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Middle East Brief

United States' Policy Toward Hamas: An Initial Assessment

Prof. Jeremy Pressman

Since Hamas won a majority of seats in the Palestinian parliament in the elections held on January 25, 2006, the Bush administration has followed a strategy of using financial and diplomatic isolation to try to force Hamas from power or to moderate its political positions. The U.S. approach, supported by the Quartet of which the United States and the European Union are both members, may succeed in causing the Hamas government to change dramatically or to fall. But it also could give rise to several major problems, including the collapse of the Palestinian Authority (PA), fighting between Hamas and Fatah, civil strife in the West Bank and Gaza, and a humanitarian crisis. The international response to Hamas is not the only source of these problems, but it is an important one.

But the United States, along with its international allies, has other options. On the financial side, the administration could be more flexible in order to ensure the flow of some aid and humanitarian goods. On the diplomatic side, the U.S. could work more creatively to bridge the gaps between Hamas and Israel. But thus far the United States seems willing to risk creating major headaches down the road. A modified version of the Pottery Barn rule from Iraq would seem to be in order: Be careful what you break. The situation that gets created in the West Bank and Gaza could be worse than the one it replaces. Given that the primary American objective remains a two-state solution to the conflict, the current administration strategy may complicate achieving that goal.

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Past Aid Levels

On the financial side of the ledger, the United States had previously funneled most of its annual \$400 million aid to Palestinians through U.S. Agency for International Development (USAID) contractors and Palestinian nongovernmental organizations rather than through the Palestinian Authority. Only in recent years (except for \$41 million dollars given in 1993–1994) has the United States provided the PA with funds directly, starting with \$20 million in FY2003. In his 2005 State of the Union address, President George W. Bush called for “\$350 million to support Palestinian political, economic, and security reforms.” Legally, the United States cannot give aid directly to the PA unless the President authorizes a waiver in the name of national security, something President Bush had been willing to do in the past.¹

The United States and Europe also contributed to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), an agency that was created to help Palestinian refugees after the 1948 Arab-Israeli War. The United States contribution averaged \$80 million a year, though emergency contributions in recent years have often brought the annual U.S. total to just over \$100 million.²

Other aid was in the planning stages prior to Hamas’s ascent. In the summer of 2005, for instance, the Group of Eight (G-8) pledged to raise \$9 billion dollars for the development of Gaza after the Israeli withdrawal. The G-8 includes seven large industrialized democracies—Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States—plus Russia.

Three Conditions

After Hamas’s sweeping victory in the Palestinian parliamentary elections, Israel, the Bush administration, the European Union (EU), and the Quartet (composed of the EU, Russia, the UN, and the U.S.) all set conditions for both aid and diplomatic contact. Though the wording sometimes varied, they all required that Hamas:

- 1) renounce the use of terrorism;
- 2) recognize Israel’s right to exist; and
- 3) accept the validity of past Israeli-Palestinian agreements.

For instance, Scott McClellan, then President George W. Bush’s press secretary, phrased the United States’ position this way: “[W]e do not and we will not fund a terrorist organization. We will not fund an organization that advocates the destruction of Israel. We will not fund an organization that engages in terror. Hamas has choices to make. They need to renounce their platform calling for the destruction of Israel. They need to reject terror.”³

To date, Hamas has not formally accepted any of the three conditions. Indeed, each condition stood in contrast to Hamas’s previously articulated political positions. Hamas defended violence as a legitimate tool of resistance against the Israeli occupation, refused to recognize Israel, and rejected past agreements as products of the corrupt and unbalanced Oslo peace process. Some Hamas leaders sought to turn the tables by asking why Israel should not be compelled to recognize Hamas and acknowledge Palestinian rights. In other words, Hamas wants Israel to take the first step.

Absent acceptance of the three conditions, the United States, the European Union, and individual European governments seemed likely to halt the flow of financial aid to Palestinians—and Israel would not consider sitting down with Hamas for political talks.

