

# Kerry's Speech: Some Continuity, Some Disconnect

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Dec 29, 2016

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Brief Analysis

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**The secretary's latest remarks beg the question: at a time when Israelis and Palestinians are clearly unable to strike a grand deal, why not put ideology aside, jettison the administration's all-or-nothing approach, and lay out more modest parameters on settlements, incitement, and other concrete issues?**

In the waning days of the Obama administration, Secretary of State John Kerry has delivered a valedictory speech on the Middle East peace process. His December 28 address -- which sternly critiqued Israel, urging it to end the slide toward a one-state solution -- included six principles to guide Israeli-Palestinian peacemaking and ultimately reach a two-state solution. Kerry defended his speech as a need to tell tough truths about what Israel must do to retain its Jewish and democratic character. Yet Prime Minister Binyamin Netanyahu attacked it as "unbalanced," saying Israel does not need to be "lectured to" by foreign leaders. Given the anger Israelis have expressed over the [U.S. abstention on UN Security Council Resolution 2334 \(http://www.washingtoninstitute.org/policy-analysis/view/early-implications-of-the-un-settlements-resolution\)](http://www.washingtoninstitute.org/policy-analysis/view/early-implications-of-the-un-settlements-resolution) and their expectations about the incoming Trump presidency, Netanyahu seems bent on lashing out at the Obama administration with greater intensity than ever.

The speech's timing, ambitious tone, and controversial nature could have manifold implications for U.S. policy and Washington's relations with Israel. At this point, however, it seems most useful to focus on the core negotiating principles that Kerry laid out, comparing them with the parameters laid out by past administrations.

## WHAT IS NEW IN THE SPEECH?

Kerry's speech was the coda to the third major U.S. effort this century to jumpstart a negotiating drive and end the Israeli-Palestinian conflict. In July 2000, President Bill Clinton held a Camp David summit with both parties, culminating in the Clinton Parameters that December. Similar efforts were launched by Secretary of State

Condoleezza Rice in 2007-2008 and by Kerry himself in 2013-2014.

Some will argue that the latest speech has little relevance because President-elect Donald Trump has made clear that his views on the matter differ sharply from Obama's. Yet the Clinton Parameters have remained the baseline for negotiators since 2000, through very different administrations, so Kerry's ideas could have a longer-term domestic and international impact than some might expect.

Indeed, analysts will invariably compare Kerry's principles to Clinton's. Other reference points are relevant as well -- such as Obama's speeches on the subject in May 2011, and George W. Bush's letter to Ariel Sharon in April 2004 -- though they do not address all of the core issues in the comprehensive manner that Kerry and Clinton did. Both men delivered their principles amid a sense that they would not be realized anytime soon; in fact, Clinton explicitly noted that his parameters would expire when he left office. Yet there are key differences in both context and substance. In Clinton's case, he outlined his principles after almost eight years of high-level and seemingly promising Israeli-Palestinian negotiations aimed at achieving a final-status agreement. Kerry's speech follows eight years of hardly any direct, senior talks on endgame issues, though the Obama administration has done a great deal of heavy lifting on the matter, especially during Kerry's intense diplomatic drive of 2013-2014.

Thus, while the Kerry and Clinton parameters are more similar than different, there are important differences:

**Jewish state.** Kerry explicitly called for recognizing that Israel "is a state for the Jewish people" that will exist alongside "a state for the Palestinian people," without derogating the rights of Israeli Arabs. Clinton did not emphasize such language, presumably because Palestinian public questioning of Israel's Jewish character was not as intense at the time. President Obama explicitly called for recognition of Israel as a Jewish state in his May 2011 speeches, as did President Bush.

**Jerusalem.** Kerry's speech called for "Jerusalem as the internationally recognized capital for the two states." This marks the first time that the United States has publicly called for a Palestinian capital in Jerusalem, though he did not delineate whether it would constitute all of East Jerusalem or select Arab neighborhoods around the Old City; the future of the Old City itself was not specified either. In contrast, the Clinton Parameters gave details about sovereignty on the Temple Mount but did not say whether the Palestinians would have a capital in the city (though he did mention the idea of two capitals in a January 2001 speech days before leaving office). Obama did not mention East Jerusalem in his 2011 speeches, apparently seeing the issue as too controversial to broach on the eve of his reelection campaign.

