

Negotiations amidst the Settlement Freeze

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In negotiating tradecraft, the distinction between positions and interests is a fundamental one. Parties with divergent interests can unite behind common positions, like the environmentalists and trade unions who opposed NAFTA in the 1990s. Just as often, parties with opposing positions fail to perceive their common interests, like divorcing parents whose acrimony blinds them to what is best for their children.

It is neglect of this vital distinction that now has the United States scrambling to salvage Middle East peace talks, which are threatened by a resurgent dispute over Israeli settlement activity. The Obama administration initially viewed the settlements issue as "low-hanging fruit" -- the Palestinians, Arab states, international public opinion, and frankly even many Israelis were against settlement activity, whereas a seeming minority on the Israeli right favored it. Thus, the White House viewed insistence on a settlement freeze as a way to restore confidence in U.S. impartiality while jump-starting the peace process. As is now well known, precisely the opposite occurred -- U.S. relations with all sides have been strained, and the peace process has yet to take flight.

To understand what went wrong, one must look past the Israelis' and Palestinians' positions on settlements and understand how they define their interests.

Israeli Prime Minister Netanyahu, in a June 14, 2009 speech, provided insight into his opposition to a settlement freeze. In his remarks, Netanyahu asserts that "The simple truth is that the root of the conflict has been -- and remains -- the refusal to recognize the right of the Jewish people to its own state in its historic homeland." In his view, Arab efforts to eliminate Israel began in 1947 with the United Nations proposal to partition Palestine into Jewish and Arab states, and have not truly ebbed since despite Israel's peace treaties with Egypt and Jordan. That those efforts began before Israel took the West Bank and Gaza in 1967, and that rocket fire from southern Lebanon and Gaza continued after Israeli troops withdrew from both territories, are to Netanyahu and many Israelis evidence that the presence of Israeli troops in the West Bank is not the cause of the animosity toward them.

It is this interest -- defending the continued existence of a Jewish state that has been under attack since its founding -- that leads not only to Netanyahu's insistence that the Palestinians explicitly acknowledge Israel as a Jewish state, but also to his rejection of a settlement freeze. If the Palestinians and Arabs will not do the former, Netanyahu and his allies view the latter as pointless at best and at worst dangerous succor to those who would delegitimize Israel. While many Israelis do not share Netanyahu's position on settlements, they do share his interest in defending Israel's legitimacy, and thus have reacted negatively to what they view as Washington's harsh approach.

The Palestinian narrative is quite different. For Palestinians, the events of 1948 constituted a catastrophe which left them scattered and displaced. In the nations which received them, they were -- with few exceptions -- refugees or guest workers with few rights and little respect, despite the lip service paid to the Palestinian cause. For years, Palestinians themselves had scant voice in that cause, and there was little support among leaders in the region or elsewhere for the independent state envisaged in 1947.

For Palestinians, these twin interests -- justice for refugees who have been the region's second-class citizens for sixty years, and ensuring that the emergence of a Palestinian state remains viable -- motivate deep opposition to continued Israeli settlement activity. In their view, it makes little sense to engage in negotiations aimed at satisfying these interests while simultaneously acceding to activity which undermines them.

On Monday, Netanyahu offered to extend Israel's settlement freeze if the Palestinians would recognize Israel as a Jewish state, and the Palestinians immediately refused. Given the interests described above, one can see why Israel made the offer, as well as why the Palestinians rejected it. Israel is ready to modify its position on a settlement freeze if its interests are otherwise satisfied; but Palestinians likewise wish to see their interests fulfilled, and not merely their position on a settlement freeze conceded. For this reason, the Palestinians for their part have insisted that Israel and the United States declare that the basis for negotiations over the borders of a Palestinian state will be the "1967 lines" to ensure a Palestinian state's viability.

Thus the fight over a settlement freeze is in reality a conflict by proxy over the competing interests of each party. But because those interests will only be satisfied through negotiations, and not conceded by the other side prior to the talks, no sustainable compromise can be found as long as the freeze remains an issue. For this reason, temporarily extending the freeze as the United States is reportedly seeking to do can only postpone a crisis for

another day, if that. Moving forward will require that the Obama Administration acknowledge that its early emphasis on settlements was mistaken in order to deflect blame and anger that might otherwise be directed at Netanyahu and Palestinian Authority President Abbas for changing their stances.

The good news is that while Israeli and Palestinian positions on a settlement freeze are seemingly irreconcilable, the interests underlying their positions are not. Indeed, polling data and anecdotal evidence suggest that the people on both sides are ready for a two-state solution. What's more, the parties have other interests -- such as the desire for peace and quiet for their people and to sideline extremists sponsored by Iran -- which enhance the motivation of each to find common ground. This is where American mediation must play a role -- helping the parties see past their conflicting positions, and to recognize their mutual interests.

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