One area of financial aid, however, appeared to be protected: that involving humanitarian needs. On March 15, 2006, for example, U.S. Secretary of State Condoleezza Rice said in Jakarta, Indonesia: “We’re committed to the well-being of the Palestinian people. We will continue humanitarian assistance to the Palestinian people, to Palestinian refugees, to food assistance where it’s needed, to help—to the health and well-being of Palestinian children and families.”⁴ President Bush restated this commitment after meeting with Israeli Prime Minister Ehud Olmert on May 23, 2006: “Now, we care about the Palestinian people . . . but we are trying to set up a mechanism that supports the Palestinian people. Our beef is not with the Palestinian people. Our beef is with . . . a group in the [Palestinian] government that says they don’t recognize Israel. And so the United States, we’re working with the Europeans . . . to come up with a mechanism to get food and medicine and aid to the Palestinians.”⁵

Since Hamas Took Power

In practice, the Bush administration has had a difficult time meeting the humanitarian needs of the Palestinian population and preventing the collapse of the PA while at the same time preventing money from flowing to Hamas. Thus far the United States has been successful at slowing aid and punishing Hamas, but the Palestinian populace has suffered as a result.

The United States aid freeze actually does not constitute the only reduction in funds incurred by Palestinians, but rather is one of many financial blows that Palestinians have suffered in the last few months; the U.S., the European Union, and Israel have all cut off the flow of money to Palestinians. In addition to freezing aid, Washington has threatened banks with legal sanctions under United States and international law if they transfer any money to the Hamas government, even if the money originates from Arab League members.⁶ Several banks in Cairo, for instance, were dissuaded in this way from transferring money. The Hamas government has sought aid elsewhere and some has trickled in, but the threats to banks have limited the possibilities. A Hamas official was caught trying to smuggle about \$800,000 into Gaza, perhaps a sign of the fiscal difficulties facing the Hamas-led government.

The EU and member states, who had been giving \$600 million annually, have also cut off most aid to the PA, and

Israel has withheld at least \$50 million in monthly tax revenue that it collects for the PA.⁷ Israel has also kept one of Gaza’s vital economic links, the Karni crossing, closed for 47 percent of 2006 (as of May 2), saying that it fears more terrorist attacks on the terminal.⁸ From April 29–May 16, goods were allowed into Gaza through Karni all but one day; goods were allowed out of Gaza through Karni only on May 9.⁹ Overall, goods have been moving into, and especially out of, Gaza at a snail’s pace, and the Gaza economy is further depressed.

The aid cutoff has had some other immediate short-term costs. For example, efforts to upgrade security equipment at Gaza border crossings have lost funding.

A second problem likely to aggravate the humanitarian situation is that perhaps as many as a million Palestinians (of about 3.9 million¹⁰ in the West Bank and Gaza) are dependent on the salaries of approximately 150,000 PA workers, nearly half of whom are security personnel.¹¹ Ironically, nearly all of the armed but unpaid security forces are Fatah loyalists, not Hamas supporters. The salary issue is especially consequential in Gaza, where PA employees make up 37 percent of the workforce.¹² Without external aid and the tax monies collected by Israel, the PA has been unable to pay these salaries. Although this has led to greater impoverishment, the Bush administration contends that PA salaries in and of themselves do not constitute a humanitarian matter. As long as the Hamas government controls the PA, the administration argues, money for supporting salaries also helps Hamas.

The diminishment in aid and tax revenues and the crossing closure had a predictable impact on the Palestinian people. By May, news coverage and reports by nongovernmental organizations (NGOs) focused on the deteriorating economy, increasing poverty, and collapse of health care in Gaza.¹³ An Israeli NGO privately reported to Israeli ministers that “the closure of the Karni crossing point is leading to economic and humanitarian collapse in the Gaza Strip.”¹⁴ A World Bank report warned that the PA “is unlikely to be able to provide basic services or maintain law and order.” The report further cautioned that a humanitarian crisis, rising insecurity, and/or institutional dissolution could occur in the next few months.¹⁵

In public, the external players grew concerned: They considered slight policy modifications to better address the humanitarian side of the equation. A more cynical view is that they were seeking to blunt the impact of the negative public relations caused by media images of sick Palestinians unable to get their dialysis treatments.

Russia sent \$10 million via President Mahmoud Abbas's office to address humanitarian needs. On May 9, the Bush administration agreed to send \$10 million for medical supplies. The defense minister in Israel's new government, Amir Peretz, announced that the Karni crossing's default status would shift to open (although it soon closed again, for security reasons). A few days later, Prime Minister Ehud Olmert pledged to purchase some medications and medical supplies, though he rejected the notion that there was a humanitarian crisis.¹⁶

The Quartet agreed on May 9 to see if it could develop a new method of delivering aid to the Palestinian people without aiding Hamas: "[T]he Quartet expressed its willingness to endorse a temporary international mechanism that is limited in scope and duration, operates with full transparency and accountability, and ensures direct delivery of assistance to the Palestinian people."¹⁷ The United States appeared skeptical that such a mechanism could be found but agreed that the Europeans could take the lead in trying to develop one. Options included working through a preexisting World Bank fund, paying "emergency allowances" to key Palestinian personnel such as doctors, or funneling money through Abbas's office.¹⁸ The development of such a mechanism will likely take months, and even then the United States might end up vetoing it. Meanwhile, the situation on the ground will worsen.

