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CAN THE SECURITY COUNCIL PROVIDE A FRAMEWORK FOR AN ISRAELI-PALESTINIAN AGREEMENT?

Robert Wexler

IN the aftermath of the fifty-day war between Israel and Hamas in the Gaza Strip in summer 2014, the United States and the international community urged Israel and the Palestinian Authority in the West Bank to resume peace talks that had collapsed several months before the fighting broke out. While the violence deepened animosity and mistrust between the Israeli and Palestinian publics, there was a degree of cautious optimism that leaders would recognize the need to find a political solution to end the recurring cycle of violence. In a press conference conducted while Hamas was launching rockets at Israeli cities, Israeli Prime Minister Benjamin Netanyahu spoke of a “new diplomatic horizon;” at the same time, rumors swirled about agreements—and even a UN Security Council resolution—that would reinstate the

Palestinian Authority in the Gaza Strip for the first time since 2007.

But in the end, nothing of consequence materialized. President Mahmoud Abbas was unwilling to be perceived as taking advantage of Israel’s military accomplishments over Hamas, and Prime Minister Netanyahu never presented a formal Israeli initiative.

Unable to bring the two sides back to the negotiating table following the Gaza War, the United States and the international community shifted from a policy of seeking to resolve the Israeli-Palestinian conflict to attempting to manage it. To that end, in October 2014, international donors pledged more than \$5 billion for the reconstruction of the Gaza Strip, whilst the international community continued to foot

Robert Wexler is President of the S. Daniel Abraham Center for Middle East Peace, having previously represented Florida’s 19th congressional district in the U.S. House of Representatives.



U.S. President Barack Obama and former U.S. Congressman Robert Wexler

the bill to keep Palestinian Authority institutions afloat in the West Bank. On the Israeli side, the United States and Europe have concentrated efforts on urging Israel to refrain from construction across the 1967 lines—particularly in areas that would impede the contiguity of a future Palestinian state.

Since summer 2014—and especially after the most recent Israeli election—the two-state solution has essentially been on life support.

After the Obama Administration’s two major diplomatic initiatives to resolve the conflict ended without success, it may appear that managing the conflict until the conditions are ripe

for peace is the only viable route forward. However, it is an illusion that the conflict can be managed. As the lead up to the 2014 Gaza War demonstrated, violence can erupt at any moment—and at the cost of Israeli and Palestinian lives. In November 2014, severe tensions in Jerusalem threatened to spin out of control until U.S. Secretary of State John Kerry hosted a three-way summit with Prime Minister Netanyahu and Jordan’s King Abdullah II, deescalating the situation. And while cooperation between Israeli and Palestinian security officials has, to an extent, maintained stability in the West Bank, it is naïve to assume that this situation will continue indefinitely without any political progress. Recently, some Palestinian

officials have publically threatened to end security cooperation with Israel.

Furthermore, relations between Israel and the Palestinian Authority have continued to spiral downward. As the Palestinians seek to sanction Israel through the International Criminal Court (ICC), which they formally joined in April 2015, and Israel retaliates with its own unilateral actions, such as withholding tax revenues from the Palestinian Authority—it seems almost impossible that the two sides will deescalate the current situation in the absence of intervention from a responsible third party.

MORE PRECARIOUS THAN USUAL

What makes the current situation particularly precarious is that, unlike previous instances in which the political process faltered, there is little expectation that the United States has the capacity to pick up the pieces and try again. For nine months Secretary Kerry engaged the two sides in an intensive and credible diplomatic process. While both the Israelis and Palestinians have sought to place blame on each other for tanking the talks, it is

indisputable that even Secretary Kerry’s tireless efforts were unable to bridge the gaps between the Israeli and Palestinian positions on the core issues of the conflict: security arrangements between Israel and a future Palestinian state; the precise drawing of borders between Israel and a future Palestinian state;

sovereignty over the city of Jerusalem and its holy sites; and the status of Palestinian refugees. It is not clear how even a renewed American effort could close the gaps on these issues.

Unfortunately, the Obama Administration’s inability to demonstrate tangible progress from its two major diplomatic initiatives has come at the cost of America’s credibility as an effective mediator between Israel and the Palestinians. On the Palestinian side in particular, most analysts

have reached the conclusion that the Palestinians have determined that they can more effectively pressure Israel to make concessions by isolating it in international fora than American-led negotiations. And for decades the United States has had only limited success in communicating the urgent need for a two-state solution to the Israeli public.

