



NEW YORK UNIVERSITY

CENTER ON INTERNATIONAL COOPERATION



**State-building and political change:
Options for Palestine 2011**

Elizabeth Sellwood

March 2011

NEW YORK UNIVERSITY

CENTER ON INTERNATIONAL COOPERATION

The world faces old and new security challenges that are more complex than our multilateral and national institutions are currently capable of managing. International cooperation is ever more necessary in meeting these challenges. The NYU Center on International Cooperation (CIC) works to enhance international responses to conflict, insecurity, and scarcity through applied research and direct engagement with multilateral institutions and the wider policy community.

CIC's programs and research activities span the spectrum of conflict, insecurity, and scarcity issues. This allows us to see critical inter-connections and highlight the coherence often necessary for effective response. We have a particular concentration on the UN and multilateral responses to conflict.

Table of Contents

State-building and political change: Options for Palestine 2011

Acknowledgments	2
Executive Summary	3
Introduction	5
What are the PA's practical achievements?	6
What are the constraints facing the PA and its leadership?	7
Political options for September 2011	9
Business as usual	9
The idea	9
The process	9
How would this affect the political context and the situation on the ground?	10
State declaration/recognition options	11
The idea	11
Possible processes	12
How would this affect the political context and the situation on the ground?	13
Dissolution of the Palestinian Authority	15
The idea	15
The process	17
How would this affect the political context and the situation on the ground?	17
Assessment	18
A better idea?	18
New facts on the ground with international endorsement	18
The idea	18
The process	19
How would this affect the political context and the situation on the ground?	20
Conclusion	21

Acknowledgments

I owe particular thanks to Zizette Darkazally for her invaluable help with research for this paper, and for her wonderful hospitality. In addition to those who agreed to be interviewed during the course of the project, I would especially like to thank all the Danns, Anis and Pascale Nacrour, and Alex and Jack Costy for intellectual and various other types of support. I am grateful to Daniel Levy for his comments on an earlier draft of the paper, and to the World Bank for funding the project. I am responsible for any errors in the paper.

Executive Summary

Across the Middle East, the year 2011 already appears destined to be a period of upheaval. It is not yet clear how the dramatic events of January and February will influence the Israeli-Palestinian conflict, but three factors suggest that this year will also be one of change for Palestinians and Israelis.

First, Palestinian expectations have been moved by the powerful, popular movements that have wrought political change in their immediate neighborhood. The fact that popular action has opened the way for change elsewhere in the region is likely to energize Palestinians and may hasten, at least, a shift in Palestinian strategy. It could elicit more substantial transformation.

Second, the government of Israel has been shaken out of its relative comfort by regional events. With the fall of the Mubarak regime, Israel may lose a reliable regional ally in the peace process. Its relationship with Turkey has already shifted. Israel is consequently facing the possibility of acute isolation in the region, accompanied by a strengthening de-legitimization campaign. Pressure on Israel to tackle the Palestinian issue actively has intensified, though it is not clear in what policy direction regional developments will push the Netanyahu government.

Third, Palestinian prime minister Salam Fayyad has created an expectation that *something* will move Palestinians closer to statehood in August/September 2011. In August 2009, Fayyad launched a finite, two-year institution-building program through which he sought to demonstrate that Palestinians were ready to take on the responsibilities of statehood. The technical achievements of this program are already considerable. Fayyad's deadline-setting strategy has worked: Palestinians expect some kind of political change in August/September 2011, though no one knows exactly what will happen.

Four sets of options for political action in August/September 2011 are analyzed in this paper. The first option is **'business as usual'**: PM Salam Fayyad and his government demonstrate that they have achieved

the institutional standards sought by the international community, but their achievements elicit no substantial response from the international community or Israel. Such a (non-) response to the Fayyad government program might be expected to have three effects on the political process: First, it would break the connection between institutional reform and political progress; second, it would strengthen Palestinian opponents of Fayyad who argue that he is simply pursuing the "economic peace" agenda and doing the security dirty work of the Israelis; and third, it would erode ordinary Palestinians' commitment to the Fayyad-led PA and encourage them to pursue alternative routes, including violent and non-violent direct action.

A push for **broader international recognition of the State of Palestine prior to a peace agreement** is also possible. Could international recognition of the State – via the UN Security Council, the UN General Assembly, or through recognition by individual states – bring the two-state solution any closer? Within the UN context, options are limited: Palestine can only become a UN member state if the Security Council recommends this to the General Assembly; this would require a fundamental policy shift by the United States. A UN General Assembly resolution, or broader recognition of Palestine outside the UN framework, would be easier to achieve than a UN Security Council resolution. Broader international recognition of Palestine without US support or UN membership would confront the Palestinian leadership with interesting policy dilemmas: who, for example, would be granted citizenship of the new state? How would the PLO relate to the new Palestine? Broader state recognition could not, by itself, lead to effective Palestinian sovereignty, however. Recognition of Palestine that was not accompanied by measures to *implement* statehood would not enable the Palestinian government successfully to monopolize the legitimate use of force within the West Bank and Gaza Strip, neither would it enable Palestinians to control borders of the territory or access Jerusalem. Recognition without detailed implementation measures might therefore prove complicated for the Palestinian leadership and profoundly disappointing to many Palestinians.

A third political option is **dissolution of the Palestinian Authority**, which would return direct responsibility for administration of the territory to Israel. Dissolution of the PA would have an immediate, significant impact on Palestinian living standards in the West Bank, and it would be hard to imagine a handover to Israeli control without some violence. If the PA were dismantled in the West Bank, Gaza might become the only remaining area governed by Palestinians: the Hamas authority would probably remain in place unless Israel chose forcibly to dismantle it. Dissolving the PA is a high-risk option, but it would definitely shift the Israeli-Palestinian debate. Some commentators argue that it would demonstrate to Israelis that a two-state solution is the only way to preserve Israel's identity as a "vibrant, Jewish, and democratic state."

We look at a fourth option for 2011: **new facts on the ground with international endorsement**. In Prime Minister Fayyad's view, Palestinians urgently need to see evidence that the occupation is being rolled back. The prime minister has proposed several possible changes, "political deliverables" that would broaden the scope of the PA, reduce the impact of the occupation, and indicate to Palestinians that their government's approach is helping them toward statehood. Concerted action to enable the PA to deliver these visible changes, plus an international event marking the completion of the state-building program, could help demonstrate progress and enable the state-building process to maintain momentum. This process would be accompanied by Palestinian political debate about public policy, the route to statehood, and the healing of internal Palestinian divisions.

None of the options discussed in this paper can end the conflict. There is no good alternative to a negotiated peace agreement between Israel and the PLO. International recognition of Palestine in 2011 would be unlikely to lead to the establishment of a state that monopolizes the legitimate use of force within the territory claimed by the PLO. Two large impediments remain: the Israeli occupation is the first, heaviest, and most obvious of these; the Palestinian political situation is a second serious impediment. Palestinians are not united behind the idea of statehood that is being proposed by President Abbas

and promoted at an institutional level by the government of Salam Fayyad.

State-building (as opposed to institution-building) is a profoundly political process, one that involves a progressive strengthening of the relationship between the state and society so that the state comes to be regarded by the vast majority of its citizens as the legitimate source of public authority. State-building requires an effective political process for negotiating the mutual demands between the state and societal groups. Although Fayyad's government has made substantial contributions toward building Palestinian state institutions, the prime minister has neither the mandate nor the legitimacy to lead the political aspect of Palestinian state-building. The political dimension of Palestinian state-building must now move ahead if Fayyad's achievements are to be preserved and developed into broader change.

Opening Palestinian political life, freeing up internal dialogue and political bargaining, is of course risky. However, a transition from the present PA and PLO leadership is inevitable, even if it is not imminent. New leaders must emerge to articulate options for the Palestinian state, and these leaders can come forward only through dialogue among Palestinians.

The year 2011 offers important opportunities for the Palestinian leadership to encourage political debate around non-violent routes to statehood. Fayyad and his government have helped to keep the idea of two states alive by building institutions, generating a sense of optimism and movement, and providing a credible non-violent way forward for Palestinians. Now, across the Arab world, "moderate" and "hardliner" labels are breaking down and new political players and alliances are emerging. Popular engagement in politics has been re-awakened: people have seen how direct action has wrought transformations that the US has been trying for years to achieve. A transformation of Palestinian political scene is almost inevitable in this regional context. This transformation is more likely to proceed calmly if a political process is agreed, and can take place under the unifying authority of President Abbas.

State-building and political change: Options for Palestine 2011

Introduction

In late December last year, Egyptian novelist and academic Ezzedine Choukri-Fishere condemned 2010 as “the most boring year of the decade,” the year in which nothing happened in the Arab world.¹ A month later, he was brandishing a metal bar on the streets of Cairo, both exhilarated and alarmed by the speed of change in Egypt.² 2011 is already a year of upheaval in the Middle East. It is not yet clear how the dramatic events of January and February will influence the Israeli-Palestinian conflict, but three factors suggest that this year will also be one of change for Palestinians and Israelis.

First, the expectations of Palestinians have been moved by the powerful, popular movements that have wrought political change in their immediate neighborhood. At the end of 2010, seasoned analysts of the conflict perceived Palestinians to be “exhausted, in search of a respite, not a fight.”³ Few believed that Palestinian non-violent resistance could change the terms of the peace process.⁴ Regional developments have shifted the Palestinian dynamic, however. The fact that popular action has opened the way for political change elsewhere in the Arab world is likely to energize Palestinians. This may hasten, at least, a shift in Palestinian strategy; it could provoke a more substantial transformation.

Second, the government of Israel has been shaken out of its relative comfort by events in the region. Until street protests shook the Egyptian regime, Israel was feeling little pressure to resolve the Palestinian issue. With the fall of the Mubarak regime, Israel has lost a reliable regional ally in the peace process – a blow that comes shortly after the loss of Turkey as a strategic partner. With uncertainty about the transition in Egypt, Israel is facing the possibility of acute isolation in the region, accompanied by a strengthening de-legitimization campaign elsewhere in the world. It is not clear in what direction these regional developments will push the government of Israel. What is clear is that pressure on Israel to tackle the Palestinian

issue actively (rather than just postpone decision-making) has intensified.

Third, Palestinian prime minister Salam Fayyad has already created an expectation that *something* will move Palestinians closer to statehood in August/September 2011. In August 2009, Fayyad launched a two-year institution-building program through which he sought to demonstrate that Palestinians were ready to take on the responsibilities of statehood. The plan is a technical one, but it is also intended to influence the politics of the conflict. Its overall objective is to “expedite the end of the occupation by working very hard to build positive facts on the ground, consistent with having our state emerge as a fact that cannot be ignored.”⁵ Fayyad has re-emphasized that the current Israeli-Palestinian arrangements are temporary,⁶ and inserted a deadline into what had become a depressingly open-ended state-building and negotiations process. When the PA’s plan concludes in August 2011, Fayyad argues, “we will have amassed such credit, in form of positive facts on the ground, that the reality is bound to force itself on the political process.”⁷

In 2010, the World Bank and the Quartet recognized the significant technical progress achieved by the Fayyad government.⁸ The deadline-setting strategy also worked: August/September 2011 is already a significant date in the Palestinian context.⁹ No one knows what will happen after this date, however. The best-case scenario for August 2011 is that Israel and the PLO conclude a comprehensive peace deal leading to the establishment of a Palestinian State: the PA’s institutions would be ready, in this case, to serve the new state. Prospects for a negotiated settlement currently look dim, however. Palestinians and the international community have begun to explore alternative ways to move toward the objective of Palestinian statehood.

In this paper, we examine several political options for August/September 2011: a business-as-usual response to conclusion of the state-building plan; a push for recognition of the state prior to a peace agreement; and a decision to dissolve the PA. We also examine a fourth option: a concerted push to enhance the scope and legitimacy of the PA, plus an international “event” to mark conclusion of

the two-year plan, which together might give the Fayyad government (or a successor government committed to similar policies) enough credibility and political support to continue working after August 2011.

The Fayyad government faces numerous problems and constraints, including domestic opposition to the prime minister's approach. Some Palestinians would be happy to see it swept away by a popular demand for wholesale political change. Others, however, regard the August 2011 deadline as an opportunity to push for the establishment of a functioning, secular Palestinian state. Fayyad's institutional reforms, which ensure greater fiscal transparency, better services, and economic improvements, may be seen as consistent with some of the demands for reform heard elsewhere in the region. On the other hand, the regional push for democratic change may serve to highlight the lack of a functioning Palestinian legislature and legislative checks on the PA's executive authority.

Fayyad's project is inherently limited. To generate lasting progress toward a two-state solution, it needs to be supported by a coherent international strategy; by greater Israeli flexibility; and, perhaps most important, by an internal political process that reunites Palestinians behind the idea of statehood. The events of early 2011 could help to open up opportunities for progress toward a resilient Palestinian state. Much work nonetheless remains to be done to translate Fayyad's institution-building success into a comprehensive strategy for Palestinian state-building.

What are the PA's practical achievements?

Our focus in this paper is primarily on the political implications of implementation of the PA's plan. It is nonetheless necessary briefly to review recent indicators of the PA's performance, because some critics have accused the PA of failing to make substantial progress in institution-building.¹⁰

Three areas of institutional performance – public financial management, security, and social service delivery – are particularly important in the Palestinian context. The

quality of PA financial management, and in particular transparency, is a key determinant of Palestinians' and donors' faith in the Authority's ability to manage public goods. Palestinian security performance is a crucial determinant of the political atmosphere and climate for negotiations. The quality and availability of essential services is a "key measure of governance"¹¹ and a source of state legitimacy and resilience in all situations,¹² but it has a special significance as a link between the Palestinian government and the population it serves because the PA cannot perform other functions normally associated with functioning states.¹³ The PA's capacity to ensure that the essential needs of its population are met through service provision – and, importantly, to take credit for improvements – may therefore be an important determinant of the success of the current Palestinian state-building project.¹⁴

So how well is the PA performing in these three areas? In September 2010, the World Bank – which has monitored Palestinian governance institutions more consistently than any other body during the post-Oslo period – praised the PA's public financial management systems.¹⁵ Its praise is especially noteworthy because in the past the Bank has been highly critical of the PA. The Bank noted that "reforms in several important areas such as the electricity sector, pensions, and the social safety net have led to a fiscally stronger PA.... These reforms were long in the making and represent significant milestones for the PA." The PA was also credited for an improvement in the investment climate, and progress in mobilizing domestic resources through taxation.¹⁶ Taxation is an important element in state-building, because it establishes relationships between the state and societal interests that help to create legitimate, accountable public authorities.¹⁷

The PA has also made major progress in security performance.¹⁸ The US Security Coordinator heaped praise on the "new" Palestinian forces in a speech in May 2009.¹⁹ The International Crisis Group, in its report on the Palestinian security sector, concludes that while an objective evaluation of improvements is difficult, the PA has certainly made visible changes: It "has ended the chaos in the streets and successfully combated Hamas in

the West Bank.” Crisis Group also quotes several positive Israeli assessments of the change to the Palestinian security sector, including a former member of the Israeli National Security Council who said:

For a long time, we had zero belief in the PA’s ability to implement anything within the security sector. Our cooperation with them was limited by a complete lack of systematic work on the Palestinian side. But Salam Fayyad is changing all of this. The Palestinian security forces are now being professionalized, with an emphasis on implementation.²⁰

The Palestinian Authority already has an impressive record in social service delivery, at least by regional standards. Palestinians have achieved almost universal enrolment in primary education and the best primary completion rate in the Middle East and North Africa region. They also have the highest gross enrolment rate in secondary education (94 percent) and the third highest tertiary enrollment rate in the region, after Lebanon and Jordan.²¹ Health service provision is adequate by regional standards, and national health indicators have not shown significant deterioration despite the continuing conflict.²² The Fayyad government has maintained, and in some cases improved, delivery of social services to Palestinians.²³ Improvements in law and order, as well as social services, have helped to build Palestinian support for the Fayyad government.²⁴

There are, of course, still problems with the PA institutions, perhaps most important of which is the lack of a functioning legislature following the Ramallah/Gaza split, and the consequent lack of a proper legislative process or legislative checks on executive authority. The Palestinian Legislative Council may be revived in 2011, though much depends on Israeli cooperation and Hamas’s approach to the proposed elections.²⁵ After completion of the current two-year program, it will still be easy to find faults and shortcomings in the PA’s performance. It is nonetheless clear that governance standards in key areas have improved, and are now at least adequate in comparison to other states in the region. Implementation of the program has helped to ensure that the PA’s institutional shortcomings cannot be employed indefinitely as an excuse for failure to address deeper political questions.

