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Secretary of State Kerry's Speech on the Israeli-Palestinian Conflict

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While the challenge regarding the Israeli-Palestinian conflict posed by US Secretary of State John Kerry on December 28, 2016, shortly before the end of his term in office, was directed primarily at Israel, it was also aimed at the Palestinians. In his speech, Kerry stipulated the starting points for any future talks between the sides, yet ignoring the fact that in previous rounds of negotiations held over the last twenty years toward a permanent status agreement both sides have rejected these principles. Furthermore, the Secretary of State ignored the turbulence in the Middle East of recent years, although this upheaval demands a reexamination of the traditional negotiations paradigm.

Kerry called on the sides to accept six basic negotiations principles that were adopted by the Obama administration toward a permanent status agreement on the Israeli-Palestinian conflict. If the speech is not translated into a UN General Assembly or Security Council resolution, it will amount to an important document without any practical significance. However, if these principles are adopted by the international peace conference scheduled to be held in Paris in mid-January and are accepted by the Palestinians, they will form the political and moral basis for the next moves in resolving the conflict.

The following are the principles laid out by Kerry and an assessment of their ramifications:

- a. *Safe, recognized borders between the side with consensual land swaps*: Seemingly, this is a principle the sides have already accepted, but the Palestinians are worried about the broad interpretation that Israel and the next US administration are liable to give to the size of the swaps, i.e., the settlement blocs that Israel seeks to annex, as well as the security component of the formula. Kerry noted that the settlement blocs would remain in Israel's hands as part of a permanent agreement, but recognized the rights of the Palestinians to participate in the process of defining these blocs, and for the first time stressed publicly that lands swapped would be equal in size. The Obama administration's recognition of the blocs is seemingly surprising, given that the administration, at the public level, had ignored these principles, stated by President George W. Bush to Prime Minister Ariel Sharon via the April 2004 letter (even though Congress approved the letter); and given the administration's adamant policy that rejects any construction in the West Bank ("like Yitzhar, like Gilo" is implied in the first part of Kerry's speech); and given the decision of the United States to abstain in the vote on Security Council

Resolution 2334. In fact, the gulf between Israel and the Obama administration is about what constitutes the blocs, and how big they are.

- b. *Two states for two peoples*: In Kerry's vision, this final status arrangement is to be formulated on the basis of UN Resolution 181 (the partition plan of 1947) and would call on the Palestinians to recognize Israel as a Jewish state, with its Arab minority enjoying full civil rights equal to those of the Jewish majority. This is a difficult hurdle for the Palestinian leadership, which to date has rejected it, because it would mean the end of the Palestinian "right of return." It would be extremely difficult for different Palestinian factions – notably Hamas – to accept this principle. The Palestinian Authority's foreign affairs minister has already rejected Kerry's speech because of this idea, although other senior PA officials and some Arab foreign ministers responded positively. Nonetheless, it would be possible to overcome this obstacle if the Palestinians were not made to acknowledge the Jewish state officially or publicly, or if the principle were to be accepted by Arab states, especially the Arab Quartet (Egypt, Saudi Arabia, Jordan, and the UAE). Should that happen, it would constitute a breakthrough in the process of forging relations between Israel, the Palestinians, and the Arab world.
- c. *The refugee question*: According to Kerry, the resolution to the problem must be "just, agreed, fair, and realistic." This formulation is similar to the one appearing in the Arab Peace Initiative, although the addition of the word "realistic" hints that the demand that the refugees be allowed to return to their homes – a demand made about 70 years ago – is no longer practical, given the global, regional, and local developments that have occurred since. Kerry did not stress that the return of the Palestinian refugees would be to the Palestinian state. However, Kerry demanded that Israel recognize their suffering, i.e., recognize – at least implicitly – Israel's part in creating the problem, in response to the Palestinian demand that Israel assume exclusive responsibility for the refugee problem, a demand Israel rejects outright. There was no mention of the Jewish refugees forced to flee Arab states in the late 1940s and early 1950s.
- d. *A united Jerusalem – the capital of two states*: This is the first time that a US administration has publicly and explicitly endorsed the principle that Jerusalem is the capital city of both states and must not be divided. This statement was met with Israeli opposition and was welcomed by the Palestinians. The speech itself did not delineate the borders of Jerusalem or address the question of sovereignty. Furthermore, reference to the holy sites, almost all of which are located in what was, until 1967, outside Israel, was vague. The speech completely ignored the demographic realities that have emerged in Jerusalem over the last 50 years.
- e. *Israel's security needs*: Kerry reiterated the principle of a demilitarized Palestinian state, which was agreed to in a different version in past rounds of talks about military restrictions. The Palestinians presumably object to the word "demilitarization," while relating to their own need to confront religious radicalism and internal and external

jihadist organizations, a phenomenon that will force them to have more than just internal police and law and order forces. Indeed, Kerry completely ignored the Middle East upheavals of recent years, the rise of forces intent on destabilizing states and regimes adjacent to Israel, and the danger that if and when a Palestinian state is founded, it is liable to be a failing entity on Israel's doorstep.

