Creating an International Network of Democracy Builders
Volume 3

The Palestinian Territories: Optimism with Information / Democracy in the Islamic World

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Do you know the definition of a pessimist? An optimist with information.

—Afif Safieh

Executive Summary

The story of Historic Palestine in the last century may be said to be one without too many heroes. The issue of whether a non-democratic party should be permitted to obtain power through the democratic process is clearly intertwined with the nuances of the history, economy, religion and politics of the region. Nevertheless, tentative conclusions might be reached.

The chief of these is that there are aspects of Islam that would appear to be incompatible with democracy as it is conceived of in the west. These may be attributed to the adherents of the religion who are frequently described as 'fundamentalists', who wish to impose Shari'ah law on their societies. Such an imposition would be incompatible with democracy because it does not accord full rights or status to minority groups and to women. It also features such non-democratic concepts as prohibition of apostasy from Islam and the suppression of a free media and system of justice. From its pronouncements and actions, it would appear that Hamas is seeking to achieve these 'fundamentalist objectives in Historic Palestine.

 Nevertheless there are clearly elements within Islamic society and culture who see no such dichotomy between their religion and participatory and democratic structures. Unlike the fundamentalists, such people represent a diversity of stances. Some consider the Qu'ran to be

a holy book, not a social and political manifesto. Others seek a secular society in which religion plays a moral and confessional role, but is not involved in the due processes of state.

In terms of a search for the rapprochement in Historic Palestine, which, it is clear, is in the interest of most of the concerned parties, US administrations have failed to exercise their full diplomatic clout because they have been over-concerned with addressing domestic constituencies.

In 40 years of occupation, Israel has failed to address the problems of the West Bank and Gaza in economic or political terms. Rather it has behaved as it if possesses the rights of a ruling power without assuming the responsibilities, pursuing its own agenda in terms of settlements, etc, which has proved inhibiting of any genuine progress towards peace.

Without a doubt, the financial and institutional corruption existing around the regime of Yasser Arafat in the Palestinian Territories contributed to the disillusionment of many Palestinians. Many, but not all, observers would consider that his failure to grasp the opportunities offered by Camp David II was a disastrous development for the peace process.

The rise of Hamas did not occur in a vacuum, but in response to a number of circumstances.

From the experience of Turkey in recent years, it would appear that an Islamic society may well seek an Islamic identity. As a cultural manifestation, this need not represent a threat to individual freedoms or social contracts. Nor need the election of an 'Islamic' party represent a threat to democracy, provided that constitutional safeguards are in place to prevent the abolition of rights and liberties, although the role of the Army as guardians of the secular constitution represents a restraint on the abuse of constitutional power that would be better safeguarded in other ways. The failure of Arafat regime to develop such safeguards undoubtedly was a factor of the success of Hamas and the subsequent civil war.

CONTENTS

Acknowledgements

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Acronyms

AIPAC	American Israel Public Affairs Committee
CDHR	Cairo Declaration of Human Rights
CIA	US Central Intelligence Agency
DOP	Declaration of Principles on Interim Self-Government for the Palestinians
EHCR	European Court of Human Rights
EU	European Union
FIS	*Front Islamique du Salut*: Algerian Islamic Party
FMCAT	The Free Muslims Coalition against Terrorism
IDF	Israeli Defence Force
IMF	International Monetary Fund
IRA	Irish Republican Army
MB	Muslim Brotherhood
MEF	Middle East Forum
MENA	Middle East and North Africa
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
PCHR	Palestinian Centre for Human Rights
PLA	Palestinian Legislative Assembly
PLO	Palestine Liberation Organization
PNA	Palestinian National Authority
PNC	Palestinian National Council
PT	Palestinian Territories
UN	United Nations
UNEF	United Nations Emergency Force
UNSCOP	United Nations Special Committee on Palestine
UNWRA	United Nations Relief and Works Agency
USAID	United States Agency for International Development

Glossary

Baya: a pre-Islamic term for an oath of loyalty taken to a rule, which involves mutual obligation.

Caliphate: The political successors of Muhammad, representing the focus of unity in the Muslim world.

Eretz Yisrael: Hebrew term that denotes the boundaries of Biblical Israel.

Fiqh: Arabic term meaning 'full comprehension'. It is a form of jurisprudence which addresses those issues on which the Qu'ran and the Sunnah are either silent or vague. It is based on the interpretations of four Sunni schools, one Shi'ah school and some others in different parts of the Ummah. Unlike the Shari'ah, it is neither sacred nor unchangeable.

Hadd: offences that are most severely dealt with in Shari'ah Law, including adultery, drinking alcohol, apostasy, theft, and highway robbery—but not murder, the punishment for which is at the discretion of the victim's family. *Hadd* penalties include stoning, amputation, lashes, and beheading.

Haganah: Hebrew for "the defence": a Jewish paramilitary force founded in 1920. It provided the basis for the Israeli Defence Force upon the foundation of the state in 1948.

