



The Two-State Solution After Trump

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Among those cheering the surprise election of Donald J. Trump as US president on November 9, 2016 were the denizens of the Israeli settler movement and their vocal representatives in the Knesset. Buoyed by remarks made by Jason Greenblatt, Trump's chief legal officer and soon to be foreign policy advisor, to Israel's army radio claiming "it's certainly not Mr. Trump's view that settlement activity should be condemned [or] that it's an obstacle for peace, because they are not an obstacle to peace," there was a resounding cry of relief and hope for a major reset of US policy positions towards settlement construction in East Jerusalem and the West Bank. Jerusalem City Councilor Aryeh King argued that under Trump, "Jerusalem Mayor Nir Barkat and Israeli Prime Minister Benjamin Netanyahu [would] have an opportunity to create facts [on the ground]" to preempt further territorial concessions. Israeli Education Minister Naftali Bennet went straight to the point: "the era of the Palestinian state is over!"

Yet, while actual policy on the peace process remains sketchy at best, the irony behind the jubilation of the Israeli right over the chance to bury the two-state solution is the growing belief that the chance for a two state solution may have passed well before Mr. Trump assumes office in January 2017. A July 2016 report issued by the Quartet for Middle East peace - a group including the United States,

Russia, the European Union and the United Nations- sounded the same refrain; warning that the two state solution may have already fallen beyond the political horizon. Although the report was careful to apportion blame to the Palestinian Authority as well as Israel, and exhorted more vigorous action in tamping down incitement, the main thrust of the text was the deleterious impact of planned construction in and around Jerusalem, as well as the failure of the Netanyahu government to uproot illegal outposts deep in the heart of the West Bank.

Since then, Israel has gone forward with approvals for hundreds of more units between East Jerusalem and Bethlehem, and a bill legalizing 54 of the 129 settlement outposts beyond Israel's security barrier is currently working its way to a final vote in the Knesset. Pointing to developments in a December 4, 2016 address to the Sabban foundation, outgoing US Secretary of State John Kerry queried whether there is "going to be a continued implementation of settlement policy, or is there going to be separation and the creation of two states?" "As an "unapologetic friend of Israel," Kerry continued, how the Israeli leadership decides on this question will determine whether there is Middle East peace or whether Israeli becomes a unitary state ruling over an Arab majority.

Belief the one-state reality is nigh cheers some and horrifies others. However, it is also premature. As this brief will

demonstrate, settlement expansion has never prevented a US president from trying his hand at the "ultimate deal." On the contrary, the friction settlements create has often forced them to do so. Trump will be no exception. The additional irony is that how quickly he will have to roll up his sleeves, the parameters he will be forced to utilize, and, for reasons beyond bluster and ineptitude, how quickly he will fail, will actually depend on Obama.

Speculation is rife that the chaotic portent of a Trump's presidency may actually prompt the current administration to stake out US parameters for a two-state solution before vacating the Oval Office. A November 29, 2016 opinion piece by former President Carter offered a preview of what those parameters are likely to entail: a demilitarized Palestinian state with mutually agreed adjustments based on the June 4, 1967 lines, security guarantees for Israel, and a pledge of international support for any agreement the parties are also able to reach on the thorny questions of refugees and Jerusalem. Whether in the form of Rose Garden address, a Quartet statement, or even a UN Security Council Resolution, these parameters would reflect the evolution of US policy on the final status of the Israeli-Palestinian peace process from 1998, when former First Lady Hilary Clinton floated the idea of a Palestinian state for the first time. They would also be consistent with the 1993 Oslo Accords, and the

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and the terms of UN Security Council Resolutions 242 and 338.

However, as this brief will demonstrate, consistency does not equate with success.

The current negotiating formula is drawn from a resolution designed to establish peace between four fully sovereign states. As such, the guidelines fixate on settlements, borders, and other details related to the inadmissibility of territorial acquisition through war and the right of states to secured and recognized boundaries. In deference to the inviolability of internal affairs, questions related to national character, migration, or the location of the capital are left to the parties to decide without external interference. The problem with this formula is that it imposes parameters on those issues the parties have historically been able to negotiate on their own, but leaves them rudderless on the intractable issues that have always caused talks to break down.