What are the constraints facing the PA and its leadership?

Some commentators and officials argue that because of political constraints, the Fayyad government has already hit a “glass ceiling” beyond which further institutional progress is impossible.²⁶ The Fayyad government’s ability to continue developing the Palestinian Authority toward effective statehood is currently limited by several factors, the first and most obvious of which are the occupation and the terms of the Oslo accords.

While Israel occupies the West Bank and Gaza²⁷ the PA cannot come even close to performing the central state function: it cannot successfully exercise a monopoly of the legitimate use of force within a given territory.²⁸ The Oslo arrangements rule out a unified body of rules and legal practices that can be applied across the territory. Israel controls land and population registers, and can veto the entry and residence of all persons to and within the occupied territory.²⁹ The Palestinian Authority’s capacities to form and manage the market, promote private-sector investments,³⁰ and control public assets³¹ in the Palestinian territory are also limited by the Oslo framework.³²

The Palestinian Authority’s capacity to win the uncontested loyalty of Palestinians is limited by its need to cooperate with Israel on a number of issues, the most important – and problematic – of which is security. One of the primary responsibilities of states, *and a crucial source of their legitimacy*, is the provision of security for citizens.³³ The PA’s obligation to serve as protector of Israel when Israel still occupies the territories Palestinians are committed to liberating is a “daring” idea³⁴ – not least because in the Palestinian context, political legitimacy has long been linked to resistance against the Israeli occupation.³⁵ The contradictions inherent in this aspect of the PA model were already problematic for the Palestinian leadership a decade ago.³⁶ They are more so now, because (in contrast to the PA under President Arafat) the Fayyad government is actually implementing security procedures to the satisfaction of Israel and the United States.³⁷ When the PA began to implement its security crackdown in the West Bank in 2007, critics compared it with the South Lebanon Army.³⁸

PA cooperation with Israel on security issues has also become increasingly difficult politically for the PA leadership because Hamas has established an alternative model for Palestinian governance in Gaza which combines state-building with resistance.

The Palestinian Authority cannot represent or serve all Palestinians, and this also limits its capacity to develop toward statehood. The PA was not intended to, and has not, replaced the PLO as the “sole legitimate representative of the Palestinian people.” Although the PA has assumed many state-like capacities,³⁹ the PLO retains several “state” functions: it represents Palestinians in peace negotiations with Israel, in the United Nations (as an Observer), and in relations with other states. While the PLO represents the entire Palestinian people, including 4.7 million refugees, the PA is only mandated to provide services to non-refugee Palestinians living inside the occupied territory.⁴⁰

As Palestinian prime minister, Salam Fayyad depends for his position on President Abbas, who appointed him and to whom he reports. Fayyad is not mandated to speak on final status issues. Occasionally he has done so, and this has contributed to tensions within the Ramallah leadership: in spring 2010, for example, relations between Fayyad and Abbas reportedly “hit a rough patch” following Fayyad’s interview with *Haaretz*, in which he hinted at the option of declaring statehood following conclusion of the PA’s plan and discussed the issue of refugees in this context.⁴¹

The *de facto* division between the West Bank and Gaza constitutes another major restriction on the PA’s capacity to develop as a state, and to forge a social contract with Palestinians. Hamas has established an alternative government in Gaza that taxes, provides services to, exercises authority over, and seeks the loyalty of Palestinians.⁴² Living conditions in Gaza are difficult, and Hamas is hardly triumphant – but neither is it on its knees.⁴³ It has maintained its government of the Strip, despite the war of 2008-09 and more than three years of siege conditions. According to one assessment, “the revenue-strapped Hanieh government is achieving a level of service delivery with 32,000 employees (including 15,000 policemen and other Ministry of Interior personnel) that

broadly matches that achieved by the Fatah-dominated Palestinian Authority prior to June 2007.”⁴⁴

The process for healing the Gaza-West Bank split is through negotiations between Fatah and Hamas: Fayyad is not a participant. Negotiations have been under way for some time but have yielded no results, and few Palestinians are optimistic about their prospects of success.⁴⁵ The crisis in Egypt will undoubtedly affect this process. Fayyad has been “more creative than Fatah about what can be done in Gaza,” and his non-confrontational approach has led to an “incremental penetration” of the Strip.⁴⁶ Authorities in both Ramallah and Gaza have made “pragmatic compromises to ensure the continuation of vital public services for the people in Gaza,” and there is now extensive cooperation between the two to ensure continued electricity supply, health service provision, and education, although in other areas (notably the judiciary) cooperation has broken down.⁴⁷

Fayyad’s relationship with Hamas is not an easy one: he is considered to be responsible⁴⁸ for the crackdown on Hamas in the West Bank. Some diplomats believe that he is more likely to be able to breach the Gaza-West Bank split than his Fatah colleagues, however.⁴⁹ Fayyad himself has hinted that he might be able to come to some kind of arrangement with Hamas on security issues, because Hamas is “following the same security doctrine” as the PA.⁵⁰ He has made clear he can accept political pluralism but not security pluralism, and sees the security issue as the essential matter that must be resolved for unity to be sustainable. Fayyad does not have freedom to move on this issue, however, in part because of opposition from Fatah.⁵¹ On the Hamas side there are signs that more pragmatic elements find it difficult to prevail in debates over the approach to the reconciliation issue. In late 2010 there were signs of new tensions between Gaza and Ramallah, with the PA briefing diplomats against Hamas plots to destabilize the West Bank, including attacks on settlers and the IDF, and even against the PA itself, and Hamas escalating its verbal attacks on the PA’s alleged mistreatment of detainees and “collaboration” with Israeli security.

Salam Fayyad's Palestinian Authority government is limited by numerous challenges to its legitimacy, and to the legitimacy of Fayyad himself as a leader of the Palestinians. His government has not been elected, and it is accused of behaving in authoritarian ways.⁵² Some Palestinians fear that his agenda advances Israel's interests more effectively than it promotes those of the Palestinians.⁵³ Fayyad's PA does not have the long-standing, "embedded," or "residual" legitimacy of the PLO and its main faction, Fatah;⁵⁴ nor does it possess legitimacy derived from resistance to the occupation, which is now claimed by Hamas.⁵⁵ Fayyad's party, the Third Way, has a very small popular following, and the lack of a constitutional or democratic basis for his government leaves it exposed to criticism from the Palestinian National Initiative and other national and international commentators.⁵⁶ Hamas officials have described Fayyad as "a person without legitimacy."⁵⁷ Palestinian pollster and political analyst Khalil Shikaki argues that "without a record in the national struggle," Fayyad "can never hope to challenge Abbas, or any other Fatah leader for that matter; he can only govern on behalf of someone else, someone who has the necessary credibility."⁵⁸ Fayyad relies on the support of the president; but PLO and Fatah elites have also been highly critical of the prime minister.⁵⁹

Fayyad himself claims, "The legitimacy of government depends on its capacity to deliver equitable social and economic development to the people and equal opportunities for all."⁶⁰ Legitimacy derived from performance is, of course, important,⁶¹ but not sufficient by itself to sustain the government in the long run or through periods of crisis. To survive politically in the short run, the Fayyad government must be able to demonstrate improvements in performance: it must be seen to be helping Palestinians to "withstand the adversity of this occupation and stick around on our land, exercise our right to life on it for one day longer."⁶² In the longer term, the Palestinian government will need to establish other sources of legitimacy.⁶³ This will require an inter-Palestinian political process⁶⁴ through which Palestinians heal their current divisions and find ways to reconcile differing ideas, not just about the role and function of the state but also about whether establishment of a state is the best way to achieve the collective objectives of the Palestinian people.

Political options for September 2011

By setting a deadline of August 2011 for completion of Palestinian state-building, the Fayyad government has challenged the PLO and the international community to decide what should happen immediately following this date. In the section below, we analyze what three of the most widely discussed options might look like, the diplomatic or interparty process, and how each might affect the political context and the situation on the ground.

Business as usual

The idea

The completion of the Fayyad government's institution-building program may be met with little or no international response, either because of a lack of international consensus about what the response should be or because leading members of the international community consider the Fayyad plan to be less important than negotiations between the PLO and Israel.

The process

It is easy to imagine a business-as-usual international response to an announcement by the Thirteenth Government that it had completed its program, and that the Palestinians were ready for statehood. There might be a technical evaluation of the Fayyad government's work, after which the World Bank would report to the Ad Hoc Liaison Committee (AHLC) the significant progress made by the PA in building institutions. The Bank would state that, in light of this progress, the Palestinians were ready for statehood in terms of institutional performance. The Bank would reiterate that without action to address the remaining obstacles to private-sector development and sustainable growth, the PA will remain donor dependent and its institutions, no matter how robust, will not be able to underpin a viable state. The AHLC might meet to review the technical progress, and call on donors to make available sufficient assistance to meet the 2012 recurrent financing requirements. It would urge the PA to continue reform efforts and fiscal discipline.

One can also imagine a supportive but limited response at the political level: the Quartet would issue a statement recalling that change on the ground is integral to peace. It would reaffirm its support for the Palestinian Authority, call on Israel to take further steps to facilitate Palestinian state-building and economic growth, and underscore its commitment to a just, lasting, and comprehensive Middle East peace. The Council of the European Union would also express its full support for the PA, and signal its readiness, when appropriate, to recognize a Palestinian state. EU member states would pledge additional funding to support Palestinian state-building.

A weak international response to the completion of the two-year government program would not force Israel into any difficult choices. Israel would probably join the international community in praising Fayyad's reforms.

How would this affect the political context and the situation on the ground?

If PM Salam Fayyad and his government can demonstrate that they have achieved the institutional standards sought by the international community but that their achievements elicit no political progress, one can anticipate several changes to the political context.

First, such a response would break the connection between institutional reform and political progress. For the past decade, leading members of the international community have argued that the poor performance of Palestinian governance institutions is an impediment to peace and Palestinian statehood.⁶⁵ International pressure for reform has strengthened Palestinian leaders who seek to scale back PA public spending, and helped them to tackle the heavy vested interests that weigh down the Authority. Such reformers would be weakened if, after August 2011, Palestinians observe that despite the Fayyad government's technical competence and transparency they are no closer to achieving their objectives.

Second, it would strengthen political opponents of Fayyad who argue that he is simply pursuing the "economic peace" agenda and doing the security dirty work of the Israelis.

Fayyad has played up the prospects of political change, arguing that his model of state-building will "force itself" on the political process; a non-response from Israel and the international community would prove him wrong. Fayyad has become personally associated with this model.⁶⁶ In the event of failure to achieve any substantial change as a result of his initiative, Fayyad is likely to come under personal attack from opponents in Fatah, Hamas, and the Palestinian left. He might choose to resign. If he continued as prime minister, it would become increasingly difficult for him to pursue the most politically tricky (and dangerous) aspects of the reform process, such as restructuring of the security sector (which includes slimming down the forces and laying off Fatah cadres). Hamas might have an interest at this moment to press for further influence in the West Bank.

The broader Palestinian public might also turn away from Fayyad's model and seek alternatives. One consequence of the apparent failure of Fayyad to achieve change might be an increase in non-violent direct action. Another consequence might be a spike in Palestinian violence in the West Bank, or a resumption of attacks against Israel. Among politically active Palestinians, belief in the efficacy of violence is not restricted to Hamas: two-thirds of Fatah members polled at the 2009 congress indicated support for the view that "armed confrontations have helped Palestinians achieve national rights in ways that negotiations could not."⁶⁷ Polls indicate that many Palestinians supported the Hamas attack against settlers in August 2010.⁶⁸ PA officials stress that they "do not want to talk about a third intifada"; at the same time, however, they emphasize that the endless "interim" period and interminable process destroy hope among Palestinians. The Fayyad government's approach has raised Palestinians' expectations that something positive will happen in 2011. If this hope is again dashed by the lack of a positive response from the international community, then "something serious is going to happen."⁶⁹

State declaration/recognition options

The idea

The PLO has repeatedly raised the idea of declaring a Palestinian state, or seeking Security Council or other international recognition for the state that was declared in 1988. The 1988 Declaration of the State of Palestine was recognized by more than a hundred states, though this recognition was “often in equivocal terms.”⁷⁰ The UN General Assembly issued a limited response that did not recommend Palestinian membership of the organization.⁷¹

The idea of a declaration of independence resurfaced in 1998–99 as the end date of the interim agreement approached. Palestinian and Israeli policymakers and intellectuals again discussed the pros and cons of Palestinian statehood.⁷² When President Arafat announced that he would unilaterally declare the establishment of a Palestinian state in May 1999, Prime Minister Binyamin Netanyahu responded that in this case Israel would disregard all previous agreements and consider the Oslo accords null and void.⁷³ The US Senate took the prospect of a Palestinian declaration seriously enough to adopt a resolution opposing US recognition in case of a unilateral declaration of independence. (This was reiterated by the House of Representatives in 2010.)

In 2009, with the political process deadlocked, several Palestinian figures began to wheel out state declaration/recognition ideas again. In August 2009, President Mahmoud Abbas proposed a unilateral declaration of independence as one of two Palestinian fall-back positions if final status negotiations failed; in November, he sought support for the idea at the League of Arab States.⁷⁴ The idea was brought up again by the PLO leadership when bilateral negotiations collapsed in October 2010, and it now appears to be one of the PLO’s fall-back options if negotiations do not resume.⁷⁵ Fayyad’s own comments have led commentators to conclude that he seeks unilateral or multilateral action to secure international recognition of Palestine, although he has pointed out that the issue is “above my pay grade.”⁷⁶ In November 2010, Fayyad expressed his opinion that a “transformation in

thinking” needs to occur at the international level before Palestinians turn to the Security Council.⁷⁷

At the end of 2010 and early in 2011, several states chose to recognize Palestine. More may be willing to take this step in August or September 2011 than were willing to do so in 1988, for three reasons. First, there is now strong international consensus around the idea of a two-state solution to the conflict. Second, the political case for recognizing a state is strengthened if one can argue that the institutions of the state already exist in fact.⁷⁸ Third, many states may now doubt the willingness of the Israeli side to make compromises necessary for peace following revelations about the Olmert government’s rejection of extensive PLO offers in 2008–09.⁷⁹

How much does recognition by itself matter, though? There is no consensus among international lawyers about the meaning and role of recognition in the creation of states in general,⁸⁰ nor is there such consensus in the debate over the existence of Palestine as a state.⁸¹ Professor James Crawford, who has written extensively on the cases of Palestine and Israel as well as on broader international law relating to the creation of states, argues that while recognition is not unimportant and “may contribute to consolidation of status,” the establishment of new states in modern international practice is a question of both law *and* effectiveness, i.e., of the ability of the state to perform functions and assume the responsibilities associated with statehood. In the creation of states, “constitutive acts” are needed. Collective recognition by itself is “not a substitute for action.”⁸²

The implications of international recognition of Palestine would depend on the circumstances and political climate of the moment. For our purposes, the key questions surrounding the issue of recognition are: If Palestine is “recognized,” is it then able to function internationally and domestically as a state? What would recognition mean in practical terms: i.e., what would the State of Palestine be able to do that the PA and PLO cannot do now, and how would recognition change the situation on the ground for Palestinians living in the West Bank, Gaza, or in a refugee camp in Jordan, Syria or Lebanon?

We will review possible processes for seeking recognition of Palestine, and then examine three possible outcomes of the process.

Possible processes

The Security Council route

Because the State of Palestine has already been proclaimed by the PLO, the state declaration/recognition ideas proposed for 2011 mainly revolve around the idea of obtaining a UN Security Council resolution that leads to collective recognition of the state and its admission to the United Nations.

To achieve recognition of Palestine, the PLO might request the support of the League of Arab States in tabling a Security Council resolution calling for the admission of the State of Palestine to the UN. The LAS member in the Council⁸³ would table a draft resolution, and members would negotiate and vote. Another member of the Security Council could also lead a UN process for recognition of the State of Palestine. It is not impossible to imagine an EU member state that is also a Security Council member (such as France) tabling a resolution calling for recognition of the State of Palestine.⁸⁴

Wording of the draft Security Council resolution would be a crucial determinant of the success or failure of the state-recognition strategy. To avoid a US veto, the drafters would need to seek language that was consistent with already-stated US or Quartet positions relating to the two-state solution. The resolution should not use language that would predetermine the outcome of subsequent negotiations, or in any other way close the door to a peace agreement. Arab sponsors and the PLO would need to take great care to ensure that the process went far enough to make a substantial difference, while avoiding overreach in their efforts to achieve Palestinian aspirations.