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THE BEGINNING OF A NEW STAGE IN THE PEACE PROCESS

In the breakdown of the process led by Secretary Kerry, the Palestinians announced that they would seek to internationalize the peace process by pursuing unilateral action at both the UN and the ICC. Attempting to get out ahead of the Palestinian initiative, French President Francois Hollande hosted President Abbas in Paris in September 2014 to determine the Palestinian “room of maneuverability” on the core issues of the conflict. After two days of meetings with President Abbas, President Hollande announced that France would present a resolution to

the Security Council “that will say very clearly what we expect from the [peace] process and what the solution to the conflict must be.” Over the next few months, France negotiated its draft with the United Kingdom and Germany, but ultimately decided to shelf the text when Israel unexpectedly announced in December 2014 that it was heading into early national elections. France rightly did not want to appear to be interfering in domestic Israeli politics.

In late December 2014, the Palestinians—through Jordan, then a non-permanent member of the Security Council—advanced their own resolution

that aimed to set the terms for the end of the conflict. While certain aspects of the document generally reflected positions held by the United States and Europe, the resolution was dead on arrival for both the United States and Israel because it demanded an “end of the Israeli occupation of Palestinian territories by the end of 2017.” For both the United States and Israel, security is the most crucial aspect of any agreement. The arrangements ultimately reached on security needed to reflect a professional assessment of threats and capabilities on the ground, not an arbitrary three-year timeline. Rather than a legitimate attempt to resolve the conflict, the December 2014 resolution was a

domestic political stunt, meant to boost President Abbas's standing in the West Bank and Gaza.

Ultimately, the Security Council did not adopt the Jordanian-Palestinian resolution, which garnered eight votes—one fewer than the nine needed to pass a resolution in the absence of a veto by any of the Security Council's five permanent members. Moreover, the Palestinians failed to move the peace process forward in any constructive way, and instead further frayed relations with Israel.

NEW ROLE FOR THE SECURITY COUNCIL

The failure of the Jordanian-Palestinian resolution demonstrates that if the international community is not united, the consequences will be minimal—and likely counterproductive. The question now passing through Washington, Jerusalem, Ramallah, and European capitals, is whether there is a circumstance in which the United States might join a Security Council resolution.

In the aftermath of the March 2015 Israeli election, and the likelihood of a right-wing government being formed in the next few weeks headed by Prime

Minister Netanyahu, the question surrounding a Security Council resolution becomes even more pertinent. France recently indicated that it plans to begin promoting a Security Council resolution that will lay out the parameters for ending the Israeli-Palestinian conflict. French Foreign Minister Laurent Fabius said at the end of March 2015 that he

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“hopes the partners who were reluctant will not be reluctant anymore.” The question on many people's minds is whether the Obama Administration is ready to break from longstanding policy which stipulates that the United Nations is not the appropriate venue to deal with the Israeli-Palestinian peace process.

In recent years, the United States has resisted initiatives on the Israeli-Palestinian peace process at the UN, which is often unreasonably biased against Israel. Since the Oslo Process was launched in the 1990s, the United States and the international community have operated under the assumption that progress is only achievable through bilateral Israeli-Palestinian negotiations under the auspices of the United States. In practice, no other model has ever been seriously tested.

Back in 2011, 14 of the 15 members of the Security Council—that is to say, everyone but the United States—supported a Security Council resolution condemning Israeli settlements beyond the 1967 lines. Although the United States government has opposed the construction of Israeli settlements for decades, the Obama Administration decided to issue a veto, because it maintained the position that the core issues of the conflict must be negotiated between Israel and the Palestinians directly. In a statement explaining the American vote, Washington's then-UN envoy Susan Rice said explicitly: “we think it unwise for this Council to attempt to resolve the core issues that divide Israelis and Palestinians.”

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But when the United States voted against the most recent Jordanian-Palestinian Security Council resolution, American's current envoy to the UN, Samantha Power, signaled a different American posture. Rather than explicitly deeming the Security Council as the inappropriate forum to resolve the conflict, she made clear that “the United States recognizes the role that this Council has played before in advancing a sustainable end to the Israeli-Palestinian conflict, including through resolutions 242, 338, and 1515.” More recently, even Secretary Kerry's former

envoy for Israeli-Palestinian negotiations, Martin Indyk, has hinted publicly that the United States might support certain initiatives at the United Nations.

The key international players were awaiting the outcome of the Israeli election before making any drastic moves on the peace process. After Prime Minister Netanyahu's election campaign statement, saying that a Palestinian state will not be established under his watch—and President Obama's response that the United States will have to reassess its options regarding the peace process—European governments are now more likely to resume the discussion of a potential

Security Council resolution. Europeans are increasingly frustrated with their limited capacity to influence the political situation between Israel and the Palestinians, and are increasingly inclined to pursue new avenues to push for progress. The question European decision-makers must ask is what text can most likely advance the resolution of the conflict?

