

John Kerry, Those “Illegal” Settlements, That “Two-State Solution” (Part II)

by Hugh Fitzgerald



After the Six-Day War, while the Israelis waited for the Arabs to make that phone call about peace negotiations that never came, the Arabs had other ideas. First, they announced at a meeting in the Sudanese capital of the Arab League “the three No’s of Khartoum”: No peace with Israel, no recognition of Israel, and no negotiations with Israel. Who and what – before a single “settlement” was started – was then the “obstacle to peace”? Second, the Arabs and their willing collaborators began to speak about, and thus to reify, out of the local Arabs in Israel, Gaza, the West Bank, and in the refugee camps, a “Palestinian people.” This fiction, which Secretary Kerry uncritically accepts (to be fair, so do millions of others), was designed for propaganda purposes, and has proven to be a stunningly effective weapon against Israel. No Arab leaders or diplomats or intellectuals mentioned the

“Palestinian people” until 1967, when the need for such became apparent. As Zuheir Mohsen, leader of the Palestinian Arab terror group As Saiqa, famously told a journalist in 1977:

The Palestinian people does not exist. The creation of a Palestinian state is only a means for continuing our struggle against the state of Israel for our Arab unity. In reality today there is no difference between Jordanians, Palestinians, Syrians and Lebanese. Only for political and tactical reasons do we speak today about the existence of a Palestinian people, since Arab national interests demand that we posit the existence of a distinct “Palestinian people” to oppose Zionism. Yes, the existence of a separate Palestinian identity exists only for tactical reasons, Jordan, which is a sovereign state with defined borders, cannot raise claims to Haifa and Jaffa, while as a Palestinian, I can undoubtedly demand Haifa, Jaffa, Beer-Sheva and Jerusalem. However, the moment we reclaim our right to all of Palestine, we will not wait even a minute to unite Palestine and Jordan.

Yet Kerry insists that U. N. Resolution 181 – the “Partition Plan” – was meant to “realize the national aspirations of both Jews and Palestinians.” In 1947, there were no “Palestinians” with “national aspirations.” The invading Arab states never mentioned these “Palestinians” and had no intention of giving up whatever territory they managed to win to a nonexistent “Palestinian” people. And in 1947, the “national aspirations” of the Jews were betrayed when they were left by the Partition Plan with only about half of what had been promised under the Palestine Mandate, or – if we include eastern Palestine – only 23% of the territory promised before eastern Palestine had been transformed into the Emirate of Transjordan. To the extent that the local Arabs had any “national aspirations,” they were to destroy the Jewish state. In any case, Resolution 181 became a dead letter when the Arabs unanimously rejected it and then invaded Israel. Kerry wants to resuscitate it.

Kerry then moves on to Resolution 242, and what he, and Resolution 2334, call "occupied Palestinian territory." But the word "occupied" has both a colloquial and a legal meaning, and this confusion between the two meanings has been well exploited by the Arabs. Israel is an "occupier" in the colloquial sense: through force of arms, it has "occupied" certain territories. But Israel is not only a "military occupier" of the West Bank, in the way that it was an "occupier" of the Sinai. Israel's legal (historic, moral) claim to the West Bank, under the Mandate for Palestine, remains.

The constant use of the phrase "occupied territory," or still worse, "occupied Palestinian territory" by John Kerry and so many others suggests that Israel has no claim to the "West Bank" or Gaza other than the temporary one of being a military occupant. One thinks in this regard of such examples as "Occupied Berlin," "Occupied Vienna," "Occupied Paris," "Occupied Japan." In all of these examples, the word "occupied" signals that the territory in question is under the control of a victorious power or powers, that control having been won through military conquest, and the claim to that territory is understood to be only temporary, based solely on that military occupation. But Israel's claim to the "West Bank" is not based on the fact of military occupation. Rather, the West Bank is properly thought of as an unallocated part of the Palestine Mandate, and the provisions of the League of Nations' Mandate still apply. Had Israel managed to capture all of the West Bank in the 1948-49 war, it could have exercised its rights under the Mandate, and incorporated all of that territory into the Jewish state. The fact that the Jews did not end up in possession of Gaza and the "West Bank" at the close of hostilities in 1949 war did not change the legal status of those territories. Israel's claim based on the Mandate itself was not extinguished. Of course, had the Arabs accepted the Partition Plan, as Israel had done, then Israel would have been obligated to stand by its own acceptance, but

the Arab refusal to do so freed Israel from any such obligation. The Six-Day War *allowed Israel, by coming into possession of the West Bank by force of arms, to finally exercise its right, based on the Mandate, to establish settlements in that territory.*

The claim under the Mandate was reinforced, rather than weakened, by Resolution 242's insistence that territorial adjustments be made to guarantee Israel's security ("secure borders"). And when Israel voluntarily gave up the Sinai to Egypt, and later handed Gaza over to "Palestinian" Arab rule – for reasons of realpolitik– that had no bearing on Israel's continued claim to the "West Bank."

