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The Failed Israeli-Palestinian Negotiations, and What Lies Ahead

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The Israeli-Palestinians negotiations mediated by US Secretary of State John Kerry were a failure, and at the end of the allotted nine month period the two sides could not even agree on a document of principles, the so-called framework agreement. For now, the United States has decided to suspend its efforts to continue the negotiations and reassess the overall political process between Israel and the Palestinians. At this point, then, two questions arise: Why did the negotiations fail, and how should we proceed from here?

The media abounds with post mortem analyses of the negotiations that primarily reflect the respective attempts by Israel and the Palestinians to assign responsibility for the failure to the other side. One of the main reasons for the failure is that each party entered the negotiations believing that its counterpart was not a partner for an agreement. From the start of the negotiations, the objective was to end the negotiations with the blame for the failure placed squarely on the other side. This stance undercuts any possibility of serious negotiations that can narrow existing gaps between the positions. Moreover, the dynamic was such that each side verified to the other its preexisting perception of its counterpart. The Palestinians believe that Israel under Netanyahu does not wish to end the occupation, cede control of the territories, or discontinue the settlement enterprise, but instead hopes to sustain them in another way that will give legitimacy to Israeli policy and reduce the external and domestic pressures on Israel. For the Palestinians, Israel's demand for a continued IDF presence in the Palestinian territories even after the signing of an agreement and the establishment of a Palestinian state, the refusal to enter into a concrete discussion on the border between the two states, and the accelerated construction in the settlements confirmed this suspicion. For their part, the Israelis believe that the Palestinians do not truly accept the two-state solution or recognize Israel's right to exist, and instead wish to bring about its destruction in the longer run. The Palestinian refusal to recognize Israel as a Jewish state and give up the right of return has been interpreted as confirmation of these suspicions.

If the respective positions on these issues are in fact basic positions that cannot be changed or circumvented with practical solutions, it can be argued that both sides are

right, and thus there is no possibility of reaching a permanent settlement or even an agreement of principles before the two parties change their fundamental positions.

Certain problems were evident in how the negotiations were conducted by the United States, Israel, and the Palestinians. Secretary of State Kerry decided to hold negotiations only on a permanent settlement, rather than discuss an entire range of possibilities for progress, including partial, transitional agreements, and coordinated unilateral moves. Kerry feared that a fuller range of options would give the two parties an excuse to run away from the discussion of the issues for a permanent settlement. However, since the two sides were apparently not prepared to make the cardinal decisions required for a change in basic positions, there was nothing left to talk about, and the entire process collapsed. The United States at first attempted to focus on the issues of security and borders, but this too was unsuccessful, in part because it is difficult to separate these issues from other issues. Security is closely connected to the issue of the sovereignty of the Palestinian state and the end of the occupation. The issue of borders is closely connected to the sensitive issues of Jerusalem and the settlements. Moreover, in focusing on security United States went a significant way toward accepting Israel's security demands. However, Israel would not relax its refusal to place a time limit on its military presence and freedom of action in the Palestinian territories. On the other hand, Israel did not agree to a concrete discussion on the subject of borders, and rejected the idea of Jerusalem as the capital of both states. The only concession that Kerry succeeded in extracting from Prime Minister Netanyahu was on general wording to the effect that the border would be on the basis of the 1967 borders with territorial swaps, but there was no agreement that the territories to be exchanged would be of equal size. So too with the issue of the Jewish state: The United States believed that if the Israelis were satisfied on security and the definition of Israel as a Jewish state, they would be prepared to be flexible on the other issues. They adopted the Israeli position on this issue in full, as expressed in the document of principles they presented. However, Israel was not prepared in return to have wording on the refugee issue that would allow Abbas to agree to the definition of a Jewish state, and one of the Palestinians' main fears was that agreeing to the definition of the Jewish state would mean giving up their demands on the issue of the refugees. This is perhaps the reason that the Israelis were prepared to consider accepting the wording proposed by the Americans for a document of principles, and the Palestinians rejected it categorically.

The level of distrust between Israel and the Palestinians is very high, and it is doubtful that it can be overcome before a permanent settlement is signed and implemented. However, in a negotiations process, a certain trust must be created between the negotiators in order to enable them to reach an agreement. The Kerry negotiations are a textbook case on how not to build the trust required. The most representative example was the ostensible confidence building measure of releasing Palestinian prisoners. First, the decision to release them in four stages highlighted Israel's lack of trust in the

Palestinians. However, over the course of the negotiations, it also provided many opportunities for opponents of the negotiations in Israel to complicate the situation for the negotiators and emotionally manipulate Israeli public opinion. Second, Israel explained that the agreement to release the prisoners was connected to Abbas's consent on continued construction in the settlements, which was not true. Thus it happened that a measure intended to strengthen the standing of the Palestinian leadership, the partner for the talks, became a measure that in fact weakened it politically. On the other hand, the Palestinians refused to understand that releasing prisoners who are murderers is a very sensitive subject in Israeli society and that therefore, they needed to approach the issue with the goal of making this as palatable a move possible for Israel. It appeared that both parties were doing all they could in order to weaken the other side's ability to conduct negotiations and avoid creating public opinion favorable to the agreement.

Finally, did the leaders of the two sides have a political interest and the political power to reach an agreement? The answer to this question is apparently "no." Netanyahu heads a coalition that could break up even without an agreement but just by flexibility on sensitive issues. He still bears the trauma of the fall of his first government in 1999 because of the Wye agreement. Abbas suffers from weakness within his political camp and a lack of legitimacy among the broad Palestinian public. It is doubtful that these two felt capable of making the decisions required in order to reach an agreement. Netanyahu preferred to continue with his current coalition, and Abbas, who is considering resigning before the next elections, prefers to do so while he is perceived as working for Palestinian unity and not as making concessions on Palestinian interests.

At the same time, the two parties fear the ramifications of the collapse of the talks: the risks are great, and the available options are problematic. The Palestinians often speak of the benefits of appealing to the international system to force an agreement on Israel. However, they know very well that the international system will not do this and their actions would only be a nuisance for Israel. The option of a "popular protest," with its questionable success, is also dangerous because it might spill over into an armed conflict. Israel fears the continuation of the status quo, and the cost in the international arena and in Israel's relations with the United States. Therefore, the two parties might be persuaded to continue negotiations, with better prospects of success, if these occur in the framework of a broader process that would include continued negotiations toward a permanent settlement, along with transitional agreements enabling gradual construction of a Palestinian state including by transfer of some Area C territories to the Palestinians, as well as coordinated unilateral measures that would contribute to this process. The advantage of this proposal is that it allows gradual taking of risks and illustrates that there is progress toward the two-state solution in spite of crises that may occur in the negotiations on a permanent settlement. Adoption of this proposal also requires political will and political power on both sides, and only a discussion of the proposal itself will reveal whether these exist.