

“The Hamas-Fatah Reconciliation: Threatening Peace Prospects”

Testimony before the House Foreign Affairs Committee
Subcommittee on the Middle East and North Africa

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February 5, 2013

Chairwoman Ros-Lehtinen, Ranking Member Deutch, Honorable Members, thank you for the opportunity to testify before this Subcommittee today on this important topic.

Far from advancing peace, to encourage Hamas-Fatah reconciliation and to subsidize any coalition government will accelerate conflict. At issue is not only the sanctity of diplomatic agreements which form the basis for Middle East peace efforts, but also the outcome of a battle between more secular movements struggling against a radical Islamist revival.

The Obama Administration’s desire to fund the Palestinian government does more harm than good not only to moderate Palestinians who desire to live in peace with Israel, but also to U.S. regional interests and prospects for Arab-Israeli peace.

At its core, American opposition to Hamas rests on two interconnected issues: First is Hamas’ embrace of terrorism and second is the movement’s refusal to honor diplomatic agreements signed by the Palestinian Authority.

The current debate about how to approach Fatah-Hamas reconciliation falls into a decades-long pattern of shifting goals posts and diluting demands in order to keep diplomacy alive. The record of the State Department’s failure to hold its Palestinian partners to their commitment to abandon terrorism is extensive, and its results clear: Absent a clear-cut, inalterable demand that the Palestinian groups first uphold their commitment to abandon terror, diplomacy will fail and the situation will worsen.

For decades, U.S. administrations considered the Palestine Liberation Organization (PLO) a terrorist group and rogue entity, unworthy of serious policy consideration. As former Secretary of State Henry Kissinger explained, “Before 1973, the PLO rarely intruded into international negotiations. In the 1972 communiqué ending Nixon’s Moscow summit, there was no reference to Palestinians, much less to the PLO... The idea of a Palestinian state run by the PLO was not a subject for serious discourse.”¹ The reason for the PLO’s lack of credibility among Western diplomats and policymakers was its refusal to abandon terrorism. While diplomats today insist it never hurts to talk, the damage from engaging an insincere partner can be huge. Throughout the PLO’s early years, Chairman Yasser Arafat was explicit in his embrace of terrorism and his cynicism about the role of diplomacy. Addressing the United Nations, for example, he described

¹ Henry Kissinger, *Years of Upheaval*. (New York: Little Brown and Company, 1982), p. 625.

diplomacy as a corollary to armed struggle. “We are also expressing our faith in political and diplomatic struggle as complements, as enhancements of armed struggle,” he declared.²

The PLO’s unapologetic embrace of terrorism did not dissuade some within the State Department from arguing for direct relations with the PLO, even before the group ostensibly abandoned terrorism as a result of the Oslo Agreement. During his 1980 presidential campaign, Ronald Reagan swore he would not negotiate with terrorists. The State Department had other ideas, though.³ The fact that the PLO was a pariah, its influence had reached its nadir in the wake of its expulsion from Lebanon, and its execution of an elderly, wheelchair-bound American onboard the Achille Lauro had disgusted the international community, did not mean that diplomats were willing to give up its hope to find a partner in the group. In 1985, for example, U.S. diplomats were willing to accept the fiction of a joint Jordanian-PLO delegation comprised almost exclusively of PLO members so long as Arafat accepted United Nations Security Council Resolution 242, renounced terror, and acknowledged Israel’s right to exist. At the last minute, Arafat refused, and so talks were cancelled.⁴ That willingness to cancel talks and, in the post-Oslo era, assistance is a thing of the past.

Because of the State Department’s unwillingness to hold firm to declared principles if such a stand prevented more immediate dialogue, it is often Congress which intercedes to ensure that U.S. national security interests are upheld. In 1987, Congress passed an Anti-Terrorism Act which formally declared the PLO to be a terrorist organization for the purposes of U.S. law, and reinforced the prohibition on U.S. dialogue with the group, forcing the State Department to close the PLO’s offices in Washington.

The PLO got a new lease on life in December 1987 with the outbreak of the first *Intifada*. While the uprising was a largely grassroots affair, senior diplomats believed it better to negotiate with the PLO’s exiled leaders than with local Palestinian activists accustomed to working with Israelis. When proxies for the PLO met with National Security Council official Robert Oakley to seek talks, Oakley repeated U.S. preconditions: the Palestinians first must accept Resolutions 242 and 338, renounce terrorism, and accept Israel’s right to exist.⁵ While Fatah has, at various times, accepted such conditions rhetorically if not in reality, Hamas still refuses to do so.

