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## Disarmament and rule of law in Palestine

By Haim Malka

**WASHINGTON** - After the first round of negotiations over the future of Palestinian politics, the score is Hamas 2, Mahmoud Abbas 1.

Palestinian President Mahmoud Abbas's courtship of Hamas as a political party avoided bloodshed in the near term, but he enhanced the militant organization's legitimacy without diminishing either its arsenal or its armed capabilities. The failure to reach clear agreement either on disarmament or on his own authority may come back to haunt Abbas.

He remains hostage to the whims of Hamas and the threat of its political veto: violence.

It is not too late for Abbas. He must act decisively to establish the rule of law within Palestinian society, which has been plagued by corruption, violence, and vigilante justice. Just two weeks ago, a freelance "vice and virtue" squad affiliated with Hamas gunned down a 22-year-old girl in Gaza. Angry militants from within the president's own Fatah movement have repeatedly brandished weapons at Abbas himself and his interior minister and just last week violently stormed the offices of the Palestinian legislative council in Jenin.

Despite successful municipal elections and efforts to establish order, the Palestinian territories remain on the brink of complete chaos and lawlessness. If Palestinians are ever to achieve a viable independent state they must first establish the rule of law, which includes a state monopoly on the use of force.

This contest will have many rounds, and contrary to conventional wisdom, convincing Hamas to disarm should be the last step in this process. Putting his own house in order needs to be the priority for Abbas. Hamas will not begin to contemplate disarmament as long as marauding gangs of Fatah-affiliated gunmen remain unchecked. For too long, Fatah's gangs have acted above the law, challenging the authority of the president, bullying and extorting the population, and taking money from

Iran and Hizbullah, the militant Lebanese organization.

Abbas miscalculated the effect of this disarray within Fatah when he made an agreement with Hamas his top priority. That disarray ultimately weakened his negotiating position with Hamas, and led to significant gains for the Islamists in the first rounds of municipal elections.

Restoring order to Fatah is inevitably linked to the wider issue of Palestinian security reform. Abbas's moves over the weekend to shake up the security services are a step in the right direction. But announcements of security reform have become routine, and it remains to be seen if these changes will have any lasting effect. To Abbas's credit, he has been moving deliberately to force hundreds of officers into early retirement and edge out incompetent commanders, replacing them with some of the younger generation. He is also trying to absorb some of the disgruntled Fatah gunmen, many of them wanted by Israel, into the Palestinian Authority's (PA) security services. As he does this, he needs to ensure that the price of admission is coming clean. He needs to be merciless in cashiering security officials who engage in criminal activities or freelance fundraising. Abbas also needs to assure Hamas and the other Palestinian factions that they are welcome to join the force under the same conditions.

As Fatah disarms, then the burden will be on Hamas to comply with the emerging consensus. With Hamas agreeing to participate in upcoming parliamentary elections, it must be persuaded to adopt a new set of rules. Hamas' position on the issue of disarmament will shed light on the future intentions of the movement. Failure to respect the rule of law and commit to disarm is a clear sign that Hamas intends to use violence, or at least the threat of violence, in the future.

Now Abbas needs to reinvigorate Fatah by running as the party that stands most firmly against corruption and for the rule of law. He must successfully portray any Hamas effort to use violence as an attack on the rule of law and Palestinian unity. Abbas needs to articulate what the new Palestinian consensus is, and he must act decisively against those who seek to use violence to disrupt it.

Ultimately some elements of Hamas, Fatah, and the other factions will resist this new political contract. Those militants who remain outside the system and refuse to recognize the authority of the state should be dealt with through direct force and legal means - apprehended by the security forces and brought to trial to face prosecution. This can only be done once the playing field is leveled for all parties. Many Palestinians, fed up with the lawlessness, will support such a confrontation if it is a part of a genuine effort to establish the rule of law.

With legislative elections approaching, Abbas has little room left to maneuver. The only viable option for disarming Hamas and transforming it into a real political party, which Abbas publicly advocates, is to demonstrate that Fatah has also accepted the rules of the game. Abbas must first disarm Fatah, a task which is difficult yet remains possible.

As hard as it will be, if Abbas fails to impose the rule of law and disarm the militants affiliated with his own Fatah movement, he will surely fail with Hamas.

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