

Ending the Palestinian Political Stalemate:

Abbas's Electoral Option

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Brief Analysis

Since the breakdown in talks over the formation of a unity government in mid-September, the Palestinian political environment has become more dangerous and dysfunctional. Paralyzed by ongoing international economic and political isolation, the Palestinian Authority (PA) has essentially ceased to function as tens of thousands of public sector employees continue to strike in protest against unpaid salaries. Factional violence assumed a new level of intensity on October 1 when the Hamas interior minister, Sayed Siam, ordered Hamas's security force to break up demonstrations by the mainstream Fatah-dominated security services, who were protesting after not receiving salary payments. The resulting gun battles left twelve people dead and dozens injured. Fatah loyalists responded to the incident in Gaza by targeting Hamas interests in the West Bank, burning offices, kidnapping officials, and threatening to assassinate Hamas leaders.

Should current trends continue, it is not hard to envision a further decline toward chaos and warlord rule, a situation for which local clans and gangs are actively preparing. The recent efforts by U.S. secretary of state Condoleezza Rice to implement aspects of the November 2005 Agreement on Movement and Access, to bolster PA president Mahmoud Abbas's presidential guard, and to increase the PA president's capacity to distribute funds to the Palestinian public are all well-intentioned and important initiatives. Yet the Palestinian problems of 2006 are so profound that the solutions of 2005 are no longer sufficient antidotes.

If there is to be any hope of salvaging the Palestinian political system now, a bold political initiative is required to end the current state of paralysis and restore direction and capability to the PA. There are a variety of options available to Abbas if he is willing to expand the executive authority of the presidency, but if he seeks to change Palestinian political prospects through legal and democratic means, his only effective option may be an early presidential election.

Abbas's Limited Options

The amended Palestinian Basic Law of 2003, passed at the urging of the international community, greatly weakened the power of the presidency with respect to the Palestinian Legislative Council (PLC) and the prime minister. The changes that were intended to limit the dominance of Yasser Arafat over the Palestinian political system now constrain his successor. While Abbas may want to dismiss the Hamas government, his options are considerably limited by Hamas's dominance of the PLC and by the Basic Law's empowerment of the PLC as a check on presidential authority. Abbas can dismiss the prime minister and cabinet, but he is required to gain legislative approval for a new government; he can declare a state of emergency, but he needs PLC approval to continue it beyond one month; and he has no legal authority to dismiss the PLC or call for early parliamentary elections. Because Hamas holds 74 out of 132 parliamentary seats, it can defeat no-confidence votes and block sessions of the PLC from proceeding.

Despite assumptions to the contrary, Abbas has no legal authority to call for a national referendum that would enable the public to ratify a particular political program. Although Abbas previously threatened to hold such a referendum over the Palestinian National Accord (also known as the prisoners' document) if Hamas did not adopt its provisions, it is unclear how serious his threat was and how he intended to carry it out. As Palestinian constitutional expert Nathan Brown has noted, were Abbas to advance such a referendum, even through extralegal means, he would need the administrative apparatus of the PA to hold such a poll. Were Hamas, which controls the bureaucracy of the PA, to oppose the referendum, it is not clear how Abbas could conduct it without government resources and backing.

Abbas invested so greatly in unity negotiations with Hamas precisely because he has limited legal means for contending with its majority position in the PLC and influencing its political program. After Abbas had in fact reached agreement on a unity government, Hamas reneged once it became clear that the international community would not accept vague formulations in the place of clear statements on the core issues of recognizing Israel and past agreements and committing to nonviolence. Unwilling to adjust meaningfully on questions that define Hamas as a political movement, its leadership publicly discredited the unity agreement when Abbas traveled to New York for the annual opening of the UN General Assembly. This maneuver no doubt embarrassed Abbas on the international stage, and the unity talks have been suspended since.