- f. *An end to the conflict and all outstanding claims*: Kerry mentioned this principle, whose realization would allow regional normalization and cooperation. Ostensibly this principle should not present the Palestinians with any difficulty, unless it includes a resolution to the refugee problem without any component of return, even symbolic, to Israel proper.

An important aspect of Kerry's speech, which was not highlighted, dealt with the list of steps the two sides can take in preparation for final status talks. The speech made it clear that Kerry understands that steps on the ground – bottom-up building of Palestinian infrastructures and the economy – are vital before it is possible to talk about options for future arrangements. Had Kerry made in-depth reference to the regional situation and intra-Palestinian relations, and to relations between Israel and the Palestinians – to the same extent he spoke about Israel's West Bank settlement policy – this segment might have been more prominent. The importance of such steps lies in their focus on what can be done in the absence of a comprehensive arrangement and in its rejection of the Palestinian all-or-nothing approach. Neither the PA nor Israel is ready to renew talks that would encompass all the core issues and resolve this painful, complex conflict in one fell swoop. To date, the Palestinians have rejected every idea that speaks of partial arrangements, transitional agreements, gradual resolutions, or interim solutions, including the problems Kerry mentioned in his speech, such as water and economic issues. While Kerry's recognition of the importance of that approach comes at the end of the Obama administration, support by the international Quartet creates an opportunity for progress. The practical possibility Kerry recognized, albeit late in the game, whereby it is still possible to preserve and promote the relevance of the two-state solution, lies in reaching agreements between Israel and the PA on issues affecting the lives of the Palestinians, including changes on the ground and the building of the capacity needed for a future Palestinian state.

What are the immediate implications of Kerry's speech? The parties invited to the Paris summit will have to decide whether or not to adopt his framework and, moving quickly, place it before the UN Security Council as a resolution (attempting to preempt any possibility that it would be vetoed by the incoming Trump administration). The government of Israel has already expressed its opposition and the Palestinians are uncertain. The combination of Resolution 2334 on the illegality of the Jewish settlements in the West Bank with a possible resolution about the *principal* components for the resolution of the conflict, would constitute a tremendous Palestinian success, both in moral terms and in terms of their policy designed to enshrine their right to a sovereign state, at least in all of the West Bank and Gaza Strip. But these resolutions will make it difficult to renew talks in the future, because the Palestinians will not agree to

anything less than an absolute settlement construction freeze and an acceptance of Kerry's principles as the starting conditions for renewing negotiations.

There is little in the Israeli toolbox to thwart the possibility that Kerry's principles may be accepted at the forthcoming peace conference in Paris or brought to a vote in the Security Council. As much as Israeli officials try to say that the principles are meaningless, because within a few weeks, President-elect Trump will enter the White House, this is precisely what spurs the European states and the outgoing US administration to establish facts and principles that will challenge the incoming administration and limit its ability to make good on promises, including the commitment to move the US embassy to Jerusalem and allow Israel unbridled construction in the West Bank.

By contrast, thwarting an international decision – at the Paris summit and perhaps later in the Security Council – according to the framework Kerry presented will be possible only if the Palestinians insist on changes in the principles he laid out in his speech, principles that are not necessarily aligned with their aspirations. If a “revised” proposal is brought to a vote in the Security Council, the Obama administration may have to cast its veto. At the same time, Israel can appeal to Russia and/or Egypt with the backing of the incoming Trump administration and ask for their help in preventing a hasty international move, which might very well deepen the political deadlock, and instead focus on promoting gradual steps, also mentioned in Kerry's speech, likely to open up future options. Among these are economic and infrastructure activity in Area C, agreements on water and employment centers for Palestinians, and improved conditions for the Palestinians in the Gaza Strip. Israel, regardless of its criticism of Kerry's principles, will be called on to make gradual progress toward the end goal of two states for two peoples, as endorsed by Kerry and the Quartet. An outright rejection of all the ideas raised will add to the Israeli government's image as an opponent of peace and the major obstacle to any resolution. Therefore, there is an urgent need for Israel to adopt a constructive strategy capable of minimizing the damage of Resolution 2334 and future resolutions that could follow, based on Kerry's principles.

It is highly questionable whether Israel now will be persuaded that this is both a smart and a crucial move, even in light of the threat of a new UN Security Council resolution that the government and the majority of the Knesset will find unacceptable. Prime Minister Benjamin Netanyahu's reaction to the Kerry speech does not suggest that he intends to respond in a constructive spirit. Rather, his initial response suggests a growing assertiveness, which in this instance would outweigh the need to assume responsibility for both the immediate and long term negative consequences of a rejection of Kerry's principles.