The extent of territory of a state is not always specified in UN resolutions – indeed, in its 1949 Resolution recommending the admission of Israel to the UN, the Council made no mention of borders or even of armistice

lines.⁸⁵ In the Palestinian case, however, a resolution would probably need to include language describing the territory as within 1967 borders, with land swaps to be negotiated with Israel at a later date. Some diplomats argue that *only* by defining the borders would a state-recognition process be meaningful: this would clarify the status of settlements and enable the Palestinian government to plan and exercise authority on the basis of fixed territory. Defining the borders might also defeat other claims to sovereignty over the territory, which would otherwise survive.⁸⁶ The United States might, however, be more likely to accept a Security Council resolution if it referred to a state within provisional borders⁸⁷ – as set out in the Road Map.⁸⁸

If the Security Council recommended to the General Assembly that Palestine be admitted to the UN, the General Assembly would be likely to support this. Palestine would then become a UN member state. It would be able to join international organizations such as the World Health Organization and UNESCO, and ratify treaties and conventions.⁸⁹ It could accede to the Rome Statute of the International Criminal Court. It would acquire the rights and duties associated with statehood, including the “inherent right of individual or collective self-defense” described in Article 51 of the UN Charter and the obligation to prevent terrorism set out in Security Council resolution 1373 (2001).

Complicated issues would immediately arise. How would the PLO’s legal status change on establishment of the state? Who would lead the new state, and by what process would Palestinian people be permitted to endorse their leadership? Which individuals would the new state regard as its nationals – and who would be entitled to decide? If refugees were granted Palestinian citizenship, how would this affect the right of return?⁹⁰ How would the Palestinian state’s issue of Palestinian passports, outside the Oslo framework, affect the status of identification documents previously issued to Palestinians by Israel? What would the “inherent right of ... self-defense” mean for Palestine in a context in which the government of Israel has specified that it would only accept a demilitarized Palestinian State?⁹¹ The PLO (or possibly the PA) would need to address these kinds of questions internally before initiating a process leading to recognition of the state.⁹²

Alternative routes to collective recognition of the State

An alternative UN process would be possible if the United States vetoed a Security Council resolution, or if it became clear prior to tabling a resolution that the US would not support recognition of the State of Palestine. Arab states could table a resolution in the General Assembly under the Uniting for Peace formula, which was established in 1950 to enable the Assembly to take action if the Council “fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace.”⁹³ A GA resolution under this formula could polarize the membership, and it would probably not lead to the admission of Palestine as a UN member state.⁹⁴

The PLO could also seek broader international recognition of Palestine outside the UN – for example, by seeking collective recognition of the state by the European Union and other intergovernmental organizations. This would build upon the decisions by Brazil, Argentina, and other governments to recognize Palestine in late 2010 and early 2011.

How would this affect the political context and the situation on the ground?

The practical impact of a diplomatic initiative to secure state recognition would, of course, depend on whether it resulted in failure or success. By “failure” we mean an effort to achieve international recognition that leads to no significant advance on the PLO’s 1988 declaration. By “success” we mean a push for recognition that leads to a Security Council resolution and admission of Palestine as a UN member state. We assess possible outcomes of each scenario below; we also look at a “half-way” outcome that leads to broader international recognition of Palestine than was achieved in 1988, but does not result in a Security Council resolution recommending UN admission, or recognition by the US or Israel.

Unsuccessful push for recognition of the State of Palestine

Within the Palestinian political context, the failure of another PLO attempt to secure statehood via a UN route would be another blow to those arguing for a law-based approach to achieving Palestinian objectives. Such a failure would probably strengthen the hand of Palestinian advocates of armed struggle and alliance with the “axis of resistance”⁹⁵ vis-à-vis those who advocate an international legal and diplomatic approach to resolution of the conflict with Israel.

A failed diplomatic initiative might also deliver a blow to the Fayyad government’s efforts to generate optimism and a sense of dynamism into Palestinian state-building: it would appear to demonstrate to Palestinians that nothing was changing, and the interim arrangements would continue for the foreseeable future.

An unsuccessful attempt at Palestinian unilateral action to secure state recognition might damage PLO-US relations, because the US has made it clear that it opposes any unilateral steps by either party.⁹⁶ It might also erode the PLO-Israel relationship, rendering another round of negotiations more difficult to establish.

In terms of the practicalities of the occupation, Israel might choose not to make any immediate changes on the ground: it could simply ignore the unsuccessful push for state recognition and continue its relationship with the PA much as before. Alternatively, Israel could interpret the attempt as an explicit repudiation of the Oslo accords, argue that the PLO’s action had rendered Oslo null and void, and claim that this gave Israel the right to re-impose full Israeli rule on the territory it occupied in 1967.⁹⁷

An unsuccessful PLO initiative to gain state recognition might create legal problems for the donors to the PA, if Israel chose to argue that the initiative had by itself rendered the Oslo accords null and void.⁹⁸ In this case, the Palestinian Authority (which was a creation of Oslo) could cease to have the international legal status that it currently possesses.

A successful push for recognition of the State of Palestine

United States support for a Security Council resolution calling for the admission of Palestine to the UN (with provisional borders or otherwise) would constitute a transformation in US policy toward the conflict.⁹⁹ Such a transformation would almost certainly prompt a change in the Israeli occupation, because of the diplomatic and military importance of the US to Israel and because the US would be unlikely to recognize Palestine without first developing detailed arrangements to ensure Israel's security. In the case of US recognition of the State of Palestine, Israel too might choose to recognize the state, which would lead to a broader transformation of the relationship between Israel and the Palestinians.¹⁰⁰

The recognition of the State and its admission as a Member State of the UN would strengthen Palestinian leaders who had argued for pursuit of national aspirations via international engagement and international law, at least in the short run. In the longer term, the effect of recognition on the internal Palestinian dynamic would depend on how conditions in the new state evolved, which in turn would depend on the type of international involvement in implementation. This subject is beyond the scope of the current paper.

'Half way': broader international recognition, without US recognition or UN membership

The international trend toward recognition of the State of Palestine¹⁰¹ might lead to a new General Assembly resolution calling for international recognition of Palestine on 1967 borders with East Jerusalem as its capital, possibly accompanied by collective recognition of the state by the European Union and other intergovernmental organizations. To what extent would this form of recognition enable Palestinians to achieve their objectives of ending the occupation and establishing the state? Would such recognition by itself have any impact on the Palestinian government's capacity to serve and protect Palestinians?

A General Assembly resolution or other form of collective recognition would not be likely to lead to an immediate withdrawal of Israeli forces from territories Israel occupied in 1967. The government of Israel might feel additional political pressure. International recognition of Palestine without the explicit support of the US would not, however, alleviate Israel's security concerns; indeed, a General Assembly resolution recognizing Palestine could add to Israelis' sense that UN member states are generally biased against Israel, and that the country is under attack.

The historical record suggests that when the government of Israel weighs general international political pressure (as opposed to political pressure specifically from the United States) against the pressure of its own security considerations, the latter tend to override the former. If the call for recognition came from the GA but not from the Security Council, the occupation would likely continue. Palestinians would remain unable to remove Israeli settlements (which are already illegal under international law).¹⁰² Recognition would not enable the Palestinian government to monopolize the legitimate use of force within the West Bank and Gaza Strip, neither would it enable Palestinians to control borders of the territory. Palestinian movement of people and goods, and capacity to manage the economy, would continue to be restricted by Israel.

The Palestinian leadership could make some significant changes upon recognition of the state: it could, for example, begin to enter into treaty relations with other states. It could declare the ministries and other state-like institutions of the PA dissolved and immediately re-establish them as state institutions. If the occupation continued, the transfer of funds to these institutions might subsequently depend on Israeli cooperation; but with Israeli consent, international donors and aid agencies that recognized the new state might engage with ministries and other Palestinian bodies as they would with state institutions elsewhere. The United States might decide that it would be unable to work with the institutions, and cut funds or channel money via NGOs or agencies that implemented projects directly.

The PLO would need to decide how it would relate to the new state. The recognition of a state prior to resolution of final status issues, particularly the refugee question, would probably mean that at least some Palestinians would not wish the PLO to be dissolved. Palestinians might therefore continue to be represented internationally by two institutions, not one; and at the Palestinian, if not the international, level there would be three Palestinian institutions: the state, the PLO, and the Hamas entity in Gaza. This situation might impede the development of the state as the preeminent unifying political body for Palestinians.

How would broader international recognition of Palestine transform the Palestinian political dynamic? The PLO leaders who had sought recognition would argue that broader recognition than that achieved in 1988 constituted an important step toward achieving national aspirations. The excitement of a new start could, some advocates argue, help to resolve the internal divisions and open up political space within which the Palestinian national movement could renew itself.

The PLO's pursuit of the state recognition route would create a "moment of truth:"¹⁰³ it would challenge both the PLO and its competitors to convince Palestinian people that theirs was the correct route toward the achievement of Palestinian national aspirations. The task of convincing Palestinians to unite behind a new state under these circumstances would be a huge challenge, because it would – at least in the beginning – be so much less than the state most Palestinians have hoped for: a "virtual" two-state solution in the absence of a real one.¹⁰⁴ Although Palestinians would have nominal independence, their state would be occupied and access to Jerusalem would still be highly restricted. The refugee issue would remain unresolved.¹⁰⁵ Although state recognition would not imply that Palestinians had surrendered claims to any final status issues, these claims might be "diluted" by recognition of the state.

For the state to survive and become resilient, Palestinian leaders who made the decision to seek recognition in 2011 would need to convince their people that this highly

restricted version of the State of Palestine was better, and more worthy of their loyalty, than its alternatives – including armed resistance or continued negotiations within the Oslo framework. They might be able to do so if they were able to demonstrate that state recognition would not lead to a fizzling-out of international focus on the conflict,¹⁰⁶ but would instead be the starting point of a coherent political strategy leading to full sovereignty over the West Bank and Gaza Strip. However, these leaders would need to make their case in the context of a still-divided polity and society, in which skeptical voices have strong backing from elsewhere in the region.

For Palestinians inside the occupied territory, life in the internationally recognized Palestine might not feel very different from the *status quo ante*. For those living outside, creation of the state in this way – with Gaza divided from the West Bank, without Jerusalem, without prior resolution of the refugee question – might be regarded as a heavy blow, a sell-out by the leadership on issues that Palestinians have fought for over the course of six decades.

If the PLO leadership failed to win the support of a strong majority of Palestinians by their arguments, the state would remain fragile and vulnerable to those advocating alternative routes to Palestinian freedom. The Gaza-West Bank split might ossify, and divisions between people in the Strip and the West Bank might become permanent, threatening the long-term viability of the state.¹⁰⁷

Dissolution of the Palestinian Authority

The idea

The idea of dissolving the PA has been tossed around by Palestinian intellectuals since at least 2003. The idea is more powerful now than it was in the past, however: Palestinians and international donors have invested a great deal in the PA, and in the past two years PA institutions in the West Bank have become stronger and more mature. Palestinians are now able to argue that they *can* build a state, but are not *willing* to do so until Israel and the international community also provide a just solution to the conflict.

Dissolving the PA would, in some ways, “rewind” the situation to the pre-peace process days when Israel clearly imposed its rule over Palestinians in the West Bank and Gaza. The existence of a PA since Oslo has, the argument goes, deceived public opinion and created a situation in which “international and the Palestinian publics expect the PA to fulfill the functions of a state while it has neither the authority, institutions, nor responsibilities of such a body.”¹⁰⁸ Dissolving the PA would make the reality of Israel’s continuing occupation abundantly clear. It would “throw back the hot potato of direct responsibility for Palestinian welfare to the Israelis and the Israeli occupation.”¹⁰⁹

An end to the “deluxe occupation”¹¹⁰ would be a huge challenge for Israel. Running Palestinian schools and hospitals directly, collecting Palestinian rubbish, and operating water and sewage systems in Palestinian cities is even less attractive to Israel than it was in the past, because the PA is now performing these services rather effectively. Perhaps most important for Israel, the PA would no longer maintain law and order in Palestinian population centers or work to prevent terrorist attacks. Israel would have to conduct all security operations directly.

The idea of dissolving the PA is, as Yossi Beilin puts it, “a kind of suicide threat: ‘I won’t be here any longer, but you will never forgive yourselves.’”¹¹¹ Dissolving the PA is also a way of focusing Israeli and Palestinian attention on a specific alternative to the two-state solution: the idea of Israelis and Palestinians living together in one state. Ali Jarbawi, the current minister of planning of the Palestinian Authority, argued in 2008 that dissolving the PA is the only way to jolt Israel out of the current pattern of “meaningless negotiations” that it uses “as a cover to enhance its presence in the West Bank and East Jerusalem.” Jarbawi argued that demography is “the basic determining element of this conflict,” and added:

“The only way Israel might become serious about a two-state solution is if its existence as a Jewish state is threatened. Such a threat cannot come through an everlasting open negotiating process or by launching handmade rockets at Israel’s borders. A serious threat is only posed if [following a failed

negotiating process] Palestinians ... refocus their efforts toward the one-state option.”

A Palestinian strategy aimed at “total integration within the state of Israel,” rather than independence, would force Israel “to face up to the real challenge of maintaining its existence as a Jewish state.”¹¹² The historian Tony Judt also made the point that Israel cannot continue to be a Jewish and democratic state unless it either evacuates the West Bank and Gaza or conducts “full-scale ethnic cleansing as a state project, something which would condemn Israel forever to the status of an outlaw state, an international pariah.”¹¹³

Sari Nusseibeh argues that if a negotiated two-state solution is not possible, dissolving the PA and focusing on the one-state option is preferable to “enclaves of Palestinians living under the hegemony – military and otherwise – of Israel.” Although Palestinians would not have full political rights in Israel, they would have civil rights¹¹⁴ and could “fight for equal rights, rights of existence, return, and equality”: “we could take it slowly over the years and there could be a peaceful movement - like in South Africa.”¹¹⁵

Daniel Levy describes dissolving the PA as a “Rubicon” for Palestinian leaders because it entails, among other things, “abandoning their deference to American and donor political demands and the daily conveniences and perks of not overtly challenging Israel in the diplomatic-political arena (such as not being imprisoned, prevented from traveling, or not having to go back into exile and also maintaining their PA patronage network – not easy things to kiss goodbye).”¹¹⁶ In early 2011, popular protests elsewhere in the region sought to root out corruption in government. Palestinians, following this lead, might choose to focus on aspects of the Oslo framework that for nearly two decades have given their leaders a vested interest in the *status quo*. Under popular pressure to end their privileges, the Palestinian leadership might be a little more willing to cross the Rubicon and dissolve the PA in 2011 than they were last year.

The process

On September 1, 2011, the Palestinian president, Mahmoud Abbas, could declare his resignation and announce the dissolution of his cabinet and of the Palestinian Authority. He would announce the final day of salary payment for public-sector workers, who make up a quarter of employed people in the occupied Palestinian territory. Palestinian security forces would be dismissed. Construction of infrastructure by the Authority would stop, and schools and hospitals run by the PA would cease to function unless Israel, as occupying power, took immediate steps to retain the former PA staff and maintain the power, water, and other material supplies.

The chairman of the PLO could arrange for collection of all weapons in the hands of the Palestinian police, and then request that the Israeli authorities take these weapons from designated collection points. According to Adnan Abu Odeh, this would be an important symbol: it “would end the fiction of the PA leading to a sovereign state, force the Israelis to resume their obligations as an occupying power, and drive home the point that a binational Israeli-Palestinian state is a real option.”¹¹⁷

Prime Minister Fayyad could calculate the sums remaining in PA coffers. He could return any unspent monies to the appropriate donors, or alternatively propose that donors reallocate their funds toward integrating Palestinians in the State of Israel.¹¹⁸

How would this affect the political context and the situation on the ground?

The spectacle of Israeli forces entering West Bank cities, taking over Palestinian ministries and institutions, and patrolling the streets in place of Palestinian police would be a shocking one – especially for the generation of Palestinians that has never witnessed full Israeli civil and military control. It would be hard to imagine a completely peaceful handover from the PA to Israeli officials and forces, especially as many Palestinian civil servants and security officials would feel shocked both by their sudden loss of employment and status, and by the end of the

dream of statehood. The creation of the PA created many vested interests in maintaining calm; this would end with its dissolution.¹¹⁹ The end of the PA would also have an immediate, significant impact on Palestinian living standards in the West Bank, unless Israel chose to continue paying the salaries of those currently employed by the PA. According to one estimate, a million Palestinians depend on incomes from the Authority.¹²⁰

The only part of the Palestinian territory in which the decision to dissolve the PA would have little visible impact would be Gaza: here, the Hamas authority would remain in place unless Israel chose forcibly to dismantle it. The economy of Gaza would be affected by the dissolution, because the PA is currently paying salaries to its officials there. Ending these salary payments would cut an important source of income to many Gaza families. Hamas has alternative sources of income, however,¹²¹ and its authority in Gaza would probably survive – leaving it as the only functioning Palestinian governance institution. Hamas would probably portray this as a triumph, and it might be strengthened politically as a result.

