



PolicyWatch 2260

With the Peace Process on Hold, Washington Still Faces Key Israeli-Palestinian Tests

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In the coming days, the Obama administration faces key decisions on how to respond to a Palestinian government "backed by Hamas," whether to condone Hamas participation in Palestinian elections, and what strategy to adopt in response to another effort by Palestinians to enhance their status in the UN.

Note: After this PolicyWatch was released, Dr. Satloff published [a clarification of one its central issues](#): whether the U.S. assurance to Israel was about a Palestinian government "backed by" Hamas or one that "consists of Hamas."

The Israeli-Palestinian peace process may be at an impasse, but the Obama administration still faces a number of critical decisions on this issue in the coming weeks. While it is no longer a front-burner topic for an administration confronting crises from Syria to Ukraine, how Washington handles these questions will send signals about leadership and principle far beyond the Arab-Israeli arena.

PALESTINIAN UNITY GOVERNMENT

The administration's first challenge is how to respond to the expected announcement of the formation of a new Palestinian government envisioned in last month's Hamas-Fatah reconciliation accord. On the surface, the administration's position is clear -- as various spokesmen have affirmed, Washington will only work with a government that endorses the "Quartet principles," i.e., recognition of Israel's right to exist, renunciation of violence and terror, and endorsement of previous Israeli-Palestinian agreements. In an effort to satisfy these conditions -- and thereby maintain an uninterrupted flow of U.S. financial assistance -- Palestinian Authority president Mahmoud Abbas has reportedly received Hamas assent for the creation of a technocratic government under current PA prime minister Rami

Hamdallah that would affirm those principles as it sets about its main task: preparing for elections before year's end.

But therein lies the rub: Hamas's assent. While the legislative language governing U.S. aid to the Palestinians offers the administration wiggle room to argue for providing assistance to a Hamas-backed government that affirms the Quartet principles, the administration evidently gave Israel a specific promise that it would not deal with any Palestinian government "backed by Hamas." According to authoritative American and Israeli sources, that broader assurance was first made to Israel by Secretary of State Hillary Clinton following President Obama's May 2011 addresses on the Middle East, after Israel signaled its readiness to accept a U.S.-negotiated draft Quartet statement (the statement was never issued because not all Quartet members approved). The assurance was then specifically affirmed by Secretary of State John Kerry prior to the start of his peace initiative last year. ([Read a detailed clarification of this issue and its implications for U.S. and Israeli policy.](#))

So far, Israeli officials have been reluctant to wave this commitment in the administration's face, principally out of respect for Secretary Kerry, whom they believe acquitted himself with integrity throughout the peace effort even if he and his team share some responsibility for the current impasse. For the same reason, Israeli prime minister Binyamin Netanyahu and his close advisors have not pointed a finger at Kerry for complicating the prisoner-release issue by telling Palestinians that Israel had "committed" to freeing Israeli Arabs -- a pledge Israel never made.

Still, the Israelis have signaled their expectation that Washington fulfill its promise not to deal with a Palestinian government "backed by Hamas" by using those words in their April 23 cabinet decision suspending peace talks. So far, however, U.S. spokespeople have sent the opposite signal. On May 19, for example, Israel's *Haaretz* newspaper cited a "senior White House official" stating that the administration would only follow the "Quartet principles" policy, without reference to the issue of Hamas backing. Indeed, the quoted official even said the administration would not look too closely at the *bona fides* of ministers within the Palestinian government as long as the government as a whole accepted the principles. It is not yet clear whether the Obama team's approach will mirror the one adopted by the Bush administration, which was to have no dealings with Hamas ministers -- a position that at least had the salutary effect of keeping Hamas members from significant posts. The real test, then, will come when the new Palestinian government is actually formed.

It is also unclear how exactly Israel would like Washington to fulfill its promise in practice. While it would be easy enough for U.S. officials to boycott political-level talks with ministers of a Hamas-backed government, it would be much more complicated -- and potentially destructive -- to suspend all financial assistance to the PA given that a substantial part of this funding facilitates Israel-Palestinian security cooperation, which remains in place even amid the current diplomatic impasse. Indeed, while Israel has ruled out diplomatic engagement with a Hamas-backed PA, it is still working through the complexity of this issue in terms of how much deference to give the PA in loosening restrictions on Hamas activity in the West Bank in the social, political, and security realms.

PALESTINIAN ELECTIONS

A related question is whether the United States will condone Hamas participation in the next Palestinian elections. After all, scheduling and holding elections will be the unity government's main goal.

This is well-trod terrain for U.S. policymakers. In 2006, the Bush administration faced a similar decision. Some counseled opposition to Hamas participation, noting the Oslo Accords' explicit electoral ban on groups that "commit or advocate racism" or use "unlawful or antidemocratic means" to achieve their political goals; advocates of this view also pointed out that armed terrorist groups cannot, by definition, be legitimate political actors without renouncing violence and giving up their weapons. Others, however, argued for acceding to Hamas participation so that the Palestinian people could choose their own leaders as they saw fit, confident in the theory that governance itself would be a moderating experience in the unexpected circumstance that Hamas won.

The Bush team accepted the second argument and urged Israel to do the same, despite Hamas's continued commitment to Israel's destruction. The unintended result was Hamas's surprise victory and eventual takeover of the Gaza Strip. Even Condoleezza Rice, a vocal advocate of Hamas inclusion in the elections when she served as secretary of state, came close to a mea culpa when she wrote in her memoirs, "In retrospect, we should have insisted that every party disarm as a condition for participating in the vote."