The contemporary quest for two-states has always foundered on the largely symbolic questions of Jerusalem and refugees. Although settlements and borders are contentious, the parties have typically managed to work out mutually acceptable modes of compromise. However, when it comes to a formal agreement that Jerusalem will be shared or that only a miniscule number of refugees will exercise their right of return, the talks break down: over and over. Not because these issues are inherently intractable, but because they are hopelessly enmeshed in the increasingly polarized, identity politics both parties are using to keep themselves in power.

The current parameters, with their generous silence on these entrenched and highly polarizing issues, leaves the parties without a fig leaf to fend off their maximalist flanks and makes it virtually impossi-

ble for them to accept compromise - even when acceptable plans are available.

The purpose of this brief is to put the current two-state solution in the context of the long history of one, two, and even four state solutions to the Israeli-Palestinian conflict. Not only will this brief illustrate how settlements have become an enduring "red-herring" in the process, it will demonstrate how the earliest two-state models recognized that a successful partition was contingent on much more than drawing up boundary lines. Reconciling the competing national aspirations of the rival communities in the territory allocated to the British Mandate of Palestine was also understood to require explicit provisions for governance, minority rights, bilateral relations, migration and the administration of the holy sites. In addition, implementation would depend on the willingness of the international community and the parties' powerful patrons to support those proposals with blood, treasure, and sanctions for non-compliance. The fact that both Great Britain and the United Nations declined to provide that support in 1937 or 1947 does not make negated consideration of the content of those proposals today.

The Obstacle to Peace that Isn't

Since US Secretary of State James Bakker left the White House phone number on CNN for a recalcitrant Israeli Prime Minister Yitzhak Shamir to call, settlements have been the bane of the US diplomatic quest for peace in the Middle East. While Kerry was the first to go so far as invoking the possibility of Israel becoming a single, apartheid style state, each of his predecessors has castigated Israeli construction as "unhelpful," "illegal," "counter-productive," and a threat to the long term security of the Israeli state. Even the avowedly pro-Israel, neoconservative

Jon Bolton had to "reiterate [the Bush administration's] view that settlement expansion must stop," if peace was to be achieved. However, these repeated admonitions have neither slowed the actual proliferation of Israeli settlements nor prompted the US to abandon its efforts to lock down a two-state compromise. In fact, it could be argued that US commitment to the two-state solution has increased at nearly the same pace as actual construction.

As Kerry pointed out in his address to the Sabban foundation, when the Oslo Accords was signed in 1993, there were roughly 110,000 settlers in the West Bank. At that point, the US position on the final status of the occupied territories went no further than the autonomy proposals that were part of the 1979 Camp David Accords. It wasn't until 2002, when the settler population had exceeded 200,000, that George W. Bush upgraded the official position on the outcome to two fully sovereign states. Five years later, when the "Annapolis" talks facilitated by US Secretary of State Condoleezza Rice introduced the concept of land-swaps, the settler population had grown by another 20%. Today, the number is 385,000, and with current construction is projected to reach 600,000 by years end.

On the one hand, the contradictory trajectories could be interpreted as proof that settlement expansion undermines efforts to reach a two-state solution, as all of the aforementioned initiatives have failed to produce a lasting agreement. On the other hand, this pattern suggests that settlements are not an obstacle to peace in a territorial or geographic sense. After all, according to a 1989 report issued by former Jerusalem deputy mayor Meron Benvenisti, the Israeli settlement enterprise crossed the point of no-return when the number of settlers in the West Bank reached 70,000. What settle-

-ments do create are “facts on the ground” that are difficult, albeit not impossible, to dismantle. They are also habitual friction points and wellsprings of violence, which paradoxically means they are often the trigger for another round of US sponsored peace making.