**Refugees.** Kerry stated that any resolution of the Palestinian refugee problem would have to be consistent with the idea of "two states for two peoples," suggesting that future proposals must not threaten Israel's Jewish character. This language is more restrictive than the Palestinian public position of unlimited "right of return" to Israel, but not restrictive enough for Israel, which wants all refugees to settle in a Palestinian state or third countries instead, likely with international and Israeli financial compensation. Obama did not address the idea of refugees at all in 2011. Clinton provided a very detailed menu of options on refugees, all of them "consistent with the two-state solution." Bush said it was not realistic to believe that refugees would return to Israel, noting that they should go to the Palestinian state.

**Borders.** The Clinton Parameters stated that Israelis and Palestinians would need to agree on territorial exchanges, indicating that these swaps would not be calculated from a baseline of 100 percent of the West Bank. Obama also called for land swaps, though using the pre-1967 boundaries as a baseline. Kerry's speech essentially said that all territorial exchanges would be conducted on a one-to-one ratio, using the language "mutually agreed equivalent swaps." This language falls just short of the Palestinian formulation of "equal" swaps, which gets into more technical issues such as land quality. Bush's letter to Sharon accepted the idea of Israel ultimately incorporating the "major

population centers" (i.e., settlement blocs) near the "1949 Armistice lines" (almost identical to the pre-1967 lines), adding that a final deal would require "mutually agreed changes that reflect these realities." Israel interprets the Bush letter as allowing construction in those blocs before a peace deal is reached, but this is not what the letter actually states.

**Security.** While speaking extensively about Israel's security threats, Kerry declared that "fully ending the occupation is the fundamental issue for the Palestinians. They need to know that the military occupation itself will fully end." Clinton, whose efforts preceded the full force of the second Palestinian intifada and the more recent Arab Spring, favored a specific timetable for the withdrawal of Israeli forces and called for international troops to take their place. Kerry did not mention international troops or a timeline, though he suggested that Palestinians should be given a general sense of when they can expect the last Israeli troops to leave. Given the region's current instability, Netanyahu has made clear that Israel does not plan to leave the Jordan Valley for decades, if at all. Kerry did say that a Palestinian state would need to be "non-militarized," as other U.S. administrations have made clear.

**End of conflict.** In noting that the parties should seek to "end the conflict and all outstanding claims," Kerry's speech suggested that ties between Israel and Arab states would not be normalized until the end of the process. This principle is in keeping with the Arab Peace Initiative first proposed by Saudi Arabia in 2002 (the API also indicated that Israel must concede the Golan Heights to Syria as a further precondition for normalization, though nobody believes this is possible or even desirable today given the situation there). In addition, Kerry stated that Israel-Palestinian peace would lead to a new "security partnership" with Arab states. Israel already has burgeoning (though quiet) security ties with some of these states, so perhaps Kerry meant that these ties could be formalized.

## WHY NOW?

Only time will tell what motivated the timing of Kerry's speech. Some have argued that putting these ideas out just as the administration is leaving office is merely a parting shot at Netanyahu after a long period of strained relations, though that interpretation seems highly uncharitable.

Alternatively, the speech may have been intended as a preamble to the international peace conference scheduled to be held in Paris on January 15. Israel will boycott that summit, so the few dozen foreign ministers in attendance could decide to cut-and-paste Kerry's parameters into a UN Security Council resolution just before Trump is inaugurated on January 20. Israel would furiously reject such a move as an imposed solution, and the Palestinians might not embrace it either given its presumed mention of a Jewish state.

Would the United States abstain from such a resolution? Kerry has stated that Washington does not want to impose solutions, and the White House has said it will not vote in favor of any Security Council measure that does so. In practice, however, a U.S. abstention would be the same as a yea vote, so Kerry's speech may not be the last word in this closing-act drama. For example, Netanyahu's anger at the speech -- coupled with the adoption of Resolution 2334 and other potential UN moves -- could spur him to ask Trump for a demonstrative post-inauguration step that shifts the situation in a very visible way, such as moving the U.S. embassy to Jerusalem.