At the same time as the humanitarian situation has grown increasingly dire, tensions between Hamas and Fatah have led to intra-Palestinian violence. After a new security force was deployed by the Hamas-led government on the streets of Gaza, it clashed with Fatah-dominated forces. Fatah-Hamas gunfights are not uncommon; one in Gaza led to the death of a Jordanian embassy driver who was caught in the crossfire. At the leadership level, Tareq Abu Rajab, head of PA intelligence, was seriously wounded in an attack; a large bomb was uncovered near the home of Rashid Abu Shbak, a top security official; and Nabil Hodhod, a commander of the Fatah-dominated Preventive Security force, was killed by a car bomb on May 24, 2006.¹⁹

In short, the Bush administration has not found a magic formula for punishing Hamas and sending a clear message that Hamas must go while still seeing to the basic survival needs of the Palestinian people, ensuring that the PA does not collapse, and preventing Palestinian civil strife if not civil war.

The United States Congress

The most restrictive American response to the Palestinian election has come from the U.S. Congress. On May 23,

2006, the House of Representatives overwhelmingly passed the "Palestinian Anti-Terrorism Act of 2006" (HR 4681), setting up a clash with the Bush administration should Congress pass a final bill along similar lines as the House version.²⁰

The House bill would block American aid to a number of Palestinian actors, and goes beyond what the Bush administration has implemented thus far. It bars United States financial assistance to the PA if:

- 1) any "ministry, agency, or instrumentality" of the PA "is controlled by a foreign terrorist organization";
- 2) a "member of a foreign terrorist organization serves in a senior policy making position" in any of the aforementioned PA branches; or
- 3) the PA has failed to take "effective steps and [make] demonstrable progress toward" disarming terrorists, dismantling the terrorist infrastructure, and ensuring democracy and financial transparency and accountability.

The only exceptions are for assistance to "independent elections commissions" or to "support the Middle East peace process," but even the exceptions have additional stipulations that the President must address. In sum, both current United States law and the House bill bar U.S. aid to the PA; with a few exceptions over the last 12 years, annual United States financial aid to the PA has been zero. But the important difference between the House bill and the status quo is that current United States law affords the President the ability to waive the ban and offer aid to the PA in order to advance U.S. national security interests. The House bill contains only limited waivers, and the section on aid to the PA does not include the blanket presidential waiver for national security reasons that is common in legislation on foreign policy.

The proposed Senate version (S 2370) contains two important differences, both of which slightly limit the bill's scope. The Senate version specifies Hamas rather than using the generic term "foreign terrorist organization"; and it makes no reference at all to members of foreign terrorist organizations serving in senior policy-making positions. On May 24-25, the Senate received the House version and sent it to the Senate Committee on Foreign Relations.

The House bill also limits U.S. aid to nongovernmental organizations (NGOs) that operate in the West Bank and Gaza. These organizations have received significant American aid in the past through the Agency for International Development, so this clause could dramatically affect U.S. aid provisions if implemented. The bill bars aid to NGOs if:

- 1) assistance to the PA is barred for any of the reasons mentioned above; or
- 2) the NGO or any individual associated with it “advocates, plans, sponsors, engages in, or has engaged in terrorist activity.” The Secretary of State must vet each NGO in this regard.

In the case of aid to NGOs, however—as opposed to the stipulations regarding aid to the PA—the President can waive a ban if “such assistance will further the national security interests of the United States.” The bill also protects aid to NGOs “to meet basic human health needs” (such as “food, water, medicine, [or] sanitation services”). The proposed Senate version contains an additional exception, with respect to aid given to NGOs “to promote democracy.”

The House bill contains a number of other provisions. One section relates to United States funding of some United Nations agencies that deal with Palestinians—but the section does not include the UN Relief and Works Agency (UNRWA)—which deals with the plight of millions of Palestinian refugees—or UN peacekeeping missions in the area. The bill also limits PA and PLO diplomatic representation and travel in the United States. In addition, “no officer or employee of the United States Government shall negotiate or have substantive contacts with members or official representatives of Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, al-Aqsa Martyrs Brigade, or any other Palestinian terrorist organization.”

