

# Human Rights in the Wye River Memorandum

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## Brief Analysis

In response to last week's Hamas suicide attack on a school bus of Jewish children in Gaza, the Palestinian Authority (PA) has inaugurated its most comprehensive security crackdown since the aftermath of the wave of suicide bombings in February and March 1996. Shaykh Ahmed Yassin, founder and spiritual leader of Hamas, is under house arrest -- with his phone line cut and his street under twenty-four-hour guard -- and more than one hundred suspected Hamas activists have been arrested. Ironically, the Palestinian security chiefs overseeing the current crackdown are the same officials who just a few days earlier insisted that the security section of the Wye River Memorandum include a curious paragraph calling for the Palestinian police to respect human rights and the rule of law.

Background: The human rights paragraph, located in the security chapter of Wye, states the following:

Pursuant to Article XI (1) of Annex I of the Interim Agreement, and without derogating from the above, the Palestinian Police will exercise powers and responsibilities to implement this Memorandum with due regard to internationally accepted norms of human rights and the rule of law, and will be guided by the need to protect the public, respect human dignity, and avoid harassment.

As noted, the paragraph is reprinted exactly as it appeared in Annex I of the Oslo II accord (1995), except for one deletion -- the 1995 version paired the Palestinian police with the Israeli military as the two institutions needing to respect human rights; Wye refers only to the Palestinians. This is because Wye discusses the implementation only of Palestinian security responsibilities, not Israeli ones. In this regard, the Wye human rights paragraph is odd. It does not reflect an agreement between the two sides or the creation of a new oversight mechanism, as is found in many of the other articles of the text. Rather, it is a simple re-statement of one side's human rights obligations.

Who Wanted Human Rights at Wye? At first glance, sticking a human rights provision into the Wye accord seems problematic for both the Israeli and Palestinian sides. On the one hand, the provision could be interpreted as a public Palestinian admission of the PA's abysmal human rights record. On the other hand, from the Israeli perspective, inclusion of a human rights proviso might be useful in the long run, as a test of Palestinian intentions in the run-up to final status talks, but it could equally pose short-term problems by providing the Palestinians with a loophole to avoid making a full effort against the "infrastructure" of terrorism. In fact, Ze'ev "Benny" Begin, standard-bearer of

the Likud's anti-Wye faction, characterized the human rights provision as "effectively a hole through which the PA can evade its commitments to fight terror."

According to U.S. officials, the human rights provision was in fact requested by the Palestinians, with the Palestinian negotiators claiming it would help boost their credibility at home and protect the PA from charges that it acts solely as a puppet of Israeli security demands. Israel did, indeed, oppose the inclusion of the paragraph in the final text but was finally won over by arguments that anything that strengthens the PA politically would give the PA greater ability to deliver on its security commitments; that Israel could not protest the inclusion in 1998 of the same text it had accepted verbatim in 1995; and that the United States supported its inclusion, too.

How Would Citing Human Rights Bolster the PA? Three segments of the Palestinian public might have been envisioned as the intended targets of the human rights paragraph: Hamas and other Islamists, human rights advocates, and the general public. On closer examination, however, none of them are likely to warm to the overall accord because of its reference to human rights.

Hamas leaders knew from the start that they are the principal target of the PA's promise to combat terror. A Hamas statement issued two days after the Wye signing condemned the agreement, "whose implementation has taken the form of the arrest of scholars and journalists, the muzzling of voices, and pledges from the president of the PA that he will not allow anyone to question his agreement with the butchers of the Palestinian people."

Palestinian human rights advocates may have initially taken heart by the inclusion of the human rights provision but so far PA chairman Yasir Arafat has implemented the Wye accord in a way that suggests security, not legal niceties, will be the key criterion. Even while the agreement was being signed in the White House, Palestinian security police detained eleven journalists and photographers -- including an American -- for filming an interview in which Shaykh Yassin criticized Wye. Speaking on condition of anonymity, a senior PA police officer said that "the coming few days will witness a widespread campaign against any critic of the accord and all who engage in incitement against Israel whether in the newspapers or media, at public meetings, in mosques or using other means." The next day, Palestinian police arrested Shaykh Hamed Bitawi, a prominent Islamist leader from Nablus known to be close to Hamas, for condemning the Wye agreement in an interview on Qatari satellite TV. When the chief spokesman for Islamic Jihad in Gaza, Nafez Azzam, condemned the agreement at a Gaza rally, PA police were quick to arrest him, too. Whether the PA will maintain this level of assertive action against Wye opponents remains to be seen, but the early results contrast sharply with the lax approach to preventing incitement that hitherto characterized PA policy.

Palestinian public opinion is unimpressed by the accord in general and the human rights provision has done little to bolster its popularity. Whereas post-Wye polling data indicates that 74 percent of Israelis support Wye, a plurality of Palestinians -- 45 percent -- actually oppose it (42.5 percent indicated support). For the vast majority, the standard by which they will judge Wye's success is the degree to which it improves the conditions of their day-to-day lives. Polling data suggests that if Israel completes its promised redeployments, opens free-passages between the West Bank and Gaza, permits the opening of the Gaza airport, and releases hundreds of prisoners, the Palestinian public will be satisfied. In that case, most Palestinians would disregard the contradiction between the accord's reference to human rights and rule of law and the reality of continuing corruption, authoritarianism, and abuse of power within the PA.

A Role for Washington? So far, therefore, the human rights provision in Wye has had no appreciable impact on the overall accord. Indeed, the fact that this is the one provision in the entire chapter on security that calls neither for bilateral or trilateral cooperation nor for any U.S. supervision or oversight suggests that its inclusion is more rhetorical than operational. But just because U.S. officials have no direct responsibility for checking human rights in the territories does not mean that they will turn a blind eye to infractions that may be too egregious to ignore. Only

time will tell whether U.S. monitors -- who may be more attuned to human rights sensitivities than either the Palestinian or Israeli security officials -- will become embroiled in human rights/rule of law disputes that Palestinians and Israelis would prefer to avoid.

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