A more neutral interpretation of Kerry's timing is that the administration did not view past opportunities to lay out its parameters as truly viable. Some say the president should have done so in April 2014, when the last round of negotiations collapsed, but Washington was enmeshed in major crises elsewhere at the time (Crimea, the Islamic State, etc.). Domestic political considerations should not be excluded either, since declaring peace parameters before or during the presidential election season could have been viewed as a political liability to any Democratic candidate.

## THE ALL-OR-NOTHING APPROACH HAS FAILED

**K**erry expended a lot of time and passion in explaining how Israel's settlement activity is impeding a two-state solution, even after saying that it is not the biggest impediment to peace. (He did not say what the main impediment is, though he cited Hamas rejectionism and Palestinian terrorism and incitement as major problems.) His speech was most compelling when it critiqued Israeli construction in settlements outside the West Bank security barrier, pointing out that approximately 90,000 Israelis now live in such areas.

Yet such points beg the question: at a time when roughly 75 percent of Israeli settlers live inside the barrier, and the vast majority of Palestinians live outside the barrier, and neither side is remotely willing to make the necessary compromises for a grand deal, why not adjust U.S. policy accordingly? For example, Kerry could have emphasized the more modest objective of convincing Israel not to build in the 92 percent of the West Bank that lies outside the barrier -- a good first step toward [aligning its settlement policy with the two-state model](http://www.washingtoninstitute.org/policy-analysis/view/imagining-the-border-options-for-resolving-the-israeli-palestinian-territory) (<http://www.washingtoninstitute.org/policy-analysis/view/imagining-the-border-options-for-resolving-the-israeli-palestinian-territory>). At the same time, he could have called for concrete steps to end Palestinian incitement, such as closing the foundation that gives aid to families of suicide bombers. Although both of these measures are far more modest than grand parameters, they at least offer the possibility of making incremental progress toward two states.

For too much of the past eight years, the Obama administration has pursued an all-or-nothing approach. Although Kerry favored more limited ideas in recent years (e.g., enabling Palestinian economic access to areas outside the barrier), he offered no real payoff to Israel in terms of differentiating between settlements. The answer seems to be a more flexible approach that applies different principles to certain Israeli settlement blocs inside the barrier -- particularly those that Palestinian president Mahmoud Abbas himself has previously indicated would become part of Israel under an eventual peace agreement.

The White House's strained ties with Netanyahu are probably the main reason why the administration has continued its maximalist approach. Obama may have wanted to avoid distinguishing between settlements for ideological reasons. Although his 2011 speeches made clear that a final deal would require Israeli annexation of certain settlements, his day-to-day policy did not reflect this principle -- perhaps due to suspicions that Netanyahu would never truly enforce a differentiation between settlements inside and outside the barrier. Such mistrust is no doubt rooted in Israel's use of controversial construction loopholes during the 2009-2010 settlement freeze. Yet these suspicions do no change the bottom line: a more modest, pragmatic approach was worth trying because it at least offered a chance of stopping the ominous one-state slide that Kerry warned of.

To be fair, Israel needs some introspection on this matter just as much as Washington. Perhaps Netanyahu's coalition would have allowed a more differentiated approach to settlements if he and other figures had been more willing to take certain political risks. Such an approach could have decoupled settler ideology from Israel's core concern about guaranteeing security in and around the West Bank so long as the Middle East remains in its current state of chaos. Israel also needs to answer for its continued construction outside the barrier and its tilt toward one-state outcomes.

## **CONCLUSION**

**K**erry's speech reflected the belief that Israel must take concrete steps toward a two-state solution if it wants to remain the democratic nation-state of the Jewish people. Yet his remarks leave a crucial question unanswered: since the United States and other countries have obviously concluded that the current Israeli and Palestinian leadership is incapable of reaching a grand deal, why not pursue a more pragmatic approach that at least maintains the viability of the two-state model until conditions become more favorable for final-status peacemaking? This is a question better asked of President Obama than Secretary Kerry.

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