The sanctity of agreements underscores Western diplomacy, but too often the State Department ignores their violation in order to keep dialogue alive. Arafat and the PLO never placed the same premium on honesty: In the run-up to the Oslo Agreement and, arguably in its aftermath as well, the pattern was constant. Because Arafat remained directly complicit in terror, Congress in 1989 passed the PLO Commitments Compliance Act (PLOCCA) which required the State Department to affirm that the PLO was abiding by its commitment to abandon terrorism and recognize Israel’s right to exist.⁶ If the PLO did not meet its commitments, dialogue would cease. To keep dialogue alive, however, diplomats simply omitted reporting episodes which might lead to the cessation of dialogue.

² Speech by Yasser Arafat to the United Nations General Assembly, November 13, 1974.

³ Allan Gerson, *The Kirkpatrick Mission*. (New York: Free Press, 1991), p. 26, 42.

⁴ Dennis Ross, *The Missing Peace*, (New York: Farrar, Straus, and Giroux, 2004), p.47.

⁵ Mohamed Rabie, *U.S.-PLO Dialogue*. (Gainesville: University Press of Florida, 1995), p. 14.

⁶ Title VIII, P.L. 101-246, February 16, 1990.

The Oslo Accord changed U.S. engagement with the Palestinians forever. Rather than lead a terror group, Arafat would head a proto-government. In October 1993, Congress passed the Middle East Peace Facilitation Act, which waived prohibitions on contacts with the PLO, and allowed the organization to open its *de facto* embassy in Washington so long as the PLO continued to abide by its commitments to cease terrorism and recognize Israel.⁷ Congress also enabled the president to waive legislation that prohibited U.S. government employees from negotiating with the PLO.⁸

As implementation of the Declaration of Principles floundered, the State Department's instinct was to seek quiet rather than enforce the agreement. When Arafat adopted a bizarre interpretation of his commitments, diplomats scrambled to appease him. After Arafat returned to Gaza, he reversed course on commitments to ensure security and revoke portions of the PLO's Charter which called for Israel's destruction. Because the State Department wanted to press forward with talks regardless of Arafat's backpedaling, Congress again acted. On July 15, 1994, the Senate prohibited release of taxpayer funds to the Palestinian Authority unless the PLO complied with its commitments to renounce and control terrorism.⁹ Congressional action did not filter down to all diplomats in the region, though. "I took every opportunity I could to see Arafat," Edward Abington, Jr., the U.S. Consul General in Jerusalem, recounted, "I just felt it was important to be seen as very active, as understanding Palestinian positions, showing sympathy and empathy."¹⁰

The same debates regarding the place of commitments and accountability in the peace process continued into the Bush administration. After a wave of terrorist attacks followed Palestinian assurances that terror would cease, President George W. Bush had had enough. Engagement for engagement's sake had failed. He decided to take a zero tolerance approach. "There is simply no way to achieve peace until all parties fight terror," he declared, adding, "I call on the Palestinian people to elect new leaders, leaders not compromised by terror."¹¹ The State Department resisted Bush's new approach. "The Arabists in the State Department were appalled" by Bush's speech, then-National Security Advisor Condoleezza Rice recalled.¹² Amidst international criticism and resistance from within his own administration, though, Bush abandoned his principled stand, and the State Department quickly reverted to business as usual. A no-nonsense demand to end terrorism before diplomacy gave way to the Road Map, whose own benchmarks soon fell victim to a desire to keep the Palestinians at the table.

Enthusiasm for direct talks with Hamas increased after the group's victory in January 2006 elections. A number of journalists and analysts argued that political power might moderate Hamas,¹³ and European officials urged Washington to forget Hamas' past.¹⁴ Optimists ignored

⁷ The Middle East Peace Facilitation Act of 1993, P.L. 103-125, October 28, 1993.

⁸ Clyde Mark, "Palestinians and Middle East Peace: Issues for the United States," CRS Issue Brief for Congress, October 10, 2003. No. IB92052.

⁹ H.R. 4426, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995, Public Law No: 103-306.

¹⁰ Jonathan Broder, "The American Diplomat in Arafat's Corner," *The Jerusalem Report*, April 10, 2000.

¹¹ George Bush, "Rose Garden Speech on Israel-Palestine Two-State Solution," White House, June 24, 2002.

¹² Condoleezza Rice, *No Higher Honor*. (New York: Crown Publishers, 2011), p. 145.

¹³ See, for example, Marina Ottaway, "Islamists and Democracy: Keep the Faith," *The New Republic*, June 6 and 13, 2005; and Claude Salhani, "Politics & Policies: U.S. Must Engage Hamas," United Press International, January 23, 2006.

Hamas co-founder Mahmoud az-Zahar promise: “We will join the Legislative Council with our weapons in our hands.”¹⁵ After more than seven years, there can no longer be any debate: Power has not moderated Hamas.