Efforts at forging unity now remain in the hands of intermediaries, such as the Qataris, who are reportedly trying to forge consensus between Abbas and Khaled Mashaal. However, agreement at this stage remains highly unlikely given Abbas's requirement that Hamas meet the international conditions and Hamas's continued unwillingness to compromise on its core values. Even pragmatists within Hamas such as PA prime minister Ismail Haniyeh, who conducted the early negotiations over unity, have now assumed intransigent positions. On October 6, Haniyeh declared to a rally of tens of thousands of supporters, "We will not recognize Israel, we will not recognize Israel, we will not recognize Israel."

A Legal, Democratic Solution

If Abbas wants to challenge Hamas's authority, his options range from declaring a state of emergency to disbanding the Hamas government. But Palestinian law is clear that such measures require legislative consent, giving Hamas an effective veto on Abbas unless he is willing to act beyond the legal limits of his authority.

However, there is a legal solution that would challenge Hamas and also put to a public vote a clear political platform that could end the PA's international isolation: Abbas can place his own office in jeopardy and call for an early presidential election. By campaigning on a specific political program advancing a two-state solution and adhering to nonviolence, an early presidential election could serve as a de facto referendum while adhering to legal and democratic principles.

In order to force a presidential election three years before his term ends, Abbas would have to resign. He could

explain publicly that Hamas has blocked every possible compromise that would restore the PA's viability, and that the new election would change the untenable status quo through democratic means. Although such a measure carries some risk—PLC speaker and Hamas member Aziz Dweik would become interim president—the election would have to be held within sixty days. Hamas could attempt to consolidate authority during that period, but the pressure to adhere to the law and carry out the democratic process would be immense.

Can Abbas Win? There would be two fundamental differences between a new presidential election and the legislative elections that brought Hamas to power. First, the electoral system that favored Hamas's well-regarded district candidates would no longer be relevant in a presidential race where a national poll would elect one candidate. In January 2005, Abbas received more than 500,000 votes despite a Hamas boycott. One year later, Hamas received 440,000 national votes. The legislative elections proved to be a referendum on internal Palestinian issues related to corruption, anarchy, and the lack of law and order for which individual Fatah candidates were blamed. Just nine months later, Hamas is now associated with the ongoing chaos and the crippled PA. In a national ballot, the majority of Palestinians would likely punish Hamas rather than Abbas for these developments. Whereas Hamas was able to deemphasize its political program in the legislative elections by focusing on the failings of Fatah and the clean reputation of its district candidates, a presidential election would place Hamas's core beliefs front and center on the ballot.

Second, Abbas's baseline of support is unlikely to decrease significantly from its 2005 mark since he maintains his reputation among the Palestinians as a decent leader who is not prone to the corruption that plagued Fatah. According to a September 2006 poll by Khalil Shikaki, 55 percent of Palestinians view Abbas's performance as "satisfactory" or "very satisfactory." Moreover, Abbas can use the election as an opportunity to unify Fatah around its core identity of Palestinian nationalism, which was diluted in the legislative campaign by personal rivalries among the numerous candidates. Fatah may still be far from uniting and reforming as a party, but its members can back Abbas against Hamas if that would restore power and prestige to the movement.

Can Hamas Prevent or Win an Election? Hamas may certainly oppose Abbas's move to trigger a presidential election, but a boycott will only further discredit Hamas to the Palestinian public. Abbas can exert pressure on Hamas to compete by threatening to use the election results as a basis for disbanding the PLC and calling for new legislative elections. Any measure Hamas takes to prevent an election should be countered by Abbas and explained as antidemocratic. There is of course the possibility that Hamas could actually win the vote given its superior organizational capabilities. However, if the presidential election becomes a referendum on Palestinian acceptance of a two-state solution and land for peace as opposed to land for an indefinite long-term truce, as Hamas proposes, Abbas's position is likely to prevail. The majority of Palestinians consistently back Abbas as a legitimate leader and support a two-state solution.

Although forcing an early presidential election is a risky option, it might be the only legal, democratic means available for Abbas to break the current Palestinian political deadlock by using the national will to press Hamas to change its policies.

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