

Palestinian Strategy on Resolution 181:

From Netanyahu to Barak

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Brief Analysis

For more than a year, Palestinian leaders have advanced the original partition resolution -- United Nations (UN) General Assembly Resolution 181 of 1947 -- as the cornerstone of their diplomatic effort to gain international support for independent statehood. Whereas this was originally a tactic adopted to confront the policies of Prime Minister Binyamin Netanyahu, the focus on this half-century-old resolution may continue to play a key role in Palestinian strategy for dealing with the new government of Prime Minister-elect Ehud Barak.

Confronting Netanyahu: The stream of statements by Palestinian officials concerning the continued relevance and validity of Resolution 181 was initially designed to build a Palestinian defense in the face of the Netanyahu government's perceived stalling of the Oslo implementation process. This focus on 181 assumed greater prominence during the election campaign as a way to gain international backing for Palestinian interests in the event Netanyahu was returned to power and the Oslo/Wye process remained stalled. Ever since May 1998 -- that is, many months before the Wye summit -- the goal of this effort was to establish a diplomatic detour around Oslo. The idea was to mobilize the widest possible international support for the concept that the Palestinians have an internationally recognized right to self-determination and independent statehood, not contingent upon a negotiated agreement with Israel.

To resuscitate 181, Palestinian Authority (PA) chairman Yasir Arafat visited no fewer than sixty countries and achieved some modest success. South Africa offered its advice on adapting the "Namibia model" of independence to the Palestinian case, and Finland's president volunteered to chair a special session of the UN Trusteeship Council to discuss the relevance to the Palestinian case of his personal experience with ushering Namibia to independence. The endorsement given to 181 by the UN Human Rights Commission, meeting in Geneva, was an important victory. Perhaps most significant, however, was Washington's silence on the issue, not publicly taking the Palestinians to task for advocating -- if only rhetorically and tactically -- a resolution that envisions Palestinian sovereignty over large swaths of pre-1967 Israel. Only last week did senior U.S. officials -- including Vice President Al Gore and Special Middle East Coordinator Dennis Ross -- finally begin to target 181 as, in Ross's words, "not relevant and not

appropriate" for Middle East diplomacy. More generally, Arafat received wide backing -- from the European Union, Japan, Canada and numerous other countries -- for the general principle of an unconditional right to statehood, without specific reference to 181.

Responding to Barak: There is a chance that this diplomatic maneuvering toward a revival of 181 may be shelved now that Barak has emerged with what appears to be a strong mandate to advance the peace process. In the event of Netanyahu's victory, Palestinian diplomats had prepared contingency plans to call on the UN General Assembly to demand a formal "explanation" from Israel "on the measures it took illegally to extend its laws and regulations to the territory it occupied . . . beyond the territory allocated to the Jewish State in resolution 181 (II). . ." and to seek a resolution affirming that Jerusalem -- including both its eastern and western sectors -- should become a "corpus separatum." Arafat is likely to defer this diplomatic campaign pending formulation of Barak's government and policies.

Even with a more cooperative negotiating partner, however, the Palestinians' focus on 181 will not disappear. Although devised as a sort of "offensive defense" vis--vis Netanyahu's strategy to scale down the scope of the Oslo accords, the PA and the Palestine Liberation Organization (PLO) are not going to abandon the case developed over the past year. On the contrary, 181 will become an integral part of the Palestinian negotiating posture. Palestinians simultaneously will seek the full implementation of Oslo, especially Israel's "further redeployments" promised under the Wye River Memorandum, while at the same time they will try to undermine the status of Oslo as the exclusive term of reference for final status negotiations. Throughout, Palestinian strategy will be to try to de-link the right to statehood from the process of negotiation. Operationally, the PLO is thereby preparing the groundwork to argue that a unilateral declaration of independence would not automatically constitute a violation of or departure from the Oslo accords. Sooner or later, when the peace process reaches its next crisis or stalemate, Barak will then be confronted with the Palestinian threat to declare statehood, backed up by the growing international chorus in support of the Palestinian legal argument based on 181.

Conclusion: When the PLO Central Council met in Gaza on April 27-28 to debate a declaration of statehood, many of the delegates insisted that the PLO publicly reject Israel's official position that 181 was no longer relevant, having been superseded long ago by post-1967 Security Council Resolutions 242 and 338. Because of this, there was a virtual consensus among council members not to extend the "interim period," as defined under the Oslo accords, and even to announce its formal expiration. In early June, the council is supposed to reach a final decision on these issues and the most likely outcome is a further elaboration of a policy of upholding Oslo and bypassing it at the same time.

In resuscitating 181, Palestinian officials are wrestling with the fact that partition was totally rejected at the time by all the Arab states as well as the Palestinian leadership, the Arab Higher Committee. PLO and PA officials respond by saying that Israel itself relied upon 181 as a basis for its declaration of independence and then as a basis for its acceptance as a member of the United Nations. Therefore, goes this argument, 181 remains valid so long as Israel remains an independent country within the international community.

So far, Palestinian spokesmen maintain a certain degree of ambiguity as to whether they claim not just the right to statehood enunciated in 181 but also the territory allotted to the Arab state envisioned in that resolution. That would mean advocating the partition borders as the basis for a final status agreement with Israel, which goes far beyond the spirit and letter of UN Resolutions 242 and 338, the only resolutions referred to in the Oslo accords. Some in Arafat's entourage, notably Dr. Nabil Sha'ath, minister of international cooperation, have begun to discuss the partition boundaries as a possible opening position of the Palestinian negotiating team. Others, including Palestinian Legislative Council speaker Abu Ala, emphasize Palestinian claims to both parts of the city of Jerusalem, while ignoring 181's call for the internationalization of the city. So far, Arafat himself and most other Palestinian officials

have been reluctant to demand publicly the partition boundaries as the borders of their hoped-for Palestinian state. At the same time, however, they have been careful not to rule out such a possibility. Importantly, the 1988 Palestinian Declaration of Independence, issued in Algiers at the height of the intifada (uprising), did not address the issue of borders but did derive its claim of legitimacy from Resolution 181.

If U.S. president Bill Clinton is soon to meet with Prime Minister-elect Barak and Chairman Arafat in an effort to reinvigorate the peace process, then the status of 181 needs to part of the package of agenda items, alongside the full implementation of the Wye River Memorandum and the opening of final status negotiations. Unless there is common agreement among all parties that the Oslo accords -- not 181 -- constitute the sole terms of reference for negotiations, then even with the election of a Labor Party leader in Israel, chances for progress in the Israeli-Palestinian peace process are very slim.

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