Overall, the House bill contains many new and cumbersome procedures, deadlines, and requirements for consultations, certifications, and audits that will sap the resources of the State Department. These procedures will also likely serve as an additional minor disincentive with respect to U.S. diplomacy in this area. American diplomats have explained, for example, that Congressional legislation in the 1990s regarding moving the location of the American embassy in Israel from Tel Aviv to Jerusalem complicated U.S. peacemaking efforts.²¹

If the House bill were to become law, the United States would be able to aid the PA or NGOs only in accordance with the conditions, exceptions, and waivers mentioned above. The PA fails with respect to every criterion enumerated in HR 4681.

Diplomacy

Even after Hamas’s victory in January, the United States had to wait for the March 28 Israeli elections and the formation of a new Israeli government before trying to

proceed on the diplomatic track. As expected, Ehud Olmert and the new Kadima Party won the largest share of votes. Olmert became prime minister in a coalition with several other parties; the second largest party in the coalition is Amir Peretz’s Labor Party.

The future of the Israeli government’s West Bank proposal—the convergence or realignment plan—depends in part on how much influence Hamas actually has on the political front. The Israeli plan calls for a negotiated solution to the conflict, but if a Palestinian partner cannot be found, Israel intends to once again act unilaterally, withdrawing from much of the West Bank by 2010. Israel will withdraw from more isolated settlements, according to the plan, but hold onto the larger West Bank settlement blocs of Etzion, East Jerusalem, Ma’aleh Adumim, and Ariel. Given a recent report that the Israeli government considers Kiryat Arba, a large settlement outside Hebron, as one it would like to keep—along with a link from Kiryat Arba to radical Israeli settlers in downtown Hebron—it is clear that the definition and size of the remaining settlement blocs will be a subject of considerable debate.²²

Olmert may genuinely seek negotiations, or that first stage may simply be a ploy to maintain U.S. support while moving toward unilateral action. He has publicly pronounced himself in favor of negotiations: “I intend to exhaust every possibility to promote peace with the Palestinians, according to the road map, and I extend my hand in peace to Mahmoud Abbas, the elected President of the Palestinian Authority. I hope he will take the necessary steps which he committed to in order to move forward.”²³ But Olmert has committed to negotiations on the condition that Abbas disarm Palestinian terrorists prior to the negotiations, a stance consistent with Israel’s interpretation of the Roadmap. Abbas has been unwilling to take that step—and is probably unable to as well. Olmert’s aides have further explained that Israel will have only talks—not full-scale “peace negotiations”—with Abbas unless the Hamas-led government meets all three of the conditions set forth above.²⁴

The Bush administration does want the idea of pursuing negotiations with Abbas to be taken seriously, as Bush underscored in Olmert’s first visit to Washington. Pressuring Hamas may take time, and Washington does not want Israel to rush to a unilateral pullout before seeing if Hamas will change its position under financial and political pressure.²⁵

The administration has a strong argument on its side, because unilateral withdrawal cannot end the conflict. If the Palestinians are largely left out of the process, a sense of finality will be absent, regardless of whether or not Olmert considers the process as defining Israel’s final borders.²⁶

Does Israel have a partner if it wants to pursue the negotiation option, or will it be left to act unilaterally? The two heads of the Palestinian government are sending conflicting messages. On the one hand, President Abbas, representing Fatah, welcomes the idea of high-level, bilateral talks to resolve the Israeli-Palestinian conflict; he has repeatedly called for Israeli-Palestinian negotiations. On May 15, in a recorded speech, Abbas asked Israel to “sit [at] the negotiations table away from the policy of dictations and unilateral solutions, and let us stop using the excuse that there is no Palestinian partner, because the partner exists and we extend our hand to you to make peace, a peace that we seek to achieve through negotiations . . .”²⁷

On the other hand, the Hamas government has rejected talks with Israel under the terms prescribed by Israel, the United States, and others. Hamas has not ruled out the idea of talks, but Hamas seems highly unlikely to accept the three conditions that would open the door to official, face-to-face contact with Israel and the United States. Instead, Hamas officials have sought to reverse the situation by laying out benchmarks for Israel. Hamas leader Khaled Meshal set forth these terms: “If Israel withdrew to the 1967 borders, including Jerusalem, acknowledges the right of return, lifts its siege, dismantles the settlements and the wall and releases the prisoners, then it is possible for us as Palestinians and Arabs to make a serious step to match the Zionist step.”²⁸

That said, Hamas is not of one mind with regard to how to handle the question of Israel; different leaders have taken different tacks. While some have continued to spout confrontational rhetoric, others have talked of considering Israel’s demands but doing so only after Israel accepts Hamas as a legitimate political actor. Hamas leaders also have floated the idea of a long-term interim agreement. Fatah and Hamas prisoners in Israeli jails, including Fatah’s Marwan Barghouti, agreed to a document accepting a two-state solution along the 1967 lines but allowing for resistance against Israel in lands occupied in 1967. The document was sent to Abbas on May 10; on May 25, he suggested that he would bring the document to the Palestinian people in a referendum.²⁹ Overall, what is clear is that Hamas leaders are engaged in a strategic debate amongst themselves.³⁰ Hamas acceptance of a two-state solution is a possibility but not a preordained certainty.