The PLO would continue to be recognized internationally as the sole legitimate representative of the Palestinian people, and following dissolution of the PA it would resume all responsibility for dealing with Israel on behalf of Palestinians. Because the PLO is associated with Oslo, however, the Organization would need to re-establish its legitimacy as leader of the Palestinians following a decision to abandon a strategy it had pursued for the past seventeen years. To retain its leadership position the PLO would probably need to undergo a comprehensive process of internal reform, re-examine its objectives – including pursuit of the two-state solution – and establish a new political strategy and perhaps new leadership. In doing so, it would compete for the loyalty of Palestinians with Hamas and probably with other actors on the Palestinian political scene that might emerge as a result of this radical shake-up.

Perhaps the most important question arising from the idea of dissolving the PA is how the Israeli public and Israeli political leaders would respond. The diplomat and analyst

Tal Becker argued recently that the *only* principle on which Israelis across the political spectrum agree is that “we would like Israel to be a vibrant, Jewish, and democratic state, as secure within its borders as possible.” Beyond this, he said, Israelis disagree about “just about everything.” Becker also made the point that while many Israelis see the need for the establishment of a Palestinian state, they also feel threatened by it.¹²²

So would dissolution of the PA persuade Israelis that a two-state solution to the conflict is the only way to preserve Israel’s identity as a “vibrant, Jewish, and democratic state?” Would they suddenly perceive, if the PA ceased to exist, that the *absence* of a Palestinian state would constitute a greater threat to Israel’s existence as a democratic, Jewish state than would its potential presence? Or would Israelis hunker down behind the security barrier, accept that young Israelis would continue to serve their years in the IDF to administer the occupation, and resign themselves to the impossibility of ending the conflict? Whether dissolution if the PA is a destructive option or the way to a fresh start depends on the answer to these questions.

Assessment

The three options discussed above carry heavy risks. A push for state recognition at the United Nations is, as one UN official put it, a “one-shot wonder”: a strategy that, if it fails to bring significant outcomes (in terms of ending the occupation and establishing the state), cannot easily be repeated. Dissolving the PA could shift the political context in important ways, but this route may be more destructive than constructive.¹²³ “Business as usual” is the path of least resistance for the international community, but failing to support the progress that Fayyad has made is also potentially dangerous: the government’s position is already fragile, and it needs all the support it can get simply in order to survive beyond 2011. As an Israeli intelligence official warned foreign correspondents in November 2010, “All this can vanish within five minutes.... If Abu Mazen (Mahmoud Abbas) retires, nobody really knows what will be the future of Salam Fayyad.” President Abbas could walk away from the process “if he feels he has been humiliated by the Arab states, Israel, the US, whoever.”¹²⁴

Equally, Fayyad himself could resign, leaving a governance vacuum in the West Bank that moderate Palestinians, the international community, or Israel would struggle to fill.

A better idea?

New facts on the ground with international endorsement

The idea

Salam Fayyad wants to convince the majority of Palestinians and Israelis that the two-state solution can actually happen. One of his overall objectives in building solid and responsible Palestinian institutions is to transform Palestinian statehood “from the realm of the concept” into something that is regarded by both Palestinians and Israelis “as totally possible.”¹²⁵ “Getting that majority to really believe it can happen is the challenge that has for long been underestimated,” he argues. The process has to begin with an “overarching vision of the state,” and proceed through principled institution-building until “the reality” of the state “begins to force itself on you.” This process is described by Fayyad as the “transformation and transition of Palestinian statehood from a concept to the realm of possibility and then to the realm of reality. That’s the power of it.”¹²⁶

Fayyad and his government have already convinced some former skeptics that Palestinian institutions could be strong enough to support a responsible state – but they have a long way to go.¹²⁷ Another year or two of successful institution-building and improved security performance might, however, be enough to ensure that the idea of Palestinian statehood begins to solidify in Palestinian and Israeli political consciousness. This extra time might also permit Palestinian and Arab diplomats an opportunity to secure the “transformation in thinking” that Fayyad believes is necessary before Palestinians turn to the UN for recognition of the state,¹²⁸ and to permit a gradual opening of Palestinian internal debate about ideas of statehood.

Two changes could help to convince Palestinians to persist with the Fayyad approach to state-building. First, a series of visible changes to the occupation could persuade Palestinians of the efficacy of the PA's current approach. In Prime Minister Fayyad's view, Palestinians urgently need to see evidence that the occupation is being rolled back.¹²⁹ The prime minister has proposed several possible changes,¹³⁰ "political deliverables" that would broaden the scope of the PA, reduce the impact of the occupation, and indicate to Palestinians that their government's approach is helping them toward statehood.¹³¹

Second, the Fayyad government also needs some kind of political "moment" marking the completion of the state-building program. Palestinian Authority officials stress that the government is serious about the August 2011 deadline: something must happen on or before this date to enable the government to maintain momentum. One senior Palestinian official argued that the deadline was, in fact, the only important aspect of the plan: "if nothing significant happens in August 2011, but the PA continues as it was before, it will lose the last remnants of its legitimacy."¹³²

Both these changes could contribute to the performance legitimacy of the PA, whether or not elections are held in 2011.

The process

The process could have two stages:

1. The PA and Israel would make a series of agreements, to be implemented throughout 2011, which would create space for and expand the scope of the PA;
2. The August deadline would be marked by an international event to consolidate the achievements of the PA, and make a further significant step toward statehood.

There are a number of areas in which the government of Israel could transfer powers, authority, and territory to the Palestinian Authority and ensure increased PA visibility to Palestinians prior to a peace agreement without explicitly

changing the status of the Authority.¹³³ Much work has been done already on identifying possible areas for change, by Israeli researchers and by international officials. Israel could agree to re-designate parts of Area B and C to permit the PA to exercise the same authority as it does in Area A.¹³⁴ It could go further and evacuate settlements in parts of the north and south of the West Bank to enhance Palestinian territorial contiguity in these areas. Israel and the PA could agree on new security measures that would allow Palestinian forces to deploy more widely, enhance their freedom of movement, and potentially allow them greater control over border crossings.¹³⁵ Israel could also agree to limit its own deployments in the West Bank. In the economic arena, Israel and the PA might agree that the Palestinians could sign economic agreements with third parties. Israel could also permit additional PA activity in East Jerusalem.¹³⁶ The Office of the Quartet representative has been seeking some of these changes, and in February 2011 the Quartet Representative, Tony Blair, announced a package of measures that have been agreed with the government of Israel. In announcing the package, Blair acknowledged that there has, in the past, been a substantial gap between what Israel agrees to do and what it actually implements: "agreement to all this," he said, "is not the same as implementation."¹³⁷

Stage one in this process is not, and should not look like, a substitute for a peace agreement or a new interim agreement. Measures to roll back the occupation and expand the scope and visibility of the PA should be evident primarily in terms of outcomes rather than process. This is important for two reasons. First, anything that looks like a new interim agreement is likely to create suspicion among Palestinians, who tend to wish to avoid another Oslo-type situation in which "temporary" arrangements become permanent. Second, the PA should not appear to be usurping the PLO as the political interlocutor with Israel: this might prompt a Palestinian political crisis, which would prevent consolidation of the PA's achievements and block further progress in state-building.¹³⁸

There are various options for the second stage in this process, i.e., an international event designed to consolidate the achievements of the PA and to designate a

way forward toward statehood. The purpose of the event would be to signal that Palestinian accomplishments had changed the situation on the ground, opening up new possibilities for progress.¹³⁹ The event would also provide justification for continued donor support to the PA.¹⁴⁰ One option would be a Security Council resolution noting Palestinian institutional and security progress and calling for intensified international cooperation toward the establishment of a Palestinian state on 1967 borders, with negotiated land swaps.

Another option would be for the Quartet to recognize, perhaps at an international meeting, that the Palestinians have fulfilled their Phase I Road Map commitments. The Quartet might then convene an international conference, as envisaged in Phase II of the Road Map, to focus international efforts on “the option of creating an independent Palestinian state... as a way station to a permanent status settlement.” A Quartet/Road Map international event has certain advantages: the PA, at least, is eager to have Quartet (rather than only the US) endorsement of its work;¹⁴¹ the Road Map has “international legitimacy” because it has been endorsed by the UN Security Council;¹⁴² and the Road Map provides an agreed way forward. Alternatives to a Quartet conference include a new Security Council resolution endorsing Palestinian progress, or some other type of international political event.

This process should be accompanied by an opening-up of Palestinian political life. The elections currently scheduled for 2011 provide an opportunity for debate about Palestinian government, and for discussion about the broader idea of progress toward Palestinian statehood.

How would this affect the political context and the situation on the ground?

If it were implemented effectively, this process would lead to noticeable changes in the way the PA operates, serves its citizens, and provides security. Services would improve, adding to the PA’s performance legitimacy, and the PA would become increasingly visible and present in the lives of Palestinians. This would help to create a

sense of loyalty and belonging to the nascent state.¹⁴³ It would simultaneously build confidence on the Palestinian side that the occupation was on its way out, helping to convince Palestinians that, as one commentator put it, the Fayyad government’s strategy was “the smart man’s way to achieve Palestinian aspirations.”¹⁴⁴ On the Israeli side, too, the process could gradually build public confidence that de-occupation without unacceptable security threats might be possible. This would not, by itself, overcome Israeli proponents of continuing occupation and settlement of the West Bank. A stronger, more convincing Palestinian Authority would, however, help to strengthen political voices in Israel calling for eventual de-occupation. Some commentators argue that de-occupation is a prerequisite for a successful peace deal.¹⁴⁵

A low-profile route such as this one has scope to enhance the standing and legitimacy of the Fayyad government without a “moment of truth” that could provoke Palestinian political crisis. The route would not constitute an explicit alternative to PLO-led negotiations, nor would it require a major PLO or presidential policy decision. The president would, of course, need to lend his overall support to the prime minister, but moving forward in this way would not constitute a break from the past: there are already precedents for agreements between the government of Israel and the Palestinian Authority.¹⁴⁶ It could be implemented alongside a gradual re-introduction of open political debate, dialogue, and competition, starting with local elections in summer 2011.

The results of pursuing this route should be evident to Palestinians and Israelis mainly in terms of outcomes rather than process. Implementation is, therefore, crucial: without effective implementation, this approach amounts to nothing, or worse than nothing. Unless changes on the ground were significant and noticeable to Palestinians, critics of the Fayyad government in Ramallah and Gaza would be able to argue that Fayyad had failed in his objective and was simply beautifying the occupation.

How, then, to ensure that the measures agreed between Israel and the PA are implemented? The precedents are not encouraging.¹⁴⁷ International processes such as

monitoring have some scope,¹⁴⁸ but the most important change that must occur is that the government of Israel must seek a continuation of the approach pursued by the Fayyad government. As Robert Danin puts it, the government of Israel must suspend its ambivalence and recognize that Fayyad and Abbas “are the best partners Israel is ever likely to find.”¹⁴⁹ Events in the region, and pressure from inside Israel to seize the initiative, may encourage the government of Israel to support neighbors with whom it can work.

The Quartet and other international actors can help elevate implementation of the Fayyad plan from the technical to the political. To date, they have not done this consistently: the Fayyad program has been endorsed by the Quartet, but it is uncontroversial and has been a lesser priority than bilateral negotiations. The US, in particular, “has tended to focus its high-level attention on negotiations, while leaving subordinates to do the important work on the ground to support Palestinian state-building.”¹⁵⁰ Quartet members need to take a policy decision that implementation of the Fayyad government’s program is a political priority. The United States, European Union, Russian Federation, UN, and members of the AHLC need to send a clear, consistent message that the changes sought by Fayyad are important and that Israel must take action to facilitate them.¹⁵¹

Conclusion

The Palestinian Authority government led by Salam Fayyad has made three important contributions to Palestinian state-building. First, it has consolidated and professionalized the PA’s institutions in key areas, including management of public finances and security.¹⁵² The political case for statehood is strengthened if one can argue that core institutions already exist, and are capable of performing state functions responsibly. Second, the PA has maintained a period of calm – even of optimism – in the West Bank, preventing a further decline in Palestinian human and physical capital. Third, under Fayyad’s leadership the PA has helped to keep the idea of two states alive in Palestinian and Israeli public consciousness. One of the prime minister’s overall objectives has been to transform Palestinian statehood “from the realm of

the concept” into something that is regarded by both Palestinians and Israelis “as totally possible.”¹⁵³ “Getting that majority to really believe it can happen is the challenge that has for long been underestimated,” he argues. Fayyad and his team have helped to begin the process of transforming Palestinian statehood “from a concept to the realm of possibility,” if not yet to the realm of reality.¹⁵⁴

The process of Palestinian state-building is incomplete, however. International recognition of Palestine in 2011 would be unlikely to lead to the establishment of a state that monopolizes the legitimate use of force within the territory claimed by the PLO. Two large political impediments remain. The Israeli occupation is the first, heaviest, and most obvious of these. The Palestinian political situation is the second impediment: Palestinians are not united behind the idea of statehood that is being proposed by President Abbas and promoted by Salam Fayyad. State-building (as opposed to institution-building) is a profoundly political process, one that involves a progressive strengthening of the relationship between the state and society, so that the state comes to be regarded by the vast majority of its citizens as the legitimate source of public authority.¹⁵⁵ State-building requires an effective political process for negotiating the mutual demands between the state and societal groups.¹⁵⁶ Construction of a resilient Palestinian state cannot take place in a context in which Palestinian political life is “suspended,” partly as a consequence of external pressures.¹⁵⁷

Opening Palestinian political life, freeing up internal dialogue and political bargaining, is of course risky. US and European policies have long been influenced by the idea that “inconvenient Palestinian politics can and should be delayed because a negotiating breakthrough is just around the corner.”¹⁵⁸ But the political dimension of Palestinian state-building has to happen at some point. A transition from the present leadership is inevitable, even if it is not imminent: new leaders must emerge to articulate options for the Palestinian state, and these leaders can come forward only through dialogue among Palestinians.

2011 may, in fact, offer important opportunities for the Palestinian leadership to encourage political debate

around non-violent routes to Palestinian statehood. Across the Arab world, “moderate” and “hardliner” labels are breaking down, new political players and alliances are emerging, and proponents of clean, secular democratic government have begun to offer alternatives to discredited old regimes and to Islamist parties.¹⁵⁹ There is, according to Marwan Muasher, a “unique window of opportunity to spur a new discourse” in the Arab world, one that combines a commitment to peaceful means with political pluralism and inclusiveness.¹⁶⁰ In the Palestinian context, popular interest in political life and political action may also have increased as a result of events in Egypt, Tunisia, and elsewhere. People have seen popular movements delivering irreversible political change. Transformations that the US has been trying for years to achieve have been brought about by the largely peaceful actions of ordinary people. There is a growth of confidence among Palestinians’ closest Arab neighbors, among whom a “deep sense of impotence and failure” has been superseded by collective optimism.¹⁶¹ This change carries with it tremendous positive potential. A transformation of Palestinian political scene is almost inevitable in this regional context; this transformation is more likely to proceed calmly if a process is agreed, and can proceed under the unifying authority of President Abbas.¹⁶²

Palestinians still have a long way to go. In mid-January 2011, Hussein Agha and Robert Malley argued that Fayyad’s accomplishments would not make the necessary difference to the cause of Palestinian statehood: “history is not in the habit of rewarding good behavior; it is a struggle, not a beauty contest.” They painted a stark picture of the state of the conflict: “Today,” they wrote, “there is little trust, no direct talks, no settlement freeze, and, one at times suspects, not much of a US policy.... This is probably not what the world had in mind when Obama took office.... It won’t get better any time soon.”¹⁶³ Despite the changes under way in the region, many elements of this picture are likely to remain; and it is far from clear in which direction Israelis and Palestinians will be pushed by the upheaval. What has changed, however, is the deadlock: the region is moving, and with it the Israeli-Palestinian conflict. The challenge, for Palestinians, Israelis, and their international partners, is to build rapidly on the positive dimensions of this complex picture.

Endnotes

¹Ezzedine Choukri-Fishere, "The Arab World's Tipping Point," *Al-Ahram Weekly*, December 30, 2010.

²Ezzedine Choukri-Fishere, "All Arabs Will Hear My Street Corner Chatter," *Financial Times*, February 5, 2011.

³Robert Malley and Hussein Agha, "Who's Afraid of the Palestinians?," *New York Review of Books*, February 10, 2010.

