA and the Hariri tribunal should be easy for Washington, since the pressure is coming from international institutions with established mandates. Utilizing U.S. economic leverage will be trickier, however. The United States has substantial "negative pressures" it can employ from the recently renewed Syrian Accountability and Lebanese Sovereignty Restoration Act (SALSA) and a series of executive and Treasury Department orders targeting Syrian individuals and banks. In terms of positive inducements or "rewards" in the event of peace, however, it is doubtful the United States can entice substantial foreign investment in Syria without addressing the country's worsening corruption problems. On a political level, should Syria conclude a peace treaty with Israel and implement reforms that would facilitate large flows of FDI, the minority networks in the security services and the bureaucracy stand to lose the most. Given Iran and Hizballah's close relationship with Syria's security establishment, the discontent of these networks could be exploited by Tehran to derail implementation of a future peace.

Damascus has thus far refused to address its support for terrorist organizations or domestic issues -- most notably human rights -- in its early dialogue with the Obama administration. No doubt terrorism will be on the agenda if the United States mediates Israeli-Syrian peace talks. But rather than dumping domestic issues -- a common practice in the past -- Washington should add rule of law to its list of priority issues for dialogue with Syria. By encouraging Damascus to promote rule of law, it could help tame the human rights and corruption excesses of the minority system. In the long term, greater rule of law could provide a foundation for future economic and political cooperation between Damascus and Washington in the event of peace. Damascus needs to understand that unlike its current friends in Tehran, the United States needs a strong legal framework for its investments to take root and deliver the peace dividend Damascus hopes for.

Andrew J. Tabler is the Soref fellow at The Washington Institute. ❖

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