United States policy will be one of the external factors that affects Hamas decision making. Coercion might push Hamas toward the Israeli/U.S. position; but economic coercion could also backfire. As the Israeli military chief of staff, Dan Halutz, recently told a Knesset committee, imposing sanctions against Hamas could actually increase support for Hamas.³¹

Other U.S. Options

The Bush administration has other policy options, however, besides coercion. The door might be open for bridging proposals that would allow both Hamas and Israel to indirectly negotiate while claiming that their demands had been met. What might such bridging proposals look like? They would incorporate three crucial points that are responsive to but not the same as Israel’s three conditions. If Hamas extends the cease-fire (as it has done already); accepts the Arab League initiative of 2002, which is explicitly based on a two-state solution; and agrees that it will accept any future Israeli-Palestinian agreement that is ratified in a referendum by the Palestinian people, then Israel should agree to high-level talks with an Abbas-led Palestinian delegation.

Each of these points represents a concession not only by Hamas but also by Israel. For instance, Israel would like explicit recognition, but the acceptance of the Arab League plan addresses recognition indirectly.

These bridging ideas might work in part as a way to get Israel to feel that Hamas was permitting or tolerant of Israeli talks with Abbas. Conditions that might not be sufficient to make Israel comfortable with Israel-Hamas talks might still be enough for Israel to accept Israel-Abbas talks, and to believe that such talks would not prove fruitless if the result were an agreement that Abbas could take back to the Palestinian government and his constituents. The issue is in part providing political cover and in part avoiding a situation wherein Abbas makes concessions to Israel that Hamas then blocks, rendering the whole negotiating exercise fruitless.

Still, Olmert will likely be skeptical. Olmert, like Sharon before him, expects Palestinian disarmament of terrorists prior to negotiations. Sharon saw the enshrinement of this principle in the Roadmap as a great achievement—and these bridging ideas would violate that principle. Yet other members of the Israeli government, such as Labor Party leaders,

may be more supportive of these bridging ideas and might put domestic pressure on Olmert that could, in tandem with U.S. influence, sway the Israeli prime minister.

The Bush administration could also loosen the financial restrictions on aid to the Palestinians. Even if the United States maintains its own aid freeze, it could allow more humanitarian aid to enter Gaza and the West Bank, press Israel to allow more commerce to flow through the Karni crossing, and expedite the development of a European mechanism for channeling aid (and also approve that mechanism once it is finalized). The U.S. could also accept others providing salary support for Palestinian personnel who play key social welfare roles, such as doctors, nurses, and teachers. Sending money through Abbas's presidential office is another option that would not only help with respect to humanitarian matters but might also increase Abbas's power relative to Hamas.

The major roadblock to these policy shifts is likely to be the United States Congress. If HR 4681 becomes law, the Bush administration will have less flexibility with regard to aiding NGOs operating in the West Bank and Gaza as well as the PA itself. Such congressional restrictions will make it more difficult to advance the cause of peace and territorial compromise.

Figuring out how to achieve America's desired outcome of a two-state solution while minimizing the suffering and violence along the way is a tricky proposition. But the stringent nature of Bush administration policy to date goes too far if the United States hopes to keep Palestinian society somewhat stable during this transitional political period.

(Endnotes)

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- 6) AFP, "Arab League Unable to Transfer Funds to Palestinians," May 11, 2006. The article mentions \$70 million collected in Qatar and Saudi Arabia.
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Jeremy Pressman is co-author, with Geoffrey Kemp, of *Point of No Return: The Deadly Struggle for Middle East Peace* (Brookings, 1997). Pressman is also the author of "Visions in Collision: What Happened at Camp David and Taba?" *International Security* 28, No. 2 (Fall 2003), pp. 5-43. His report on the possible pathways of Israeli-Palestinian relations for the next 5-10 years is forthcoming from the United States Institute of Peace.

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