While the differences between American and European positions on the peace process are relatively minor, it is clear that the impact of a resolution that is distinctly European—and not joined by the United States—will be limited. If the international community is divided, then

both sides will be able to reject those aspects that will inevitably demand difficult decisions. However, if the Europeans present a document that the United States can support, then an entirely new and unique dynamic will be created.

SECURITY COUNCIL BENCHMARKING

A Security Council resolution alone cannot and will not end the Israeli-Palestinian conflict. The specific details of any future agreement must be negotiated between the Israelis and Palestinians. But a Security Council resolution can define the starting point for those negotiations and the range in which the conflict will ultimately be resolved. In the international community, the Israeli-Palestinian conflict is principally judged according to Security Council resolution 242, which was adopted following the 1967 Six-Day War. Nearly half a century later, it is necessary to adopt a new one, which would set new benchmarks reflecting the realities that must be addressed in order to resolve the conflict.

On the core issues of borders and security, the Obama Administration has already articulated principles

that are crucial to guarantee a secure Israel, as well as the establishment of a contiguous and viable Palestinian state. Speaking in Jerusalem before the most recent round of peace talks commenced, President Obama said unequivocally: “Security must be at the center of any agreement.” And to that end, at President Obama’s directive, General John Allen—formerly the top U.S. military official in Afghanistan—

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spent more than a year devising a security plan that, in the words of Secretary Kerry, was intended to “make sure that the border on the Jordan River will be as strong as any in the world, so that there will be no question about the security of the citizens, Israelis and Palestinians, living to the west.”

While much of General Allen’s efforts still remain secret, American officials who have spoken publicly about the security plan have indicated that it includes performance-based standards for the redeployment of Israeli troops from the West Bank. Indeed, a Security Council resolution should explicitly call for performance-based standards, which both satisfy critical Israeli security requirements and can offer Palestinians a tangible end to the status quo.

On borders, the American position has been consistent for decades: calling for negotiations to be based on the 1967 lines with mutually-agreed territorial swaps. This is the only realistic starting point for negotiations, and reflects the positions of both sides during previous peace talks. It is also extremely important to note that in April 2013, on Secretary Kerry’s initiative, the Arab League endorsed the principle of territorial swaps—providing the Palestinian side with the political cover to make difficult decisions, whilst sending an important signal of flexibility to Israel.

The Obama Administration has not explicitly articulated its policy on the issues of Jerusalem and refugees, but these parameters should be formulated in such a way that the United States can support. The Clinton Parameters, issued after the Camp David talks in 2000, offer guidance on the particular formulas that can bridge the gaps between the two sides, and be endorsed by an American president.

Lastly, during the most recent round of negotiations, Prime Minister Netanyahu demanded that the Palestin-

ians recognize Israel as a Jewish state in the context of a negotiated final agreement. While the international community may find this demand problematic, there is a creative solution that can satisfy both Israeli and Palestinian concerns. Rather than framing the issue as

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an Israeli ultimatum, a Security Council resolution should define the Israeli position in the terms of mutual recognition and the right to self-determination. Language along the lines of: “Israel will recognize Palestine as the national home of the Palestinian people and all its citizens, and Palestine will recognize Israel as the national home of the Jewish people and all its citizens,” offers Israelis the assurance that the character of their state

will remain Jewish, without compromising the rights of Israel’s Arab citizens or predetermining negotiations on the refugee issue.

A CREDIBLE ENDGAME

There is, of course, a library of Security Council resolutions that have never been enforced. However, if, for the first time in recent history, the international community presents a credible endgame that provides for

both Israel's security and Palestinian independence, political leaders on both sides will be compelled to accept a new paradigm. A Security Council resolution on the Israeli-Palestinian conflict would mark a watershed moment—one not seen in recent history.

Opponents of the two-state solution often cite the turmoil in the region as an obstacle to peace. However, never before have the governments to Israel's east and south—Jordan and Egypt, respectively—been such credible partners to encourage and implement a peace agreement. Both Egypt's President Abdel Fattah el-Sisi and Jordan's King Abdullah II have made courageous statements in support of peace in recent months that were previously unimaginable. Similarly, as the broader Arab world confronts the threat of radicalism, the Gulf states' interest in a resolution of the conflict has never been closer aligned with those of both Israel and the Palestinian Authority.

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the Syrian civil war rages along Israel's northern border, Israel should recognize a unique opportunity to resolve the conflict with the Palestinians without having to make concessions on the Golan Heights.

A Security Council resolution is far from a silver bullet. In order to resolve the conflict, leaders on both sides will have to overcome certain domestic political constraints and demonstrate true leadership—which has not been seen in recent years. However, as long as there are still options on the table to keep the two-state solution alive, it is in the interest of all those who seek stability in the Middle East to pursue them. ●