

Taylor Force Act: Putting the Palestinian Authority on Notice

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In March 2016, a graduate student and US Army veteran named Taylor Force was stabbed to death while visiting Tel Aviv. In the wake of the attack, western media reported that the Palestinian Authority (PA)—which is the internationally recognized governing body of the West Bank and Gaza Strip—and Palestinian media outlets failed to condemn the murder and praised the Palestinian attacker who left Force dead and a number of others wounded.

The alleged Palestinian posture after Force's death has been used by critics to accuse the PA of waging a campaign of inciting violence against Israelis. The PA--through the PLO's Commission of Prisoners Affairs--has long extended financial support for political prisoners held by Israel and paid salaries to the families of individuals who are killed by the Israeli military. The PA's rationale is that these are a type of social welfare payments to help the families of incarcerated individuals, many of whom they believe are political prisoners. However, because the PA guarantees such financial support for all who are imprisoned or "martyred," critics of the payments bill it as a "pay-to-slay" scheme. They decry the entire system of financial support as a method of incentivizing young Palestinians to carry out acts of violence against Israelis.

Members of the US Congress have proposed legislation that would condition US financial support to the PA on ending payments to alleged "terrorists" and their families. The appetite for passing this legislation has grown to the point that high ranking members of the

Senate Foreign Relations Committee (SFRC) expect to see it adopted before the end of summer 2017. In fact, SFRC Chairman Bob Corker (R-Tennessee) recently reached a deal with his Democratic Party counterparts to revise the language and markup the bill on August 3. The chairman has stated that he hopes the Senate passes the *Taylor Force Act* before senators leave Washington for their two-week recess later this month. Indeed, the act was passed by the SFRC on August 3 by a vote of 16 to 5 with amendments.

What to Expect in the *Taylor Force Act*

Since this session of Congress began, two related pieces of legislation have been introduced that targeted US foreign economic assistance to the PA. Despite lawmakers' desire for such legislation, neither of the two bills satisfied enough members of Congress to warrant pursuing. Instead, Senator Corker struck the aforementioned agreement and crafted a revised version of the bill bearing the late Taylor Force's name.

The revised legislation, like the previous versions, conditions any appropriated funds available to the West Bank and Gaza Strip on a satisfactory certification being submitted to Congress by the secretary of state. The secretary's written report must certify that the PA is taking legitimate actions to prevent the people within its jurisdiction from committing acts of violence. Further, the secretary of state must certify that the PA has ended all payments to prisoners who were tried fairly and convicted of acts of terrorism, and to the families of those

who died while committing an act of terror. Finally, the report must certify that all laws, regulations, decrees, or documents that use the length of a sentence or a period of incarceration to determine the amount of compensation have been revoked, as the PA determines funding by time spent in incarceration. This last part directly targets the scheme that exemplifies critics' claims of "pay-to-slay." While this was likely started to address the ambiguity of sentences that comes with Israel's use of administrative detentions (without charges or trials), it is viewed as incentivizing more violent, gruesome acts. The logic suggests that committing the most violent crime will get the assailant the longest jail sentence, thus providing him or her—and possibly his or her family—the most financial support.

The latest version of the *Taylor Force Act* includes a number of changes suggested by experts around the policy community. For instance, former American diplomat Elliott Abrams testified during a recent SFRC hearing on the subject that the East Jerusalem Hospital Network—six hospitals that operate in the occupied territories—should be exempt from the punitive measure of canceling PA funding. The PA is indebted to the hospital network and any financial strain on the PA directly reduces the amount of money the hospitals receive to treat Palestinians. Additionally, it appears that Senator Corker and his confidants carefully considered the unintended consequences of previous versions' language. As former US ambassador to Israel Dan Shapiro stated in the same hearing, the previous versions of the act

would have stripped funding from the Economic Support Fund (ESF) to Palestine, and this would harm everyday Palestinians more than the PA could itself. Instead, this version of the bill specifically dictates that only funds that *directly* benefit the PA would be withheld. Despite tough posturing from some in Congress, this language is more watered down and does not effectively mean a wholesale cut in US aid to Palestine.

Policy in Motion

If—or more likely, when—this legislation becomes law, there are several options for how things would proceed. First, what happens if the PA acquiesces and meets the certification standards for US funding? Per this legislation, if the secretary of state certifies that the PA satisfactorily meets the requirements, then funding would remain in place. The certification must be renewed every 180 days, but should the report remain, then the United States would continue providing financial support to the West Bank and Gaza, even if it directly benefits the PA.

However, the likelihood of the PA agreeing to such procedures is very low. Despite the western media's and American politicians' characterization of the PA's funding as material support for terrorism, the majority of Palestinians simply do not view it that way. There are, undoubtedly, some members of the Palestinian prisoner population in Israel who are receiving financial support—the same goes for the families of deceased Palestinians—even when they committed acts of terror. But, there is

also evidence to suggest that many of these reports inflate the number of accused “terrorists” on the PA’s payroll.