⁴A notable exception was Daniel Levy, who argued in December 2010 that "Palestinian civil-society leaders and non-officials ... are pursuing a popular strategy which puts Palestinian freedom first (whether in a truly independent sovereign state of their own or in one shared state), that pushes for sanctions against Israel for its continued denial of their freedom, and pursues nonviolent struggle and protests in villages across the West Bank. Making that transition will not be easy for those who the West recognizes as the official Palestinian address and interlocutor. That transition will not happen tomorrow, but it is fast becoming the most-likely game-changer in the foreseeable future. This trend was given a significant shot in the arm by the latest debacle of the rejected moratorium incentives deal and the way it exposed the naked lack of credibility of the existing peace process industry." Daniel Levy, "The Palestinians Won This Round," *The National Interest*, December 10, 2010.

⁵Fayyad interview with *The Times*, London, cited by Daoud Kuttub, "Getting Real about the Palestinian State," American Task Force on Palestine, September 10, 2009.

⁶"The Palestinian Authority was not intended to be a home for the Palestinian people living in the occupied Palestinian territory forever as a government framework. It was intended to be an interim mechanism or framework, something that was, over time, within the course of five years, it was thought then, since the beginning of Oslo, going to transform itself into the institutions of a state of Palestine, which once again was and continues to have to be something that we expect to emerge on the territories occupied in 1967." Salam Fayyad, "Building Palestine under Occupation," speech at the New America Foundation, September 23, 2010.

⁷"Palestinian PM to Haaretz: We Will Have a State Next Year," Akiva Eldar, *Haaretz*, March 2, 2010. Fayyad has made this point repeatedly since the *Haaretz* interview. In late July 2010, he said, "It is our hope and expectation that by then [August 2011] the political process will have produced an end to the Israeli occupation. That's our hope and expectation. If it hasn't, then the reality of the state would be so obvious, so strong, so compelling as to exert so much pressure on that political process to produce." (Interview, Palestine Note, July 30, 2010). On February 12, 2011, he told *Slate* magazine, "Over the next few months, if we manage to project a sense of maturity, mature institutions of the state functioning, performing up to high international standards, then to the whole world this must look like a case where the only thing that is anomalous about the situation is the continuing Israeli occupation. That is when there will be tremendous pressure on the political process to end the occupation."

⁸In September 2010, the World Bank stated, "If the Palestinian Authority (PA) maintains its current performance in institution-building and delivery of public services, it is well-positioned for the establishment of a state at any point in the near future." *The Underpinnings of the Future Palestinian State: Sustainable Growth and Institutions*. Economic Monitoring Report to the Ad Hoc Liaison Committee, World Bank, September 21, 2010, Executive Summary. In its September 21, 2010, statement the Quartet also "commended the significant progress toward" the goal of building the institutions of a Palestinian state within two years.

⁹The Quartet and the US also acknowledged and to some extent adopted the two-year time frame set by Fayyad. In March 2010, the Quartet stated that "the proximity talks are an important step towards the resumption, without preconditions, of direct bilateral negotiations that resolve all final status issues as previously agreed by the parties. The Quartet believes these negotiations should lead to a settlement, negotiated between the parties within 24 months, that ends the occupation which began in 1967

and results in the emergence of an independent, democratic, and viable Palestinian State living side by side in peace and security with Israel and its other neighbors." Quartet statement, Moscow, March 19, 2010. August 2011 – which is the completion date for the PA state-building program – was also identified by the US administration as the end date for bilateral negotiations. On February 5, 2011, the Quartet reiterated its "support for concluding ... negotiations by September 2011."

¹⁰ Nathan Brown, for example, published a paper in July that was critical of the Fayyad government's progress. He argued, "There simply have been few institutions built in Ramallah since the first Fayyad cabinet was formed in 2007." "Are Palestinians Building a State?," Carnegie Commentary, June 2010.

¹¹"A key measure of governance is the quality and availability of essential services such as health care and primary education. Services comprise a core element of the social contract. Public access to good services indicates that a society is well governed and enables the political leadership to draw continued support for its program." "Service Delivery in Fragile Situations: Key Concepts, Findings, and Lessons." OECD Discussion Paper, OECD/DAC, 2008, p. 13.

¹²"When the state uses social policy as an instrument for the establishment of equal opportunities, the social fabric created can lead to a sense of national unity and a shared belief in common destiny.... Social policy turns the state from an organization into a community of common sentiment and practice: a nation-state." Ashraf Ghani and Clare Lockhart, *Fixing Failed States*, Oxford University Press, Oxford, 2008, pp. 144-45.

¹³The PA cannot, for example, maintain security across its terrain, and its capacity to enable economic development is severely restricted by internal closures and Israeli control of border crossings and trade. This is discussed at greater length on pp.7-8 below.

¹⁴For further analysis of the role of service delivery in state-building in the Palestinian context, see E. Sellwood, *State-Building: The Palestinian Case. A Review of Relevant Literature*. Paper commissioned by UNSCO, December 2009, pp. 30-34.

¹⁵*The Underpinnings of the Future Palestinian State: Sustainable Growth and Institutions*. Economic Monitoring Report to the Ad Hoc Liaison Committee, World Bank, September 21, 2010. The International Monetary Fund also observed that "since 2007, sound and transparent expenditure management and enhanced tax administration have led to a decline in the share of wages and utility subsidies in the budget, a pickup in domestic tax revenue, and a reduction in the recurrent deficit and of donor aid needed to finance it from \$1.8 billion in 2008 to \$1.2 billion in 2010." IMF, *Macroeconomic and Fiscal Framework for the West Bank and Gaza: Sixth Review of Progress*. Staff Report for the Meeting of the Ad Hoc Liaison Committee, New York, September 21, 2010.

¹⁶The Bank noted that "revenues in the first half of 2010 were ... 50 percent higher than in the same period in 2009. ... Income and property tax saw the largest year-on-year increase, 60 and 53 percent, respectively." *The Underpinnings of the Future Palestinian State: Sustainable Growth and Institutions*. Economic Monitoring Report to the Ad Hoc Liaison Committee, World Bank, September 21, 2010.

¹⁷"Why does tax matter? Processes of bargaining and negotiation between states and societal interests are central to the construction of effective, legitimate public authority. These are the means through which societal groups are mobilized to resist overweening governments, common interests are identified, and lasting ways of resolving differences are established. If the aim is to establish effective and legitimate governance, revenue is a particularly good issue for states and societal groups to bargain over." *Signposts to More Effective States: Responding to Governance Challenges in Developing Countries*, Centre for the Future State, Institute for Development Studies, Sussex, 2005.

¹⁸Aspects of this cooperation were described in a speech by Gen. Mike Herzog, former chief of staff to Defense Minister Ehud Barak, at the Washington Institute for Near East Policy, Washington, D.C., October 26, 2010. In its September 2010 report on the Palestinian security sector, Crisis Group notes that "PA, Israeli, and international security officials largely agree that Palestinian capabilities have improved, though the extent of

the improvement and the reasons for it remain somewhat in dispute, as does the question whether, without an IDF presence, Palestinian forces could ensure Israel's security." "Squaring the Circle: Palestinian Security Sector Reform under Occupation," Crisis Group, September 2010, p. 10.

¹⁹"Peace through Security: America's Role in the Development of the Palestinian Authority Security Services," lecture by US Security Coordinator General Keith Dayton, Washington Institute for Near East Policy, Washington, D.C., May 7, 2009.

²⁰"Squaring the Circle: Palestinian Security Sector Reform under Occupation," International Crisis Group, September 2010, p. 16.

²¹For the Palestinians, "reaching some relatively high levels of educational development in the region is a considerable accomplishment" in light of the persistence of instability and conflict. *The Road Not Traveled: Education Reform in the Middle East and North Africa*. MENA Development Report, World Bank, 2008, pp. 168, 180.

²²For analysis of Palestinian and regional health indicators, see World Health Organization West Bank and Gaza Office: <http://www.emro.who.int/palestine/index.asp?page=inpalestine>

²³For details, see *Building Palestine: Achievements and Challenges. Report of the Palestinian National Authority to the Ad Hoc Liaison Committee*. Palestinian National Authority, September 21, 2010.

²⁴See, for example, "Squaring the Circle: Palestinian Security Sector Reform under Occupation," International Crisis Group, September 2010, p. 10.

²⁵On 12 February 2011, the PLO Executive Committee announced that the "Palestinian leadership ... is preparing for Presidential and Legislative elections at a date no later than next September" 2011. See official text of PLO Executive Committee statement, WAFA, 12 February 2011.

²⁶Interviews with academics and officials in Beirut and Jerusalem, September and October 2010.

²⁷The Oslo accords specify that Israel retains security control of the sea, air space, external security, and security of Israelis and settlements. Details of movement restrictions facing Palestinians within the West Bank and from Gaza are provided by the UN Office for Coordination of Humanitarian Affairs, available at www.ochaopt.org.

²⁸This is Max Weber's celebrated definition of the state. See Weber, "Politics as a Vocation," lecture delivered to the Free Students Society of Munich University, January 1919. For a detailed discussion of the functions performed by modern states, see Ashraf Ghani and Clare Lockhart, *Fixing Failed States*, Oxford University Press, Oxford, 2008, especially Chapter 7.

²⁹The Interim Agreement sets out the arrangements for the transfer of agreed-upon civil powers and responsibilities from the Civil Administration to the Council. It specifies that in Area C, powers and responsibilities not relating to territory will be transferred to the Council; powers and responsibilities relating to territory will be gradually transferred along with the redeployments in these areas. The transfer of further civil powers and responsibilities is subject to detailed provisions ensuring, among other things, the land rights of Israelis and the continued provision of services (electricity, water, telecommunications, etc.) to the settlements. It is currently difficult even for judges and prosecutors to travel between parts of the West Bank in which the PA has full civil control.

³⁰The World Bank notes that "potential investors find that exports from Gaza remain restricted; access to the majority of the West Bank's land and water is severely curtailed; East Jerusalem – a lucrative Palestinian market – is beyond reach; their own entry to Israel or WB&G is by no means guaranteed; and the entry of a range of raw materials deemed by Israel to be of dual civilian/military nature entails complex procedures and delays." *The Underpinnings of the Future Palestinian State: Sustainable Growth and Institutions*. Economic Monitoring Report to the Ad Hoc Liaison Committee, World Bank, September 21, 2010, p. 13.

³¹The Economic Annex of the Gaza-Jericho Agreement specifies, inter alia, that the "Palestinians will be able to import [specified goods] in quantities agreed upon by the two sides up to the Palestinian market needs." The needs are estimated by a committee of experts. "Goods imported from Jordan, Egypt, and other Arab countries according to

para 2(a)(1) above (List A) will comply with rules of origin agreed upon by a joint subcommittee." Water resources are controlled jointly: The agreement contains an undertaking on the part of Israel to increase the amount of water allocated to the Palestinians by 28 million cu.m. Any further addition to either side will be based on an increase in the available water resources. The agreement provides for the establishment of a joint water committee that will manage water resources and enforce water policies.

³²For analysis of how the Palestinian self-government authority established by the DOP "does not possess the independent, effective, and sovereign governmental control that is required to satisfy the definition of statehood," see Tal Becker, "Unilaterally Declared Palestinian State: Legal and Policy Dilemmas." Jerusalem Center for Public Affairs, available at <http://www.jcpa.org/art/becker1.htm#es>

³³For a discussion, see *Concepts and Dilemmas in State-Building in Fragile Situations: From Fragility to Resilience*. OECD/DAC, 2008.

³⁴The idea "was of course premised on the assumption that final status would be negotiated relatively quickly." Nigel Roberts, "Hard Lessons from Oslo," in *Aid, Diplomacy, and Facts on the Ground*, Michael Keating, Anne le More, and Robert Lowe, Chatham House, London, 2005.

³⁵The Israeli occupation has been "the greatest shaper of most, if not all, the Palestinian political formations that have appeared" since 1948; "resisting the occupation has become not only the instigator of many political and armed movements, but also the prime measure of popular legitimacy and identified with their very purpose." Khaled Hroub in *Islamist Mass Movements, External Actors, and Political Change in the Arab World*. IDEA, Stockholm, 2008, p. 92.

³⁶For a discussion of the contradictions inherent in the PA security model, see Hussein Agha and Ahmad S. Khalidi, *A Framework for a Palestinian National Security Doctrine*, Chatham House, London, 2006.

³⁷In May 2009, General Keith Dayton publicly described the PA's security offensives in the West Bank as "surprisingly well coordinated with the Israeli army," and quoted IDF commanders saying of the PA forces, "I can trust these guys." Dayton also explained that in January, when "a good portion of the Israeli army went off to Gaza" to implement Operation Cast Lead, the IDF could "trust" the PA to main control in the West Bank. Palestinian leaders were incensed by Dayton's implication that the Palestinian security forces were helping the IDF. Crisis Group cites one Fatah leader who commented after Dayton's speech, "What the hell is he trying to do? Why doesn't he just say I'm a collaborator and get it over with?" For Dayton's speech, see "Peace through Security: America's Role in the Development of the Palestinian Authority Security Services," lecture by US Security Coordinator General Keith Dayton, Washington Institute for Near East Policy, Washington, D.C., 7 May 2009. For Crisis Group analysis, see "Squaring the Circle: Palestinian Security Sector Reform under Occupation," International Crisis Group, September 2010, pp. 10-13.

³⁸See Bitterlemons, November 12, 2007; "Is the PA Beginning to Resemble the SLA?" In this edition, Yossi Alpher argues that "in the short term a patron-client relationship between the IDF and the nascent Palestinian security forces in the West Bank is preferable to the adversarial relationship that characterized the years of the al-Aqsa intifada after 2000. Nevertheless, it is a dangerous relationship because it portrays the Abbas/Salam government as a lackey of Israel, and this can only work to the detriment of a nascent Israeli-Palestinian peace process that in any event enjoys slim chances of success. ... The last thing we and the Palestinians need right now is a Hamas campaign to portray the PLO/PA as the reincarnation of the SLA. Hence Israel in particular should make every effort to enable the renewed Palestinian security establishment to operate as independently as possible."

³⁹For a summary of writings in Arabic and English on PA and PLO mandates and relationship, see *The Contours of a Future State*, compendium compiled by Birzeit University, 2009, p. 23.

⁴⁰UNRWA is mandated to provide services for refugees living inside and outside the occupied Palestinian territory. For more details see www.unrwa.org.

⁴¹At the time, Avi Issacharov reported that sources in Ramallah said relations between the president and the prime minister “hit a rough patch following Fayyad’s interview with *Haaretz* earlier this month in which he hinted that the PA would unilaterally declare a state in August 2011 if peace talks with Israel fail. Abbas and his aides were miffed at what they perceive as Fayyad’s attempt to circumvent his authority and dictate an agenda to the president and the other institutions of the Palestine Liberation Organization.” “Fatah Tensions Flare as Abbas Rejects Fayyad Statehood Plans,” *Haaretz*, April 28, 2010.

⁴²For a thorough analysis of Hamas’s service delivery and revenue collection methods, see *The Public Services under Hamas*, PRIO, 2010. In some areas, Hamas revenue collection has been very successful. “After a decision by Gaza municipality to reduce the fees on water by 20% for those paying on time, the share of citizens who pay for water has reached 70%.” According to a director general in the Gaza Ministry of National Economy, one-quarter of the taxes and fees collected in Gaza comes from cigarettes and fuel smuggled through the tunnels. Hamas has only been “partially successful” in its efforts to raise revenues, however: “The Gaza Finance Ministry estimated in 2009 that USD 4 million was collected locally each month. This represented only 17.5% of the estimated monthly expenditure of USD 30 million.”

⁴³Taghreed al-Khodary asserts that “Palestinians universally credit Hamas for two accomplishments: restoring the judiciary and improving security internally. These two elements of governance have been well received by the population because they make a semblance of normal life possible. Many Gazans also credit Hamas for at least trying to restore other government services. Health services, for example, are insufficient, but Gazans attribute the organization for having eliminated the corruption that plagues them.” “Gaza: A Losing Strategy,” *Carnegie Commentary*, September 20, 2010.

⁴⁴Yezid Sayigh, *Hamas Rule in Gaza: Three Years On*, Middle East Brief, Brandeis University, March 2010, p. 3.

⁴⁵“Despite the latest reconciliation meeting between Fatah and Hamas in Damascus, 30% [of Palestinians] say the separation between the West Bank and the Gaza Strip is permanent, 51% say unity will be resumed but only after a long time, and only 14% say unity will be resumed soon.” *Palestinian Public Opinion Poll No. 37*, Palestinian Center for Policy and Survey Research, Ramallah, October 24, 2010.