The US-facilitated talks between Israeli Prime Minister Ehud Olmert and Palestinian President Mahmoud Abbas between 2007 and 2008 offer the most recent example of joint problem solving on the question of settlements and borders. Although settlements were a major rhetorical stinging point during the run up to the talks, it is now well known that the parties actually produced a comprehensive map of the two states, addressing the problem of massive Israeli settlement blocks near Qalqilyah, East Jerusalem and Bethlehem through land-swaps. Although there were differences of opinion on the scale of the swaps and the quality of the land exchanged, the general principal was acceptable to both sides. This logic was also evident in the Clinton parameters and even applied to the suburbs around Jerusalem: what’s Arab is Palestine and what’s Jewish is Israel.

Partition: more than the sum of its parts

And in fact, this same logic was behind the borders recommended by the Peel Commission’s proposal, which was submitted to His Majesty’s government in 1937, and marked the emerging acceptance of the incompatibility between the national aspirations of the rival communities in Palestine and the notion of a binational state. The map proposed by the Peel commission essentially apportioned those areas with the greatest concentration of Jewish settlement to the Jewish State, and reserved the rest to the Arab State. However, Jerusalem,

Bethlehem and a narrow corridor to the port city of Jaffa were retained by the mandate given the international significance of those cities and their propensity for inter-communal violence. Two years later, the Whitehead Commission reaffirmed the principle of partition, but revised it to shift the Arab majority Galilee region out of the territory allocated to the Jewish state, while keeping the southern boundary at the city of Tel Aviv. Eight years later, the UN Special Commission on Palestine (UNSCOP) revised the partition map again: increasing the size of the Jewish state with segments of the Galilee and the sparsely populated Negev Desert. Like the Peel and Whitehead commissions, the UNSCOP plan placed Jerusalem under international administration.

However, while both these plans are referenced as affirming the principal of two-states for two-peoples, they ultimately reflected much more than a division of territory. Each of these plans included detailed policy proscription for the actual governance of the successor states, right down to provisions for minority rights, taxation, revenue sharing, and expectations for bilateral and international relations. In addition, the plans predicated the eventual success of partition on the management of external and internal migration, population exchange, and authority over the holier cities within the territory. The Peel Commission offers 13 pages of details on partition, including details on postal rates, and UNSCOP weighs in with eight different subheadings on everything from language usage on official forms to projections for tax revenue. Both proposals also specified that implementation would depend on the extended support from the Mandatory power and the international community, including financial contributions, technical expertise, and boots on the ground.

The rationale for these detailed, highly invasive proscriptions was the belief that with-

-out such intervention, partition would only result in further violence. While the Peel Commission focused more on population transfer and the UNSCOP plan more on minority rights, both recognized the polarization between the societies was liable to produce further conflict if clear expectations were not set in advance and support provided to guarantee they were implemented. This was especially true with regards to “migration,” which at that point meant Jewish refugees streaming in from the Nazi genocide in Europe. The Palestinian population saw unchecked Jewish migration in the 1930s and 40s as diluting the Arab identity of the country, much in the way the return of Palestinian refugees to Israel is seen as a threat to the Jewish nature of the state today. The zero-sum nature of the demographic game became an existential line in the sand no leader could cross and hope to survive – politically or otherwise. Thus, the international community stepped in and imposed their own unpopular, but existent compromise.

By contemporary standards, the terms of the Peel Commission and the UNSCOP partition plan have the reek of imperialism and external meddling in domestic affairs. However, within the political constraints of their respective times, they represented an effort to outline a workable solution for a rapidly intensifying conflict on the basis of emerging standards of human rights and self-determination. While imperfect, these proposals are based on a fundamental recognition of the identity stakes at the heart of the dispute, and the need for the international community to go beyond establishing boundaries and provide guidelines for those issues certain to present the threat of additional violence in the future, even if partition were enacted. It is difficult to argue those dilemmas are any different today.