Eight years later, the Obama administration faces a similar choice. Today, of course, there is even less evidence for the "Hamas will moderate in power" theory than there was in 2006 -- the experience of managing the daily life of the territory's roughly two million residents has hardly softened the organization's ideological fervor. At the same time, Abbas's decision to "shut down" during the most recent peace talks with Washington -- to use U.S. envoy Martin Indyk's phrase -- has turned the peace process into a cul-de-sac from which choosing new leadership may be the only exit. Still, that does not lessen the enormity of the question facing U.S. officials: is legitimizing a U.S.-designated terrorist group by validating its participation in elections an acceptable price to pay for that uncertain achievement?

For its part, the Israeli government has taken no formal decision on the issue. Some officials reportedly believe that the Fatah-Hamas reconciliation deal will collapse like previous accords forged in Cairo and Mecca, so there is no need for Israel to intervene. Time will tell whether that wait-and-see approach is an error; after all, Washington may view Israel's silence as assent, which could tilt skeptical U.S. policymakers toward approving Hamas participation, contributing to an outcome Israel may not wish to see.

UN WAIVER

By pursuing both reconciliation with Hamas and the "internationalization" strategy of enhancing the status of the "State of Palestine" in the United Nations system, Abbas has complicated U.S. policy on two fronts. Yet while the Hamas complication concerns a private commitment to Israel (albeit one with wider implications), the UN complication concerns a law approved by a large majority of Congress mandating a cut-off of U.S. funding to any UN-affiliated agency that votes to admit Palestine as a full member-state -- a law that is unusual for its lack of any presidential authority to issue a national security waiver. Palestine's successful 2011 bid for membership in the UN Educational, Scientific, and Cultural Organization triggered the law and forced the Obama administration to end

funding for that agency; earlier this year, the United States lost its UNESCO voting rights as a result of failing to pay its past dues.

The idea that enhanced Palestinian status in the UN system has translated to a loss of U.S. status has rankled some senior administration officials. In theory, there are three ways for them to address this problem: convince Palestinians that the costs of pursuing a UN strategy are greater than the benefits; convince member-states of various UN agencies to vote against Palestinian membership, lest they lose the substantial budgetary assistance that the United States provides to those agencies; or convince Israel to ask its friends on Capitol Hill to allow a national security waiver in the relevant legislation.

On the first option, while the United States has publicly opposed Palestinian accession to UN agencies, it has evidently not gone to the mat with member-states to urge their disapproval or even twisted the arms of key influential allies to get them to oppose these Palestinian efforts. On the second option, while Abbas did accede to a U.S. request to suspend the UN strategy during the peace talks, Washington has never effectively used its leverage with the Palestinians to win a blanket, open-ended commitment not to proceed down that path.

On the third option, while the administration has frequently repeated its public opposition to any enhanced role for Palestine in the UN system, an underreported story of late is the quiet but intensive lobbying by high-level U.S. officials to convince Israel to change its position on a legislative waiver. Indeed, the abortive trilateral deal in April -- in which Israel was to release the fourth tranche of Palestinian prisoners, the United States was to release Israeli spy Jonathan Pollard, and the Palestinians were to agree on extending the peace talks -- reportedly also included an Israeli commitment to drop its opposition on the waiver issue.

The collapse of that deal, combined with the shots-across-the-bow fired by Abbas when he signed fifteen UN and international conventions in April, has raised concern inside the administration that it may again be compelled to wage a UN fight against the Palestinians and, possibly, cut off funding to certain agencies if that fight is lost. While Abbas has not gone further down that path yet, numerous Palestinian political figures are urging him to challenge Israel -- and America -- on the international stage, especially before and during the upcoming UN General Assembly session in autumn. If he follows that strategy to its conclusion, many specialized agencies -- from the Universal Postal Union to the International Civil Aviation Organization to the World Health Organization -- would suffer huge damage from the consequent loss of U.S. funding, and U.S. interests in those agencies would suffer from the absence of American participation in their operations.

But rather than read Abbas the riot act to prevent him from pursuing this dangerous path the administration may still ask Israelis to accept the inclusion of a waiver in the UN-aid-cutoff legislation even without securing the other benefits they were to have gained in the April prisoner deal. Along the way, Washington would sacrifice any leverage it has to convince other countries to oppose enhanced Palestinian status in the UN system. The perverse result would be Abbas having his cake (by "shutting down" on the peace process and not responding to specific questions from President Obama) and eating it too (by scoring important political points at the UN at Israel's expense). Whether to come down hard on Abbas or on Israel is another key decision the administration will make in the coming days.

IMPLICATIONS

As the Obama administration grapples with crises of strategic importance around the world, questions surrounding the Palestinians -- the composition of their government, participation in their elections, and their gambits at the UN -- should be viewed as second-tier issues. Nevertheless, how the administration answers these questions will still have far-reaching implications -- for Israel's confidence in Washington as it girds itself for an Iranian nuclear deal that it will likely view as unsatisfactory; for preserving a diplomatic option in resolving the Israeli-Palestinian conflict; for democracies around the world confronting resurgent terrorist threats; for future challengers to U.S. interests at the UN and in other international forums; and for an administration concerned about maintaining international norms. As a result, these second-tier issues deserve high-level attention.

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