⁴⁶Interview with UN official, Jerusalem, October 2010.

⁴⁷*The Public Services under Hamas*, PRIO, 2010.

⁴⁸Interview with Jerusalem-based official, October 2010. Hamas claims that Fayyad “has stolen control in the West Bank” and that his “hands are contaminated with the suffering of thousands of martyrs in the West Bank.” Hamas officials quoted in “Report: Hamas Wants to Try Fayyad over *Haaretz* Interview,” *Haaretz*, March 4, 2010.

⁴⁹One senior diplomat with extensive experience and contacts in Gaza told us that the men running the Hamas ministries were highly pragmatic, and that he could envisage a reunification deal on practical issues (though not full reconciliation) between Gaza and Ramallah “if Fayyad were allowed to go to Gaza for three days.”

⁵⁰“We should not point the finger at each other. Hamas in the Gaza Strip is following the same security doctrine that is followed by the PA in the West Bank. Instead of pointing the finger at each other, why not say that this is a united stand and let us agree on it as a Palestinian stand?” Salam Fayyad, interview with *Asharq al-Awsat*, November 18, 2010.

⁵¹Interview with senior Jerusalem-based diplomat, October 2010.

⁵²Nathan Brown writes, “To the extent that Fayyadism is building institutions, it is unmistakably doing so in an authoritarian context. There is no reason to associate Fayyad personally with the most egregious aspects of this new authoritarianism, but there is no way his cabinet could have been created or sustained in a more democratic environment.” Nathan Brown, “Are Palestinians Building a State?,” *Carnegie Commentary*, June 2010. Khalil Shikaki wrote at the end of 2009 that “in the West Bank, hundreds, mostly Hamas members, are detained for months without charges; torture is routinely used – several detainees have died as a result, and no one has been charged for their deaths. A price has been

paid for the increased security. Most people either do not trust the police, and therefore do not go to the police with complaints, or, in the case of those who do, they are highly dissatisfied with the police’s performance; the ability of people to demonstrate has been severely constrained; and the capacity of some political groups, most notably Hamas, to function freely in the West Bank is hindered. Some human-rights activists worry that the West Bank might eventually turn into a police state.” “Fatah Resurrected,” *The National Interest*, November-December 2009.

⁵³Robert Malley and Hussein Agha summarize Palestinian concerns: “Some Palestinians suspect the [Fayyad] strategy could lead to a state of their own but they are not so sure that would be a good thing. Like the idea of declaring a state or having it recognized, building one on the parts of the West Bank the Palestinians already control carries risks. By normalizing the situation on the West Bank, it could enable the perpetuation of the status quo at low cost and with diminished international attention.” Malley and Agha, “Who’s Afraid of the Palestinians?,” *New York Review of Books*, February 10, 2011.

⁵⁴“During the 1960s and 1970s, the PLO managed to capture the imagination, support, and even revolutionary romanticism of Palestinians by being the bridge to their aspirations for the liberation of Palestine. By adopting the ‘popular war for liberation’ as its strategy, it both reflected and built the Palestinian psyche in a way that was extremely difficult to challenge. Without being democratically elected, the PLO not only enjoyed an uncontested legitimacy and claim to be the representative of the Palestinian people, but also became the source of any collective legitimacy.” Khaled Hroub in *Islamist Mass Movements, External Actors, and Political Change in the Arab World*, IDEA, Stockholm, 2008, p. 96.

⁵⁵For analysis of the transfer of the “mantle of resistance” from Fatah to Hamas, especially following the 2008–09 Gaza war, see *Palestine: Salvaging Fatah*, International Crisis Group Middle East Report No. 91, November 2009, esp. pp. 4–5.

⁵⁶Mustafa Barghouti, leader of the Palestinian National Initiative, states that Palestinians “want a democratic state where we can choose our leaders and our government. We do not want them appointed by foreign powers, who claim to act in our name. A real state requires that people live in freedom and prosperity, with dignity and full rights – and not with constant machinations from one party or another that subverts this process. Such maneuvering only squelches Palestinians’ democratic rights and sets back the cause of peace.” “The Slow Death of Palestinian Democracy,” August 25, 2010, available at www.almubadara.org. Omar Barghouti is more explicit: “The current PA government has never won the necessary constitutional approval of the democratically elected Palestinian Legislative Council. Even if it had such a mandate, at best it would only represent the Palestinians living under Israel’s military occupation in the West Bank and Gaza, excluding the great majority of the people of Palestine, particularly the refugees. ... The fact is the PA has been gradually and irreversibly transformed since its establishment 15 years ago from a mere ... subcontractor of the Israeli occupation regime ... into a willing collaborator that constitutes Israel’s most important strategic weapon in countering its growing isolation and loss of legitimacy on the world stage as a colonial and apartheid state.” Omar Barghouti, “Dissolve the Palestinian Authority,” *Counterpunch*, October 5, 2009.

⁵⁷Hamas officials quoted in “Report: Hamas Wants to Try Fayyad over *Haaretz* Interview,” *Haaretz*, March 4, 2010.

⁵⁸Khalil Shikaki, “Fatah Resurrected,” *The National Interest*, November-December 2009.

⁵⁹Fatah official Fatmi Za’areer, for example, commented in November, “The political reality is that all what the Fayyad government is doing is a translation of the president’s and Fatah’s platform and vision. The prime minister does not have a private vision. The government is in fact the government of the president and the PLO, contrary to what is being said here and there.” Fatmi Za’areer, quoted in *Jerusalem Post*, “Fatah Official: Fayyad Is an Ingrate,” October 31, 2010.

⁶⁰*Home Stretch to Freedom: Second Year of the Government Program*, Palestinian National Authority, 2010, p. 3.

⁶¹Authors of a recent study for the OECD/DAC on state-building in fragile contexts describe sources of state legitimacy as follows: “embedded or residual legitimacy, deriving from prior state formation or other historical dynamics; performance legitimacy, which derives from effective and equitable service delivery; and process legitimacy. Legitimacy can also derive from international recognition and reinforcement, although this especially can be at odds with domestic sources of legitimacy.” *Concepts and Dilemmas in State-Building in Fragile Situations: From Fragility to Resilience*, OECD/DAC, 2008, p. 17. No state relies on a single source of legitimacy, so improving the quality of public services, for example, is unlikely on its own to lead to increased state legitimacy. To be capable of withstanding shocks and challenges, the Palestinian state needs to derive legitimacy from all four sources. For further details and analysis, see *The State’s Legitimacy in Fragile Situations: Unpacking Complexity*, OECD/DAC, 2010.

⁶²Prime Minister Salam Fayyad, “Building Palestine under Occupation,” speech at the New America Foundation, September 23, 2010.

⁶³The OECD, in a recent study of the role of political legitimacy in state fragility, argues that “a political order, institution, or actor is legitimate to the extent that people regard it as satisfactory and believe that no available alternative would be vastly superior. Lack of legitimacy is a major contributor to state fragility because it undermines state authority, and therefore capacity. ... State legitimacy matters because it provides the basis for rule by consent rather than by coercion. ... At very early stages of state-building, perceptions of legitimacy can support or inhibit the negotiation of a political settlement. At later stages of building state capacity, legitimacy is also central to the establishment of constructive state-society bargaining to achieve positive sum outcomes based on mutual interests, and institutionalized arrangements for managing conflict, negotiating access to resources, and producing and distributing public goods. Capacity and legitimacy are distinct but interdependent. In fragile situations a lack of legitimacy undermines the creation of state capacity; and a lack of capacity in turn undermines legitimacy.” *The State’s Legitimacy in Fragile Situations: Unpacking Complexity*, OECD/DAC, 2010, Executive Summary.

⁶⁴A political process is needed to enable the Palestinian polity to manage crises. Without this, the Palestinian government will remain fragile and vulnerable to challenge. “Disequilibrium can arise as a result of extremes of incapacity, elite behavior, or crises of legitimacy. It can arise through shocks or chronic erosion and can be driven alternately by internal and external factors. Resilient states are able to manage these pressures through a political process that is responsive. States that lack effective political mechanisms may be unable to manage the consequences – social disruption, unrest, and violence – that can arise when the state does not meet social expectations.” *Concepts and Dilemmas of State-Building in Fragile Situations: From Fragility to Resilience*, OECD/DAC, 2008, p. 7.

⁶⁵In 2002, President George W. Bush stated that the Palestinian state “will never be created by terror – it will be built through reform.” In 2003, the Performance-Based Road Map to a Permanent Two-State Solution to the Israeli-Palestinian Conflict, to use its full name, set out a number of technical reform measures that the Palestinian Authority was required to take to secure the path to peace. “President Bush Calls for New Palestinian Leadership,” speech in the Rose Garden of the White House, June 24, 2002.

⁶⁶The *New York Times* columnist Thomas Friedman has described “Fayyadism” as “the most exciting new idea in Arab governance ever.” “Fayyadism,” Friedman writes, “is based on the simple but all-too-rare notion that an Arab leader’s legitimacy should be based not on slogans or rejectionism or personality cults or security services, but on delivering transparent, accountable administration and services.” “Green Shoots in Palestine,” *New York Times*, August 4, 2009.

⁶⁷Khalil Shikaki, “Fatah Resurrected,” *The National Interest*, November-December 2009.

⁶⁸Among Palestinians, views about the efficacy of violence seem to vary: “if armed confrontations were to erupt between Palestinians and Israelis ... 47% would support them and 49% would oppose them. Support increases in the Gaza Strip (55%) compared to the West Bank (42%). Nonetheless, a majority of 51% supported and only 44% opposed Hamas’s latest armed attack near Hebron which led to the death of four settlers. ... An overwhelming majority of Palestinians (76%) opposes the PA crackdown on Hamas, a crackdown that took place in the aftermath of the attack on settlers. Only 20% supported the crackdown.” Palestinian Public Opinion Poll no. 37, Palestinian Center for Policy and Survey Research, Ramallah, October 24, 2010.

⁶⁹Interviews with Palestinian officials, Ramallah, October 2010.

⁷⁰Crawford, James, *The Creation of States in International Law*, Oxford University Press, Oxford, 2006, p. 435.

⁷¹The UN General Assembly acknowledged the proclamation, affirmed “the need to enable the Palestinian people to exercise their sovereignty over their territory occupied since 1967,” and decided that the “designation ‘Palestine’ should be used in place of the designation ‘Palestine Liberation Organization’ in the United Nations system” (General Assembly Resolution 43/177, December 15, 1988, adopted by 104-2 [Israel, USA] with 36 abstentions). For details and analysis see James Crawford, *The Creation of States in International Law*, Oxford University Press, 2006, p. 435. Crawford makes an interesting and detailed comparison between the creation of the state of Israel and the non-creation of the State of Palestine in Chapter 9.

⁷²PLO Chairman Yasser Arafat convened a meeting of the PLO Central Committee in Gaza to discuss the matter of a declaration of statehood. Sheikh Yassin of Hamas attended the meeting and supported a declaration of statehood, reportedly in order to liberate the Palestinian government from the Oslo accords. “On the Ongoing Discussions for a Palestinian State Declaration,” *Arabic News*, April 28, 1999. For an Israeli perspective, see, for example, Tal Becker, “International Recognition of a Unilaterally Declared Palestinian State: Legal and Policy Dilemmas,” Jerusalem Center for Public Affairs.

⁷³“A Unilateral Declaration of Palestinian Statehood Would Scuttle the Oslo Accords and the Wye River Memorandum; Arafat Threatens to Declare a State in May 1999,” Government of Israel press release, November 17, 1998.

⁷⁴Palestinian officials indicated in November 2009 that the LAS has already been asked to support a push for recognition of Palestine by the Security Council. “The decision emanates from an Arab follow-up committee (of the Arab League) that was convened recently ... and which agreed to go the Security Council for it to say that it supports an independent Palestinian state,” Mahmoud Abbas, quoted in “Abbas: Only Solution Is to Declare Palestinian State,” *Haaretz*, November 17, 2009.

⁷⁵Nabeel Shaath, for example, wrote on November 10 that “we are exploring options” to get to the goal of statehood, “including our call for international recognition of the Palestinian state on the 1967 borders with East Jerusalem as its capital, as well as its admission as full member to the United Nations.” Nabeel Shaath, Bitterlemons-API, November 10, 2010.

⁷⁶“Building Palestine under Occupation,” speech at the New America Foundation, September 23, 2010.

⁷⁷Fayyad argues that Palestinian and Arab diplomatic efforts should be focused on helping “the international situation to mature in order to make this transformation in thinking. In the middle of 2002, the international community reached the consensus that there is an Israeli occupation that should end. So what is required is to move the international community from this consensus to a consensus to act directly to translate this situation to a fact on the ground. This needs preparation and should precede going to the Security Council.” Salam Fayyad, interview with *Asharq al-Awsat*, London, November 18, 2010.

⁷⁸James Crawford, in his analysis of the Palestinian case, comments that “thus far international law has distinguished between the right to self-determination and the actual achievement of statehood, and for good reason. ... It is one thing for a people, acting through the appropriate

procedures, to choose independence, and another for the representatives of the people actually to assume responsibility for international relations of the territory as well as for its internal government. ... In the situation where state structures have not yet been created in fact, and where serious issues remain to be resolved about the constitution and boundaries of the putative state, its obligations towards minorities on its territory and the question of commitments to respect the rights of neighboring states, statehood should not be regarded as existing, as it were, by operation of law" (Crawford, *The Creation of States in International Law*, Oxford University Press, 2006, p. 447). After implementation of the Program of the Thirteenth Government, it might be possible to argue that the state structures had now been created in fact, and that therefore the Palestinians were now more ready for statehood than they were previously.

⁷⁹In January 2011, the cable television network Al Jazeera and *The Guardian* newspaper published a series of leaked documents relating to the Israeli-PLO negotiations following the Annapolis conference. The documents appear to demonstrate that the PLO was willing to make very substantial concessions to the Israeli side in exchange for statehood, including acceptance that Israel would annex parts of East Jerusalem including a proportion of Sheikh Jarrah. These concessions were rejected by Tzipi Livni, who led the Israeli negotiating team, on grounds that they did not meet Israeli demands. See *The Guardian*, January 23, 2011. Leaked documents and articles available at www.guardian.co.uk.

⁸⁰The academic debate about state recognition is dominated by two competing theories: the constitutive theory, which provides that a state is only a state upon the political act of recognition by other states; and the declaratory theory, which provides that recognition is merely acknowledgement of the existing statehood status. For summaries of each theory and analysis of current practice, see William Thomas Worster, "Law, Politics, and the Conception of the State in State Recognition Theory," *Boston University International Law Journal*, Vol. 27:115. Worster notes: "The controversy over state recognition theory persists because the nature of 'statehood' (and its acquisition) is not only a legal question, but a profoundly political one: no theory of recognition has extinguished competition because no political choice [about the nature of statehood] has gained universal acceptance. The predominant political choice is most frequently deliberate indeterminacy, a co-existence of mutually opposing arguments." James Crawford writes: "Recognition is an institution of state practice that can resolve uncertainties as to status and allow for new situations to be regularized. That an entity is recognized as a state is evidence of its status; where recognition is general, it may be practically conclusive. States, in the forum of the United Nations or elsewhere, may make declarations as to status or 'recognize' entities the status of which is doubtful: depending on the degree of unanimity and other factors this may be evidence of a compelling kind. Even individual acts of recognition may contribute to consolidation of status." *The Creation of States in International Law*, Oxford University Press, 2006, p. 28.

⁸¹John Quigley, in his recently published book *The Statehood of Palestine: International Law in the Middle East Conflict* (Cambridge University Press, September 2010), argues that Palestine is already a state: "The view that Palestine is not a state suffers from four errors. It disregards historical facts that show Palestine statehood dating from the mandate period. It applies criteria for Palestine statehood that are more stringent than those actually followed in the international community. It fails to account for the fact that Palestine's territory is under belligerent occupation. It fails to account for the facts showing the implied recognition of Palestine. ... Palestine should be brought into the community of nations as a full-fledged citizen." For a discussion of the legal arguments surrounding Palestinian statehood, see James Crawford, *The Creation of States in International Law*, Oxford University Press, Oxford, 2006, pp.421ff, esp. p. 436.

⁸²"Collective recognition is ancillary and is not a substitute for action by the competent authorities." James Crawford, *The Creation of States in International Law*, Oxford University Press, Oxford, 2006,

⁸³The LAS member on the Council is currently Lebanon (until January

2012). For internal political reasons, Lebanon would be concerned about taking steps that might reduce the likelihood that Palestine refugees return either to their places of origin or to a new Palestinian state.