Re-envisioning the two state parameters

The negotiating record from 1991 to 2014 consistently demonstrates that the parties are able to compromise over settlements, borders and even security. However, when the 11th hour arrives, progress collapses over the same two issues that bedeviled the international community since 1917: Jerusalem and refugees. Yet while every diplomat turned arm-chair quarterback pinpoints these issues as the most contentious and the most difficult to resolve, they are also the ones for which the United States and the international community have proven the most reluctant to provide guidelines beyond encouraging the parties to negotiate a "just" and mutually acceptable agreement.

The irony is that multiple proposals for these issues have been developed and earned the tacit acceptance of the principals. While huge gaps remain, the Palestinians recognize there will be significant limits on the right of return and the Israelis recognize they must share Jerusalem. However, in the current environment, both parties have become increasingly reliant on polarized extremes for power and legitimacy. To back off the very issues used to define the struggle for generations is all but impossible for any leader who hopes to survive, politically or otherwise. As has been witnessed over and over, the parties come to the brink and then fall back into another round of violence.

To avert this cycle, the current administration should immediately bring a comprehensive proposal on the final status issues, one that goes beyond the designation of borders and provisions for security, to the UN Security

Council. If Obama is going to attempt one final Hail Mary pass on the Israeli-Palestinian conflict with any hope of getting the parties closer to the end zone, the parameters he presents must include guidelines for Jerusalem and refugees. Such parameters could be drawn from the substantive and far reaching work done in track-two meetings over the past decade and should be drafted in consultation with the Quartet and the signatories of the Arab Peace Initiative. Most critically, that proposal would also have to include a precise timeline for the implementation of that framework, clear pledges of international support in carrying it out, and equally unequivocal on sanctions if it is not respected.

Obviously, such proposals will spark immediate umbrage and burn up every ounce of political capital the current president has left. However, if he is able to persuade the other members of the Quartet, the P5, and the signatories of the Arab Peace Initiative to back these parameters, it is still probable the parties will stamp their feet in public, before shutting the door and breathing a long sign of relief.

References

Huckabee DENIES he'll be ambassador to Israel after Trump official names him. (2016, November 18). Retrieved November 20, 2016, from

<http://www.dailymail.co.uk/~article-3950596/index.html>

read more:

<http://www.haaretz.com/israel-news/.premium-1.752589>

Naftali Bennet, Haaretz 10 November 2016

(WASHINGTON - In a speech harshly critical of Israel, U.S. Secretary of State John Kerry warned on Saturday that current trends in the Israeli-Palestinian conflict are leading to a one-state reality.read more:

<http://www.haaretz.com/israel-news/1.690205>

June 27, 2016 - report issue by Quartet - (EU, US, UN and Russia) that two-state solution in danger. Just this September, Kerry again referenced his concern that incitement, settlement construction, and diplomatic inertia means that the parties are inching closer to this binational/ one-state "nightmare" read more:

<http://www.haaretz.com/israel-news/1.728324>

Full text of John Kerry's remarks at Saban Forum 2016. (n.d.). Retrieved December 7, 2016, from

<http://www.timesofisrael.com/full-text-of-john-kerry-remarks-at-saban-forum-2016/>

Obama - 2011 policy address

Hillary Clinton condemns Israeli settlement plans. (2012, December 1). Retrieved from <http://www.telegraph.co.uk/news/worldnews/northamerica/usa/9716339/Hillary-Clinton-condemns-Israeli-settlement-plans.html>

Full text of John Kerry's remarks at Saban Forum 2016. (n.d.). Retrieved December 7, 2016, from

<http://www.timesofisrael.com/full-text-of-john-kerry-remarks-at-saban-forum-2016/>

547,000 settlers in the West Bank. This figure is derived from two sources: According to data provided by Israel's Central Bureau of Statistics (CBS)

Britain, G., Palestine Royal Commission, & Peel, E. W. R. W. P. (1937). Palestine Royal Commission: Summary of Report. HM Stationery Office.

Hadawi, S. (Ed.). (1967). United Nations Resolutions on Palestine, 1947-1966 (No. 1). Institute for Palestine Studies.