So what has John Kerry carefully not said in his ill-tempered attack on Israel that has apparently so heartened Hamas? He has failed to mention the most important foundational document for Israel, the Mandate for Palestine, which enshrines Israel's legal, moral, and historic rights to establish Jewish settlements everywhere in Palestine, from the Jordan to the sea, including all of the West Bank. Not only are those settlements not illegal, but they were, and still are, to be "encouraged" under the express terms of the Mandate. He has failed to mention, too, that Israel gave up fully 95% of what it won in the Six-Day War, and failed to mention the endless Israeli efforts to engage the "Palestinians" in real peace talks, not Rose Garden photo ops; those Israeli efforts have always been rebuffed. When at Camp David in 2000 Ehud Barak made the astounding offer to Yassir Arafat of fully 95% of the West Bank, Arafat refused.

This puts quite a different spin on Israeli behavior from that which Kerry presents. For him, it is Israel that keeps trying to deny the "Palestinians" everything, whereas it is those same "Palestinians" under Abbas as under Arafat, who have turned down Israeli offers, and most important, continue to refuse even to recognize Israel as a Jewish state. The list of Arab refusals starts with the Partition Plan of 1947, then the

refusal to make the armistice lines of 1949 into permanent borders as offered by Israel, then the further refusal, for 12 years after the Six-Day War, by all the Arab states to recognize, or to negotiate, or to make peace with Israel (the Three No's of Khartoum) until Sadat made his separate peace.

And even Kerry's whipping-boy, Prime Minister Netanyahu, whose government he describes as "the most right-wing" in Israel's history, in November 2009 put in place a 10-month freeze on settlements, hoping thereby to get the Palestinians back to the negotiating table. It didn't work. And Kerry, of course, doesn't mention Netanyahu's attempt. Far from clinging adamantly to territories it won, Israel has been remarkably generous in giving up territories. The minute Anwar Sadat decided he would break ranks with the other Arabs and negotiate for Egypt alone, he found the Israelis willing, in exchange for a peace treaty, to hand back the entire Sinai. How often, in human history, has a nation victorious in war handed back all the territory it won to an aggressor?

Israel went even further with its concessions in Gaza, removing all of the Jewish settlements, handing Gaza back to the local "Palestinians," without receiving anything in return but rockets and bombs. Yet Secretary Kerry dares to present Israel as the obstacle to peace, with the "Palestinian" campaigns of terror, and celebrations of terrorists, mentioned only in passing, while the Israeli "settlements" – specifically authorized by the Mandate – are treated, at great length, as "illegal." He finds the Israelis bizarre in their belief, one that they have come to most reluctantly, that IDF control of the West Bank is a better way to preserve peace than a peace treaty signed with the likes of Mahmoud Abbas. Kerry is outraged that Israelis dare to insist they have a legal right to establish such settlements in the West Bank. Don't bring up the Palestine Mandate; he doesn't want to hear about it. And he certainly doesn't want people beginning to agree with Israelis that the Mandate remains relevant. He

doesn't care what the main author of Resolution 242, Lord Caradon, meant by the phrases "withdrawal from territories" and "secure and recognized borders." Please don't trouble Secretary Kerry, either, with the report prepared by the American Joint Chiefs of Staff for President Johnson, about the minimum territorial adjustments that *in their view* Israel would need for "secure and defensible borders." For Kerry, it's more than enough to keep repeating the phrases "two-state solution" and "just and lasting peace," which for him clearly means almost complete withdrawal to the 1967 lines with "minor adjustments." For Lord Caradon, however, the most important thing about Resolution 242 was that Israel *not* be compelled to return to the 1967 lines that invited Arab aggression, and the adjustments need not everywhere be categorized as "minor." As he forcefully put it:

We could have said: well, you go back to the 1967 line. But I know the 1967 line, and it's a rotten line. You couldn't have a worse line for a permanent international boundary. It's where the troops happened to be on a certain night in 1948. It's got no relation to the needs of the situation.

Kerry doesn't want to hear about "secure and defensible borders." He wants the Israelis to "take risks for peace" (as if Israel was not already taking unbelievable risks for peace), to uproot settlements needed for Israel's defense, and to put their trust in a peace treaty, while all the evidence suggests that the "Palestinians," including nobody-here-but-us-accountants Mahmoud Abbas, have no intention of recognizing Israel as a Jewish state until Israel returns to the 1967 lines, including East Jerusalem, and likely not even then. As for the other Arabs, it's true that right now a shared fear of Iran has made it possible for Egypt, Saudi Arabia, and Jordan to collaborate with Israel behind the scenes, but fear of Iran may not prove to be a unifying force forever. As for most Arabs and Muslims, the spectacle of a dimidiated Israel would not sate but whet jihadist appetites.