⁸⁴At the end of 2009, European Union countries expressed their collective readiness "when appropriate, to recognize a Palestinian state." European Council, Conclusions on the Middle East Peace Process, December 8, 2009.

⁸⁵In 1949, the Security Council adopted Resolution 69: "The Security Council, having received and considered the application of Israel for membership in the United Nations,

1. Decides in its judgement that Israel is a peace-loving State and is able and willing to carry out the obligations contained in the Charter, and accordingly,

2. Recommends to the General Assembly that it admit Israel to membership in the United Nations."

⁸⁶R. Y. Jennings, in *Acquisition of Territory*, writes that "if the new State ... is established with the disputed territory as its sole territory, and its statehood is recognized, it would seem that another claim to sovereignty over the territory is defeated. In short, it is only where there is room for doubt or ambiguity in the definition of the new state's territory that a claim against the territory will survive. A sufficient number of recognitions of the new state clearly implying recognition of its title to the disputed territory would presumably destroy the claim." R. Y. Jennings, *The Acquisition of Territory in International Law*, Manchester University Press, Manchester, 1963. Quoted in Crawford, *The Creation of States in International Law*, OUP, 2006, p. 666.

⁸⁷The United States has never agreed to establishment of the Palestinian State on 1967 borders. In the Rose Garden speech of June 24, 2002, President Bush stated that "when the Palestinian people have new leaders, new institutions, and new security arrangements with their neighbors, the United States of America will support the creation of a Palestinian state whose borders and certain aspects of its sovereignty will be provisional until resolved as part of a final settlement in the Middle East."

⁸⁸Phase II of the Road Map refers to "creation of a Palestinian state with provisional borders... implementation of prior agreements, to enhance maximum territorial contiguity, including further action on settlements in conjunction with establishment of a Palestinian state with provisional borders."

⁸⁹When Palestine applied for membership in WHO and UNESCO in 1989, the relevant bodies deferred the decision on membership while seeking to ensure that Palestine had the fullest possible opportunities (short of membership) in the work of these organizations. Palestine also sought to ratify the Geneva Conventions, but Switzerland declined to accept a "communication" from the Permanent Observer of Palestine "due to uncertainty within the international community as to the existence or non-existence of a State of Palestine."

⁹⁰The Palestinian National Charter (1968), the Palestinian Declaration of Independence (1988), the draft Citizenship Law (1995), and the Basic Law and the Draft Palestinian Constitution (2001) all attempt to outline the legal contours of Palestinian citizenship. Most seek to define the future of Palestinian citizenship within a future Palestinian state, though the Basic Law was designed to serve a temporary function. The draft constitution was criticized because it was argued that attempting to deal with the issue of Palestinian citizenship prior to the establishment of a state could have far-reaching political and legal implications for Palestinian refugees (see, for example, A. Kaye, *Issues of Controversy in the Draft Palestinian Constitution*, Palestinian Centre for Policy and Survey Research, Ramallah, 2004). Some authors have argued that there must be a distinction between Palestinian nationals and Palestinian citizens in order to encompass the peculiarities of the Palestinian case: see, for example, Sari Hanafi, "The Broken Boundaries of Statehood and Citizenship," *Borderlands* e-journal, Volume 2 number 3, 2003. For a summary of Palestinian writings on this subject, see *The Contours of a Future State: A Multipart Compendium of Palestinian Thinking*, Birzeit University, 2008, Part II.

⁹¹In June 2009, Israeli prime minister Binyamin Netanyahu stated that "the territory under Palestinian control must be demilitarized with ironclad

security provisions for Israel. ... If we receive this guarantee regarding demilitarization and Israel's security needs, and if the Palestinians recognize Israel as the state of the Jewish people, then we will be ready in a future peace agreement to reach a solution where a demilitarized Palestinian state exists alongside the Jewish state." Speech at Bar-Ilan University, June 14, 2009.

⁹²A former legal adviser to the Palestinians, interviewed for this project in November 2010, argues that the PA is not precluded from granting citizenship or at least drafting citizenship legislation, and that it has far greater capacity than the PLO to work on this issue. It would, however, need to move very carefully on this issue. In March 2010, when Salam Fayyad was asked in an interview about the "need to absorb refugees" in the new State of Palestine, he replied, "Of course. Palestinians would have the right to reside within the State of Palestine" (Fayyad interview with Akiva Eldar, *Haaretz*, March 2, 2010). Hamas subsequently accused him of surrendering the right of return ("Report: Hamas Wants to Try Fayyad over Haaretz Interview," *Haaretz*, March 4, 2010).

⁹³The Uniting for Peace resolution states that "if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security."

⁹⁴Article IV of the UN Charter states that "membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council."

⁹⁵The expression is taken from the August 2010 International Crisis Group report "Drums of War: Israel and the Axis of Resistance." Crisis Group describes a "uniquely dangerous" situation in the Middle East in which an "axis of resistance" – Iran, Syria, Hamas, and Hizbollah – has been busy intensifying security ties. Crisis Group argues that "involvement by one in the event of attack against another no longer can be dismissed as idle speculation." International Crisis Group, Middle East Report no. 97, August 2, 2010, Executive Summary.

⁹⁶"We have made clear all along that unilateral steps, either by the Israelis or by the Palestinians, undermine the direct negotiation which is the only way to resolve the core issues, reach an agreement, and end the conflict," State Department spokesman P. J. Crowley, quoted by Reuters, November 4, 2010.

⁹⁷In its declaration following the Wye River agreement, the Government of Israel asserted that "a unilateral declaration by the Palestinian Authority on the establishment of a Palestinian state, prior to the achievement of a Final Status Agreement, would constitute a substantive and fundamental violation of the Interim Agreement. In the event of such a violation, the Government would consider itself entitled to take all necessary steps, including the application of Israeli rule, law, and administration to settlement areas and security areas in Judea, Samaria, and Gaza, as it sees fit. Israel reiterates its position, in accordance with the agreement with the PA, that the Final Status must be the result of free negotiations between the parties without the implementation of unilateral steps which will change the status of the area." Government of Israel Decision on the Wye River Memorandum, November 1998, para 8.

⁹⁸The parties agreed in 1998 that "neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip in accordance with the Interim Agreement." Wye River Memorandum, Article V, 1998.

⁹⁹The US veto of the draft Security Council resolution on settlements in February 2011 demonstrates the current limits to the Obama administration's flexibility on the Israeli-Palestinian issue.

¹⁰⁰Several prominent Israelis argue that Israeli recognition of a minimal Palestinian state would be in Israel's long-term interests: the creation of such a state would arguably "dilute" several final status issues, including the refugee question, and ensure that international attention was focused on building the new state rather than on seeking final settlement of very difficult issues, including Jerusalem. Barak's former chief of staff, Gilead Sher, for example, argues that "virtual Israeli-Palestinian disengagement ... would speed up the dialogue over an Israeli-Palestinian territorial accord, along with solid security arrangements." He also believes that "negotiations over such core issues as Jerusalem, refugees, security arrangements, and boundaries would be conducted in a state-to-state context... within the framework of the Arab Peace Initiative," and "the international community, namely the Quartet and moderate Arab countries, would be more committed to look diligently for ways to promote the revitalization of the nascent state." Yossi Alpher argues that "when the dust settles from the failed process ... Israel would be well advised to offer conditional recognition to a self-declared Palestinian state pending settlement of their border and security issues. Solving those issues could be easier on a state-to-state basis, even if the outcome is a stable armistice agreement rather than an elusive end-of-conflict two-state solution." For both views, see Bitterlemons, September 7, 2009. Israeli recognition would also eliminate the possibility of a one-state solution. Some Israeli analysts believe that statehood would force the Palestinians to behave more responsibly with respect to security issues and, in particular, to terrorism prevention: "A major problem Israel faces in dealing with a non-state actor such as the Palestinian Authority is that, unlike state actors such as Egypt or Jordan, classic principles of deterrence and punishment are far less effective, as there is no unified government that asserts control over people, weapons, and terrorist groups. This is illustrated by the split between Fatah in the West Bank and Hamas in Gaza." Maj.-Gen. (res.) Aharon Ze'evi Farkash, JCPA, 2010.

¹⁰¹In late 2010 and early 2011, a number of states recognized Palestine. Brazil, which led the trend, was subsequently joined by Argentina, Bolivia, Chile, Ecuador, Guyana, Uruguay, and Peru. In January 2011, Russian president Dmitry Medvedev stated that his country "supported and will support the inalienable right of the Palestinian people to an independent state with its capital in East Jerusalem." "Russia's Medvedev Backs Independent Palestine," Reuters, January 18, 2011.

¹⁰²See "Israeli Settlements in the Occupied Palestinian Territory, Including Jerusalem, and the Occupied Syrian Golan," Report of the Secretary General, A/63/519, November 5, 2008. The current status of the territory occupied by Israel in 1967 is a matter for continuing debate. For a discussion, see James Crawford, *The Creation of States in International Law*, pp. 421-432.

¹⁰³The Reut Institute has argued that due to the Palestinian constitutional crisis any political process "should avoid a 'moment of truth'... There is a high likelihood that an agreement that would be signed with Israel would not be ratified or ... the results of the ratification process would be bitterly disputed to the point of undermining the foundations of the PA or bringing about its collapse." They also point out that a ratification that depends on an individual's personal signature is risky, as the 1982 agreement with Bashir Gemayel demonstrated. Reut Institute, *Reassessment of Israeli-Palestinian Political Process*, May 2009.

¹⁰⁴Sari Nusseibeh, President of Al Quds University, was asked about the option of declaring a state. He replied: "Well, the Palestinians have been discussing this over a long period of time. They don't have a way of reaching a proper two-state solution so they might, I suppose, go for a virtual solution. I don't think it would do very much." "A Way Past Middle East Deadlock," Council on Foreign Relations interview with Sari Nusseibeh, October 29, 2010.

¹⁰⁵Robert Malley and Hussein Agha argue that of all the non-violent alternatives to a negotiated peace agreement, "arguably the most promising is to seek international acceptance of a Palestinian state on the 1967 borders." This would not, however, "materially affect the situation on the ground. Palestinians would not enjoy greater sovereignty, their capital-to-be in East Jerusalem would still be occupied, the fate of

Palestinian refugees would remain unaddressed. Their initial shock overcome, Israelis might see an advantage: as Palestinians and the international community celebrate the birth of a state and focus on the minutiae of building its institutions in the roughly 40 percent of the West Bank under PA control, pressure to resolve outstanding issues – drawing final borders, dividing Jerusalem, or bringing justice to the refugees – could wane and Israel could be provided with the opportunity to pursue its own unilateral inclinations.” Malley and Agha, ‘Who’s Afraid of the Palestinians?’, *New York Review of Books*, February 10, 2011.

¹⁰⁶“If Palestinians have a state or its equivalent and are celebrated worldwide, if West Bankers can enjoy the fruits of greater self-governance and economic prosperity, then any international drive for tackling the core issues might well fizzle. The priority, at that point, would be to consolidate what has been achieved rather than jeopardize it by reopening more thorny subjects. A profound emotional conflict between two national movements could be transformed into a tedious, manageable interstate border dispute. The greater danger to the Palestinian cause, according to this view, is not the absence of a state. It is the premature creation of one.” Robert Malley and Hussein Agha, ‘Who’s Afraid of the Palestinians?’, *New York Review of Books*, February 10, 2011.

¹⁰⁷The World Bank argues that “the strategic goal of an economically viable Palestinian state is achievable only if Gaza and the West Bank are maintained as an integral economic entity.” *Palestinian Economic Prospects: Gaza Recovery and West Bank Revival*, Economic Monitoring Report to the Ad Hoc Liaison Committee, World Bank, June 2009, Executive Summary. See also *West Bank and Gaza Country Economic Memorandum – Growth in West Bank and Gaza: Opportunities and Constraints*, Volume I: Main Report, World Bank, September 2006.

¹⁰⁸Ghassan Khatib, *Living in Limbo, Bitterlemons*, 10 March 2008.

¹⁰⁹Ghassan Khatib, *Living in Limbo, Bitterlemons*, 10 March 2008.

¹¹⁰The notion of a “deluxe occupation” is from the Reut Institute: “Israel is considered an ‘occupier’ by the international community due to its military presence in the West Bank and the control of its perimeter. On the other hand, as a result of the existence, capacity and activities of the PA, Israel does not carry the full economic, administrative, security and diplomatic responsibility for the Palestinian population under its control.” *Reassessment of Israeli-Palestinian Political Process: Build a state in the West Bank*, Reut Institute, May 2009.

¹¹¹Yossi Beilin, ‘Wait until January’, *Bitterlemons*, 10 March 2008

¹¹²Ali Jarbawi, ‘The Path to a One-state Solution’, *Bitterlemons*, March 10, 2008.

¹¹³“Israel today faces three unattractive choices. It can dismantle the Jewish settlements in the territories, return to the 1967 state borders within which Jews constitute a clear majority, and thus remain both a Jewish state and a democracy... Alternatively, Israel can continue to occupy “Samaria,” “Judea,” and Gaza, whose Arab population – added to that of present-day Israel – will become the demographic majority within five to eight years: in which case Israel will be either a Jewish state (with an ever-larger majority of unenfranchised non-Jews) or it will be a democracy. But logically it cannot be both. Or else Israel can keep control of the Occupied Territories but get rid of the overwhelming majority of the Arab population: either by forcible expulsion or else by starving them of land and livelihood, leaving them no option but to go into exile. In this way Israel could indeed remain both Jewish and at least formally democratic: but at the cost of becoming the first modern democracy to conduct full-scale ethnic cleansing as a state project, something which would condemn Israel forever to the status of an outlaw state, an international pariah.” Tony Judt, ‘Israel: The Alternative’, *New York Review of Books*, September 25, 2003.

¹¹⁴Sari Nusseibeh, Interview with the Council on Foreign Relations, October 29, 2010. “But let us assume, for a minute, that a two-state solution is not going to be brought about. The next question to ask ourselves is, ‘Well then, what is going to happen?’ What will happen, say, in the context of the next few years, if a two-state solution is not reached? Extrapolating from the present situation, the only thing you can forecast happening is very much a kind of South Africa apartheid,

where you have enclaves of Palestinians living under the hegemony – military and otherwise – of Israel; three or four of such enclaves in the West Bank and in Gaza. This kind of situation may seem from Israel’s point of view to be a good interim or long-term solution, but it doesn’t at all satisfy anything from the Palestinian point of view.

“What I’m suggesting is that in this kind of situation – which also may mean that in the long run we may not be able to reach a two-state solution – it is probably better for Palestinians and for the international community to challenge Israel. In that kind of context, instead of putting Palestinians in enclaves and providing them with limited autonomy within those enclaves, to provide them with proper civil rights. If you’re not going to provide them with political rights, than at least provide them with proper civil rights – and not just within enclaves but in the country as whole, so they could actually live freely, travel freely, work freely, have the rights that human beings are entitled to have under any kind of system of democracy government. They would not have the right to hold office or to vote.”

¹¹⁵Sari Nusseibeh, “We Are Running Out of Time for a Two-State Solution,” *Jerusalem Studies*, August 3, 2008.

¹¹⁶Daniel Levy, “The Palestinians Won this Round,” *The National Interest*, December 10, 2010.

¹¹⁷Adnan Abu Odeh, quoted by Rami Khouri, “Dissolve the Palestinian Authority,” *Arab Media Watch*, February 13, 2008.

¹¹⁸In 2008, Sari Nusseibeh told European donors, “If you want to pass on money, do it only on the condition we build a state, in which case it makes sense for you to spend money to build us an international airport. But if in the end there isn’t going to be an independent Palestinian state, why waste your money? Waste your money, if you need to, on integrating us into Israeli society. Makes more sense. Pay the money for us to become part of Israel, to have equal rights. Raise our level of education, bring our standards of living up. But to have the PA taking all this money, creating all this debt, makes no sense. Maybe the Europeans should link the aid they are giving us to real progress in peace talks, so that both the Israelis and the Palestinians will be shocked out of their complacency, or lack of commitment.” Interview with Prof. Sari Nusseibeh, *Jerusalem Studies*, August 3, 2008, available at www.jerusalem-studies.alquds.edu/jers/74.

¹¹⁹Robert Malley and Hussein Agha point out that “virtually everything about mainstream Palestinian politics – its makeup, political methods, sources of support, and diplomatic outlook – argues against a return to armed struggle. Violence would compromise the foreign support upon which the Palestinian Authority has become dependent. It would imperil its effort to build the institutions of a proto-state, which is its most important international selling point, and would threaten the economic and security progress that has become its most potent argument.” “Who’s Afraid of the Palestinians?,” *New York Review of Books*, February 10, 2011.