When Hamas won a majority in the Palestinian Legislative Council, the United States and its Quartet partners agreed diplomatic recognition of Hamas would be premature because of the group’s refusal to recognize Israel, accept previous agreements, and foreswear terror,¹⁶ it was not long before first Turkey and then European foreign ministries began to shift their tune. When Hamas staged a violent putsch against Fatah in July 2007 to consolidate control over Gaza, European diplomats argued they had no choice but to engage Hamas since there was no longer any pretext of a Palestinian coalition.¹⁷ Dialogue rather than peace had once again become diplomacy’s goal.

Too often, be it with the PLO, Hamas, or Hezbollah, the passage of time rather than reform legitimizes dialogue in diplomats’ eyes. It is a pattern which discourages reform and compromise: Engaging and legitimizing the most violent factions incentivizes terrorism and disadvantages groups which play by the rules. Diplomacy with terrorist groups can also throw a lifeline to movements which otherwise might peak and collapse.

It is impossible to consider today’s reconciliation between Fatah and Hamas without reference to the broader context of the so-called Arab Spring. While the uprisings which sparked the Arab Spring had their roots in a desire among ordinary people for government accountability, it was not long before the Muslim Brotherhood and even more radical Islamist groups and Salafi movements hijacked the revolutions. These Islamist groups had two distinct advantages:

First, the Muslim Brotherhood had been in opposition for almost eight decades, during which time they could promise the world, without ever having to prove the efficacy of their ideas.

Second, Islamist movements did not have to operate on an even playing field: Not only rich Persian Gulf emirates like Qatar, but also nominal republics like Turkey lent considerable wealth to subsidizing the most radical Islamist groups. Turkish Prime Minister Recep Tayyip Erdoğan has made little secret of his ideological and religious affinity for both the Muslim Brotherhood and, in the context of Palestinian politics, Hamas as well.

¹⁴ Chris Patten, “Time to judge Palestine on its results,” *Financial Times*, March 13, 2007.

¹⁵ Michael Herzog, “Can Hamas Be Tamed?” *Foreign Affairs*, March/April 2006.

¹⁶ David Welch, assistant secretary of State for Near Eastern Affairs, Senate Committee on Foreign Relations, September 25, 2008.

¹⁷ Maurizio Caprara, “Non regaliamo Hamas ad Al Qaeda,” *Corriere della Sera* (Milan), July 17, 2007; Mark Heller, “Should the European Union talk to Hamas?” *Transatlantic Issues*, No. 32, June 25, 2008; Carolin Goerzig, “Engaging Hamas: Rethinking the Quartet Principles,” *ISS Opinion*, March 2010.

Analysts often bifurcate the Middle East into competing groups: Sunnis versus Shi'ites, republics versus monarchies; dictatorships versus democracies; and Arabs versus non-Arabs. The overriding competition at present is between Islamists versus secular regimes. Iran may be largely Shi'ite and Egypt overwhelmingly Sunni, for example, but Tehran sees Cairo as a new ally in its fight against secularist regimes. Hamas' renewed empowerment comes not autonomously, but against the backdrop of Muhammad Morsi's rise in Egypt and Hamas' growing relations with Iran.

Fatah may not be moderate, but it is not Islamist and relative to Hamas it is restrained. Rather than see Hamas moderate in order to join a coalition with Fatah, the opposite will become true: Hamas will have doubled down on its rejectionism, while forcing Fatah to radicalize. To promote the two movements' reconciliation would effectively enable Hamas to subsume Fatah.

The results would be grave for the region: Should Hamas establish its dominance on the West Bank in addition to Gaza, not only would Israel face a growing threat, but Hamas and its allies would also move to destabilize the Kingdom of Jordan, perhaps America's chief Arab partner. Second and third order effects will severely undermine both prospects for peace and broader American interests in the region. Chaos in Syria and the radicalization of the Syrian opposition will only compound the problems.

Because money is fungible, it is impossible for the United States to support only Fatah elements should Fatah and Hamas govern together. U.S. foreign assistance should never be an entitlement, and it should never benefit groups which are endemically and inalterably hostile to the United States. The Oslo process established the Palestinian Authority on the basis of its recognition of Israel and the agreement to negotiate statehood and other issues at the diplomatic table. That conditionality infuses the Palestinian Authority's presence in the West Bank and Gaza. In theory, the Palestinian Authority has no right to exist should it obviate the Oslo Accord.

Diplomacy will fail when any figure, be it Mahmoud Abbas, Ismail Haniyeh, or Khalid Mishaal treats diplomatic commitments not as sacrosanct but as an *à la carte* menu from which to pick and choose. It will be hard to expect any government to place its security on the line for diplomatic assurances which in practice expire in less than two decades.

The Obama administration and American diplomats may believe they are charting a path to peace, but by turning a blind eye to accountability and treating U.S. assistance to Palestinian government as an entitlement, they are committing a grave strategic error which could permanently handicap prospects for peace and instead encourage a more devastating conflict. Thank you.