Among the many things John Kerry would prefer not to be reminded of is that in 1920, 77% of the formerly Ottoman territories that were originally intended to be included in the Palestine Mandate – that is, the land east of the Jordan – was closed to Jewish immigration. Eastern Palestine instead became, thanks to the British, the Arab Emirate of Transjordan. For Kerry, that's not worth mentioning, but it was a huge event for the Zionists at the time. In fact, those Zionists who did not accept the loss of eastern Palestine continued to include it in their maximalist demands. Their leader, Ze'ev Jabotinsky, even wrote a celebrated poem: *"Shtei Gadot L'Yarden – Zu Shelanu Zu Gam Ken"* (*"Two sides has the river Jordan/This side is ours, and that side too"*) expressing the refusal to give up the claim to eastern Palestine. So Israel had by 1948 already been considerably reduced, the British having given away 77% of what had been intended for the Palestine Mandate. To remind people of this is not to endorse Jabotinsky's demand, but at least to offer a historical perspective that might make some more understanding of Israel's position.. Would it have been too much to expect John Kerry to mention how, and why, and on what land, the country of Jordan was created?

The Arabs, then, already had in 1948 a "Palestinian" state, consisting of all of eastern Palestine, the country we now call "Jordan," where 80% of the population identifies itself as "Palestinian." When the Arabs became convinced, after the Six-Day War, that they could not destroy Israel outright, they sought to undermine Israel in other ways – diplomatic isolation, boycotts, terror attacks – hoping to reduce its size through salami tactics, and to establish a second Arab state, this one in western Palestine, a state whose main purpose would be not to live in satisfied coexistence with Israel ('two states, side-by-side" etc.) as Kerry naively foresees, but to serve, rather, as a springboard for yet another attempt at destroying, whether through the Fast Jihad of Hamas or the Slow Jihad of Fatah, the one Jewish state,

whose mere existence, whatever its size, is such an affront to all Muslims and Arabs. John Kerry, innocent of Islam, gives no sign of realizing how deep is the Muslim Arab opposition to Israel.

So the Arabs refused this and the Arabs refused that. And the Israelis accepted this, and the Israelis gave back that. And the Mandate for Palestine says this, and U.N. Resolution 242 says that. It's all so complicated and mind-numbing, no wonder John Kerry wants to hear only about a very few things. He blocks out the rest, and he reduces everything to the simple-minded phrases repeated endlessly: the "two-state solution," the "just and lasting peace." He doesn't need to know what has actually happened between Arab and Jew in Palestine in the last 100 years, what principles were invoked or ignored, what rights created or destroyed, what promises kept or broken, what offers accepted or rejected. For Kerry, all he knows and all he needs to know is that the settlements are "illegal," and positively noxious because they are what prevent that "two-state solution" that "everybody" knows can be arrived at just as soon as Israel stops building new settlements and dismantles all but a few of the old ones.

For the Palestinians, of course, as Kerry may not know, *all* the cities in Israel are "occupied" territory ("Occupied Haifa," "Occupied Jaffa," "Occupied Jerusalem"), and all the towns are "settlements" and all the settlements, of course, are on "Occupied Arab Land." The Jews, as Infidels, have no rights on lands once possessed by Muslims. There is no historic connection of Jews to Jerusalem, which is also "occupied Palestinian territory." And even if the Palestine Mandate existed, we are not required to pay any attention to it. Any history that is not on the side of the Muslims can safely be forgotten.

U.N. Resolution 2334 pretends to be about furthering "peace," but its effect will be to embolden the "Palestinian" side, now less willing than ever to negotiate, since it believes it has

now isolated Israel diplomatically. With little to lose, the Israeli government could take a different tack, a hypertrophied *hasbara* that would speak over the talking heads of the Security Council to a public that, especially in Europe, has been getting its own taste of Muslim *convivencia* and may, as a consequence, be more sympathetic to Israel's plight than votes at the U.N. might suggest. Let Israel explain what the Palestine Mandate was intended to achieve, why the settlements are not "illegal," what made the Partition Plan (Resolution 181) null and void, why those armistice lines were never made into permanent borders, how and why the "Palestinian people" were invented, and then, in terms anyone looking at a map can understand, what territory in the "West Bank" the tiny nation of Israel, *as a military matter*, must keep, as "settlements," if it is to have those "secure and defensible borders" it both needs and deserves.

John Kerry assures us that he cares deeply about, even "loves," the plucky little state of Israel that, he insists, stole his heart away decades ago. But he is convinced that Israel doesn't understand its real situation, and its blinkered ("extreme right-wing") leaders can't seem to grasp that a "Palestinian" state living "side-by-side with a Jewish state" would only improve Israel's well-being. Here is John Kerry, the American Secretary of State, fierce in Foggy Bottom, languid in Louisburg Square, who knows better than the Israelis what they need, and understands perfectly this most intractable of foreign policy problems. It's an old and cruel idea: that Israel doesn't understand its real interests, and must be saved in spite of itself. And John Forbes Kerry has arrived on the scene to help straighten out the little country he loves so much. All he asks of Israelis is that they come to their senses, and do what he, and Barack Obama, and the Security Council, demand.

Fortunately, for Israel, and for the Western world, too, the clock is running out on Obama and on Kerry. This means Israel

still has a chance to decide for itself what it needs, at a minimum, in order to survive. Given the history of the Jews during the last 3000 years, that doesn't seem like much to ask.

First published in