¹²⁰“The number of individuals depending for their livelihoods on the existence of the PA ranges between 200,000 and 250,000, counting employees, prisoners, and the families of those killed during fighting. Factor in the average family size and it can be said with relative accuracy that more than one million Palestinians depend directly on the PA.” Ghassan Khatib, “Living in Limbo,” *Bitterlemons*, March 10, 2008.

¹²¹According to Yezid Sayigh, “the Tunnels Authority of Hamas earned \$150–\$200 million in 2009. Hamas also benefits from its monopoly over the import and retail sale of cigarettes, as well as from the newly established al-Multazim insurance company, which was awarded the contract to insure all government cars.” *Hamas Rule in Gaza: Three Years On*, Brandeis University, 2009.

¹²²“Israel’s Strategic Landscape: A Diplomatic and Military Assessment,” Policy Forum, Washington Institute for Near East Policy, October 26, 2010. Recording available at:

<http://www.washingtoninstitute.org/templateC05.php?CID=3263>

¹²³Yossi Alpher argues, “Those who argue for the dissolution of the Palestinian Authority without replacing it with an agreed alternative political structure are in effect saying that anarchy and nihilism are better than the PA... Note, by way of illustration, that since the Hamas takeover last June [2007] the PA as originally constituted has already effectively

ceased to exist in the Gaza Strip. This has certainly brought no blessing to either Palestinians or Israelis.” “Suppose They Do It?,” Bitterlemons, March 10, 2008.

¹²⁴Senior Israeli intelligence official quoted by John Lyons, “Only Months to Find Mid-East Peace,” *The Australian*, November 18, 2010.

¹²⁵“Building Palestine under Occupation,” speech at the New America Foundation, September 23, 2010.

¹²⁶“Build, Build, Build Despite the Occupation,” Fadi Elsalameen interview with Salam Fayyad, *Palestine Note*, July 30, 2010.

¹²⁷One former Israeli official, for example, told us that because of the improvements in Palestinian security, it was no longer “heresy” to raise the idea of an international security presence to replace the IDF – although the change had not yet been absorbed by the political echelon in Israel. Interview, Tel Aviv, October 2010.

¹²⁸“A Talk with Palestinian PM Salam Fayyad,” *Asharq Al-Awsat* interview with Ali El-Saleh, London, November 18, 2010.

¹²⁹“Part of what really needs to happen in a hurry, if not the end to the occupation itself, is for there to begin to be signs of it ending... manifestations or events suggestive of an occupation on its way to ending, an occupation regime that’s being rolled back.” Salam Fayyad, “Building Palestine under Occupation,” speech at the New America Foundation, September 23, 2010.

¹³⁰“Dismantle the capricious control regime that’s in force, has been in force... Allow us Palestinians to begin to have formal security presence in Palestinian population centers outside of the cities.” Such changes would “suggest to our people, well, look, things are happening. It looks like that we’re going to become a state. That way the world would reinforce the prospects for the capacity for the political process to deliver.” Salam Fayyad, New America Foundation speech, September 2010.

¹³¹The notion of “political deliverables” is, he stresses, “very important,” especially in the field of security. “You want statehood? Then security has to be done this way. If still people see the Israeli army come into Nablus, Ramallah, people start to wonder. Conversely, if tomorrow Israel says, as I believe it should, as I believe it should have, ‘We are no longer sending troops into Palestinian territories,’ this is huge. There’s nothing that defines a state, or a state in the making, more than where its security services are, not where the security services of the occupation are.” “Build, Build, Build Despite the Occupation,” Fadi Elsalameen interview with Salam Fayyad, *Palestine Note*, July 30, 2010.

¹³²Interview with the author, Ramallah, September 2010.

¹³³Most of our interlocutors – Israeli and Palestinian – argue that the Interim Agreements are now interpreted selectively by the parties. As the Reut Institute argues, “In recent years many of the working assumptions of the Interim Agreement, which limited the attributes of sovereignty of the PA, have been eroded. Therefore, Israel may choose to transcend this agreement in the West Bank by systematically transferring powers and responsibilities to the PA or by offering to conclude a new interim agreement.” “Reassessment of Israeli-Palestinian Political Process: Build a Palestinian State in the West Bank,” Reut Institute, May 2009.

¹³⁴“Given the fundamental importance of land to economic activity and development, the impact of continued Israeli control of Area C – fully 59 percent of the West Bank – cannot be underestimated. ...The land use and planning regulations in effect in Area C tend to limit development within the confines of existing villages, with too little suitable space for demographic growth, causing irrational land use and unsound environmental management. Predictably, economic activity in Area C is limited primarily to low-intensity agriculture. High-intensity agricultural, industrial, housing, tourism, and other investments are hindered by the inability to obtain construction permits from the Israeli authorities and the limited amount of titled land available.” *The Underpinnings of the Future Palestinian State: Sustainable Growth and Institutions*. Economic Monitoring Report to the Ad Hoc Liaison Committee, World Bank, September 21, 2010.

¹³⁵A team of researchers at INSS led by Shlomo Brom, Giora Eiland, and Oded Eran identified a series of steps that Israel could take, within existing legal and political frameworks, to allow the PA more scope to govern. See

“Partial Agreements with the Palestinians,” *Strategic Assessment* Vol. 12, No. 3, November 2009.

¹³⁶PM Salam Fayyad has already sought to increase the visibility of the PA in East Jerusalem, for example by rededicating schools that have been renovated with PA funds. This has provoked anger from Israeli groups such as the Legal Forum for the Land of Israel, which wrote to the Israeli Public Security Minister that the planned visit by Fayyad was “an attempt to demonstrate Palestinian sovereignty in Jerusalem in a manner that contravenes the law... It seems that there is no activity of a more governmental nature than the inauguration of a school by the PA prime minister within the capital of Israel.” “Rightists Furious over Palestinian Plans for East Jerusalem Schools,” *Haaretz*, October 28, 2010.

¹³⁷Tony Blair Announces Package of Measures for Gaza, West Bank, and East Jerusalem,” Office of the Quartet Representative, February 4, 2011. The former head of the Office of the Quartet Representative in Jerusalem, Robert Danin, has also set out a number of changes that the government of Israel can take to support Palestinian state-building in his article “A Third Way to Palestine,” *Foreign Affairs*, January/February 2011.

¹³⁸There may be some advantages for Israel in promoting a shift from the PLO as the primary Palestinian interlocutor to the PA. The Reut Institute set these advantages out in a 2005 paper, “Policy Options for Switching the PLO with the PA as the Palestinian Interlocutor,” Reut Institute, February 2005.

¹³⁹World Bank statement at the September 2010 Ad Hoc Liaison Committee that “If the Palestinian Authority (PA) maintains its current performance in institution-building and delivery of public services, it is well-positioned for the establishment of a state at any point in the near future” undoubtedly boosted the Fayyad government. *The Underpinnings of the Future Palestinian State: Sustainable Growth and Institutions*. Economic Monitoring Report to the Ad Hoc Liaison Committee, World Bank, September 21, 2010, Executive Summary.

¹⁴⁰During the second half of 2010, the PA faced a serious liquidity crisis due to less than anticipated support from donors. According to the IMF, “the aid shortfalls led to the accumulation of a total of \$118 million in payment arrears including to the pension fund, private-sector suppliers, and development projects. The liquidity difficulties also led the PA to borrow about \$200 million from domestic banks during January to July, yielding a stock of debt to commercial banks of about \$0.8 billion as of end-July 2010.” *Macroeconomic and Fiscal Framework for the West Bank and Gaza: Sixth Review of Progress*, Staff Report for the Meeting of the Ad Hoc Liaison Committee, New York, September 21, 2010.

¹⁴¹Authors’ interviews with PA officials, Ramallah, October 2010.

¹⁴²In UN Security Council Resolution 1515 (2003), the Council “endorses the Quartet Performance-based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (S/2003/529) [and] Calls on the parties to fulfill their obligations under the Roadmap in cooperation with the Quartet and to achieve the vision of two States living side by side in peace and security.”

¹⁴³The development of public services and infrastructure ensures that the state is “visible to its citizens... Several processes in nineteenth-century European state- and nation-building contributed to this increase in visibility: post offices, town halls, police posts, hospitals, schools, etc., were built in many localities; people were hired and paid as police officers, village teachers, railway station chiefs, town hall clerks, etc., thereby creating a sense of loyalty and belonging to the state.” Zoe Scott and Steven van der Walle, “The Role of Public Services in State- and Nation-Building: Exploring Lessons from European History for Fragile States,” Governance and Social Development Resource Centre, 2009, pp. 9-10.

¹⁴⁴Former Israeli government official, interview with the authors, Jerusalem, October 2010.

¹⁴⁵“It is very likely that a full peace and reconciliation will only be achieved after the modalities for de-occupation are in place rather than in parallel with them. This is not a negotiation between equals. There is a huge asymmetry between the parties – occupier versus occupied, coherent functioning state apparatus versus non-state actor with collapsed national movement, and so on. Structuring a negotiation process as if

there were symmetry and without factoring in the above is not smart. The way forward may end up looking more like the US together with international and regional partners negotiating arrangements with Israel for it to evacuate the territory and create the space necessary to allow for the creation of a viable Palestinian state, rather than a classical Israeli-Palestinian negotiation (even one with US mediation). That space would have to be on 100 percent of the '67 territory, allowing for minor modifications of the '67 lines in a one-to-one landswap." Daniel Levy, "Israeli-Palestinian Negotiations Resume – No Fanfare and No New Peace Religion," *The Middle East Channel, Foreign Policy*, May 20, 2010.

¹⁴⁶The Agreement on Movement and Access, for example, and PM Fayyad's negotiations with Israeli Defense Minister Barak to secure Gol agreement to refrain from IDF incursions into Palestinian cities. The Roadmap was also presented to the prime minister of the PA, not the president.

¹⁴⁷The Government of Israel has agreed, for example, with the Quartet Representative to open checkpoints into Bethlehem, but has subsequently failed to do so. The Agreement on Movement and Access also provides another uncomfortable precedent. US diplomatic pressure in support of Fayyad's push for an end to IDF incursions has not so far yielded results, and the Quartet Representative's efforts to gain Israeli permission to build the route to Rawabi have not succeeded either, to date. Israeli analysts who have worked within the government of Israel told us that there is no overwhelming security or other reason why road construction to Rawabi is blocked, but at present the Gol is not eager to support the PA because there has been no policy decision to do so: some cabinet members are asking, "Why should we give this to the Palestinians?"; the leadership is not pushing for the issue; and those within the cabinet who do genuinely seek to support the Fayyad government have very, very little room to maneuver. In this context, decisions that are key to Palestinian progress (such as Rawabi) tend to get bogged down in interminable process.

¹⁴⁸The Road Map specifies that the process of moving toward Palestinian statehood in Phase II would include implementation of prior agreements "to enhance maximum territorial contiguity, including further action on settlements," and specifically mentions an "enhanced international role in monitoring transition, with the active, sustained, and operational support of the Quartet [and] Quartet members." This provision of the Road Map has never been implemented, although Quartet members agreed to it in 2003. The Office of the Quartet Representative could, in this case, be tasked with monitoring implementation of the arrangements.

¹⁴⁹Robert Danin, "A Third Way to Palestine," *Foreign Affairs*, January/February 2011, p. 107.

¹⁵⁰Robert Danin, "A Third Way to Palestine," *Foreign Affairs*, January/February 2011, p. 107.

¹⁵¹How to create the political space to ensure the application of US pressure on Israel is, of course, a crucial question. One analyst argued that the Palestinians need to identify "Charlie Wilsons" in Washington, politicians who become informed about the details of a policy and who would press their Israeli counterparts during meetings to ensure implementation of measures to support the Fayyad government.

¹⁵²The creation of neutral bureaucratic structures is crucial if the state is to emerge as a unifying body for all Palestinians. Chesterman, Ignatieff, and Thakur argue, "One of the most important requirements for making states work ... is the creation of apolitical bureaucratic structures (civil service, judiciary, police, army) supported by an ideology that legitimates the role of neutral state authority in maintaining social order through prescribed procedures and the rule of law." Simon Chesterman, Michael Ignatieff, and Ramesh Thakur, *Making States Work: State Failure and the Crisis of Governance*, United Nations University Press, 2004, pp. 2-3.

¹⁵³"Building Palestine under Occupation," speech at the New America Foundation, September 23, 2010.

¹⁵⁴"Build, Build, Build Despite the Occupation," Fadi Elsalameen interview with Salam Fayyad, *Palestine Note*, July 30, 2010.

¹⁵⁵For a discussion, see *The State's Legitimacy in Fragile Situations: Unpacking Complexity*, OECD/DAC, 2010.

¹⁵⁶*Concepts and Dilemmas in State-Building in Fragile Situations: From Fragility to Resilience*, OECD/DAC, 2008, p. 14.

¹⁵⁷In June 2010, Michele Dunne pointed out that "Prime Minister Salam Fayyad's two-year plan for institution building ... and Palestinian decision making, suffer from a common problem: the suspension of normal political life since the 2007 rift with Hamas and Gaza coup. Without a presidential election, legitimacy is draining away from President Mahmoud Abbas; without a functioning Palestinian Legislative Council (PLC) and its ability to make laws, institution building is severely limited." Dunne argued that "the United States should develop a strategy that patiently supports Palestinian institution building and tolerates the internal Palestinian political competition and bargaining that must accompany it; seeks breakthroughs in negotiations with Israel; and holds the Palestinian Authority to a commitment to prevent violence against Israel." Michele Dunne, "A Two-State Solution Requires Palestinian Politics," Policy Paper, Carnegie Endowment for International Peace, June 2010.

¹⁵⁸Michele Dunne, "A Two-State Solution Requires Palestinian Politics," Policy Paper, Carnegie Endowment for International Peace, June 2010.

¹⁵⁹The new political forces face many challenges. "While most political actors are splintered and inexperienced, the Brotherhood is distinguished by its ability to mobilize supporters and its clear vision. It has a better chance of out-manoeuvring other groups. Early elections before other groups have had time to organize or without guarantees of pluralism and rights could easily push the country into a new form of authoritarianism.... The unfolding of these challenges will have a huge impact on the Arab world. Why does change in Egypt affect the Arab world so much? Whether it is the country's sheer size or its cultural weight, the fact is that it does. New ideas are not always born in Egypt, but they become hegemonic in the region when embraced by Egypt. It was so with nationalism, military rule, and Islamism; it will happen again." Ezzedine Choukri-Fishere, "All Arabs Will Hear My Street Corner Chatter," *Financial Times*, 4 February 2011.

¹⁶⁰Marwan Muasher, "The Arab World in Crisis: Re-defining Moderation," *Policy Outlook*, Carnegie Endowment for International Peace, January 27, 2011.

¹⁶¹Ezzedine Choukri-Fishere, "All Arabs Will Hear My Street Corner Chatter," *Financial Times*, February 4, 2011.

¹⁶²Agha and Malley describe Mahmoud Abbas as "the last Palestinian, for some time to come, with the history, authority, and legitimacy to sign a deal on behalf of all Palestinians that could end the conflict." Hussein Agha and Robert Malley, "Who's afraid of the Palestinians?," *New York Review of Books*, 10 February 2011.

¹⁶³Hussein Agha and Robert Malley, "Who's Afraid of the Palestinians?," *New York Review of Books*, February 10, 2011.



Related Publications from the
Center on International Cooperation

The Role of the United States in Middle East Conflict Prevention

Elizabeth Sellwood

Dilemmas of Regional Peacekeeping: The Dynamics of the AU's Response to Darfur

Sarjoh Bah

Negotiations and Strategy: Understanding Sanctions Effectiveness

Michael Chaitkin

Building a New Afghanistan: The Value of Success, The Cost of Failure

Barnett R. Rubin, Abby Stoddard, Humayun Hamidzada, and Adib Farhadi

Cooperating for Peace and Security: Evolving Institutions and Arrangements in a Context of Changing U.S. Security Policy

Bruce Jones, Shepard Forman, Richard Gowan, eds.,

Annual Review of Global Peace Operations 2011

Power and Responsibility: Building International Order in an Era of Transnational threats

Bruce Jones, Carlos Pascual and Stephen John Stedman

A Plan for Action: A New Era of International Cooperation for a Changed World 2009, 2010 and Beyond

Managing Global Insecurity (MGI)

Conflict Prevention in Southeast Asia and the South Pacific

Elsina Wainwright

CENTER ON INTERNATIONAL COOPERATION

New York University
726 Broadway, Suite 543
New York, NY 10003
(212) 998-3680
cic.info@nyu.edu
www.cic.nyu.edu