For example, a recent article claims that half of the Palestinian Authority’s annual budget will be dedicated to paying salaries to terrorists or dead terrorists’ families—totaling \$355 million—in 2017. However, those calculations are based on inflated numbers that conflate all Palestinian prisoners with terrorists. Aside from the age-old argument that “one man’s terrorist is another man’s freedom fighter,” many critics of the PA’s aid system appear to neglect the fact that Israel’s own Prison Service differentiates between those incarcerated under terrorism charges (i.e., “security prisoners”) and those who are convicted of miscellaneous charges of supporting a resistance movement. It is even more difficult to assess how many Palestinian prisoners are truly criminals of either variety. Human rights organizations have reported that Israeli military courts have nearly a 100 percent conviction rate for Palestinians. This raises serious questions about the courts’ biases and the underlying interests for incarcerating so many Palestinians.

The distinction between terrorism and other charges is important for US lawmakers to consider when lobbying for the payments practice to end. For many Palestinians, the payments are crucial for maintaining some semblance of dignity, and the financial support is considered more welfare than blood money. Since 1967, Israel has imprisoned over 700,000 Palestinians. With at least 20 percent of the PA’s

population benefitting from these salaries and benefits, it is, quite frankly, political suicide for the PA to revoke such payments. Pushing Mahmoud Abbas—an already unpopular president—to end an extremely popular welfare program is priming the people for a popular uprising that could manifest as chaos and violence. Many members of Congress do not support the justification that ending the practice is too politically difficult for the PA’s leadership, but that does not make it any less of a factor.

Instead, the PA could potentially dig in and refuse to give in to US lawmakers’ demands, prompting Congress to cease payments. If this is the case, how would the PA’s operations and, therefore, the rest of Palestinian society be affected?

The United States has provided the PA a total of \$5 billion since the establishment of the governing body in the mid-1990s, but annual aid to the Palestinian Authority decreased over the final years of the Obama Administration. Additionally, over the last five years the United States has preferred to earmark funds to pay the PA’s debts and to be delivered as project assistance to nongovernmental organizations (NGOs) and humanitarian institutions in the occupied territories, bypassing the PA completely. If the United States were to cut off all funding that directly benefited the PA, this would only nominally affect the everyday operations of the government in Ramallah. The government rarely sees most of the US funds anyway. Moreover, as per the Oslo Accords, 75

percent of the PA's budget comes from the customs and taxes collected by Israel on Palestine's behalf, which are then transferred to the PA (though sometimes these transfers are withheld by Israel for political reasons). With all this in mind, PA officials have surmised that the government could continue operating under austerity measures. This is especially true because although Israel supports passage of the *Taylor Force Act*, it has not made any proactive measures to delay or halt disbursing the taxes and customs monies.

The revised version of this bill includes softer language that addresses the concerns of more pragmatic observers, like members of US and Israeli security sectors. Previous versions of the bill called for ending all aid that was appropriated to the West Bank and Gaza, a move that especially troubled high-level Israeli intelligence and military officers. Under the new language, lawmakers focused narrowly on funds directly benefitting the PA because doing otherwise could undermine humanitarian and security efforts in the West Bank and Gaza. A recent report illustrates that 30 percent of international aid, largely from the United States and European Union (EU), boosts the Palestinian security sector. Jeopardizing the delicate security cooperation between Israelis and Palestinians would undoubtedly create more security concerns for Israel, not less.

Is the United States the Odd Man Out?

It is possible that the PA would choose to terminate its welfare system in order to retain US funding. It is also plausible that the PA

refuses and the United States moves to end portions of its financial support. Should the latter happen, the most likely scenario involves other countries and global organizations increasing aid to the PA.

As it stands, some officials in the PA already view the EU, not the United States, as the most important source of aid in the world, particularly since it has been the primary funder of the PA. In addition, the global order is more uncertain now than in years past, with the United States decidedly retreating from the world stage. If the United States chooses to reduce its contributions to the PA, stable countries like Germany and France could see to it that the EU picks up some slack. Asian powers like Japan and China have sought a leadership role in the Middle East, so those two countries could leverage funding for influence. Finally, Gulf Cooperation Council (GCC) states like the United Arab Emirates and Saudi Arabia, as well as other Arab states, could reinsert themselves as donors in an effort to groom closer ties with Israel and undermine the influence of GCC neighbor and rival, Qatar.

The *Taylor Force Act* will very likely become law before the end of the year. Leaders of both parties in both chambers of Congress support the idea behind the law and thus far, the White House has spoken favorably of signing such a bill. While members of Congress can claim victory in punishing the PA for making payments to prisoners and their families, the revised bill's language is loose enough to prevent cutting US funding completely.

Instead, this version provides for what Abrams deemed a 50 percent withdrawal of funds while allowing for periodic reviews of the effects of the cuts. Essentially, therefore, Congress is putting the PA on notice; but how effective this legislation will be in accomplishing lawmakers' goals is unknown.