Ha-Yishuv: Hebrew term referring to the Jewish community in Palestine before the establishment of the State of Israel.

Hijab: from the Arabic word for "cover." The term represents both a Qur'anic injunction on modesty among women and the garment that does that. Today it is most associated with a headscarf, but it can mean any garment that fulfils that obligation.

Ijtihad: a technical term of Shari'ah Law describing the process of making a legitimate legal decision through examining the legal sources, the Qur'an and the Sunnah.

Intifada: literally means "shaking off." It is generally translated into English as "uprising."

Irgun: an abbreviation for *Ha'Irgun Ha'Tsvai Ha'Leumi B'Eretz Yisrae* (National Military Organization of the Land of Israel), a Jewish terrorist group that operated in Palestine between 1931 and 1948.

Jihad: a term meaning "struggle." Its usage has acquired both violent and non-violent meanings. It can denote a "holy war" against the Kāfir, or a personal struggle for righteousness. It is often rendered in the Western media as holy war, which is not entirely accurate.

Kāfir: literally an "ingrate." The term is Qur'anic and can describe non-believers, apostates, and even Muslims from different sects. There is some dispute in the Muslim community as to whether Christians and Jews are *kāfir*. They are often described as "people of the Book."

Mujahadin: a military force of Islamic warriors engaged in a jihad.

Qur'an: literally means "the recitation." It is the central religious text of Islam. Muslims believe its text to be the direct words of Allah, revealed to Muhammad over a period of 23 years.

Salafi: Arabic for "predecessors." Salifism (known in the west as Wahhabism) is an austere movement founded by Muhammad Ibn Abd al Wahhab in the eighteenth century to purify Islam from what he regarded as accretions and restore it to its original purity of the time of the Prophet.

Shari'ah Law: a system of divine law and practice. Literally the word means "path" or "path to water." It is not just a legal system but governs all aspects of life, from human relations to banking.

Shura: a Qur'anic concept meaning "mutual consultation."

Sunnah: literally means "trodden path": those religious actions instituted by Muhammad that Muslims received through the oral testimony of his companions.

Surah: a chapter of the Qu'ran.

Ulama: Islamic scholars

Ummah: Muslim community. The term is commonly used to mean the whole Muslim world.

Introduction

> *O Isaac, can we live free at last?*
> *O Ishmael, with justice in the land?*
> *We are brothers, can we live in peace again?*
> *O Abraham, father, can we heal your broken heart?*

—Rabbi Leila Gal Berner

The myth of origin that Ishmael and Isaac, the two sons of Abraham, founded the Arab and the Jewish nations respectively is one that is accepted in both cultures—with one vital exception. In the Muslim tradition, Ishmael is the son whom Abraham offers to God in sacrifice. In the Jewish tradition, it is Isaac. The issue may be said to symbolize the Palestinian-Israeli conflict and whether it is to be resolved on the basis of paternal heritage or perpetuated by fraternal discord.

The history of Palestine in the twentieth century has been an unfortunate one for all parties involved. While having fought for and achieved a state, the Jews of Israel have not attained peace and have seen the international reputation of their state severely damaged. Even less fortunate, the Palestinians have lost their land, and many have lost their lives. They have found themselves pulled between players, including some of their own leaders, who have not shared their goals. However, as is often the case in such situations, those who view the solution as being paradigmatically different, a view increasingly held by many Palestinians, have filled the void. The Islamic organization Hamas, from its inception through to its success in being elected to power, has sought to deal with the issues facing Palestinians in a way previously unknown to them and as such has made certain political gains where others have not, and at their expense.

In order to gain a full understanding of the current situation in Palestine, it is necessary to commence with a review of the tumultuous events and forces that have shaped it. Of particular note is the active role of external actors in the recent history of the region, which

has frequently escalated its conflicts and issues onto a global scale. A good starting point is to employ the democratic evaluation framework developed by George Perlin of the Centre for the Study of Democracy (CSD) at Queen's University.[1]

As the Queen's report states, "democratic development is complicated with no easy answers."[2] Perlin defines democratic development "as the establishment of institutions and processes of governance that promote and protect liberal-democratic values."[3] Democracy, at its core, is a normative concept. Based on this definition, the Centre for the Study of Democracy has proposed a model of democratic development that can be used by policy-makers, program administrators, and practitioners to help define their objectives in particular situations and decide on the means that are most likely to help realize these objectives.[4] This report will briefly summarize the CDS model, and then use Perlin's typology of factors from his "theory of change" model (see Appendix I) on the creation of democratic values to organize an analysis on the history of Palestine and the recent attempt to create a democratic culture and institutions.

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[1] Axworthy, 2008, 23-31.

[2] Ibid 16.

[3] Ibid 23.

[4] Ibid 24.

Theory of Democratic Change

The Perlin model represents what a developed liberal democracy *should* look like, not in terms of characteristics of established regimes, but as an *ideal standard*.[5]   It is intended to serve as a reference point for evaluating where a particular country may be on the path to democratic development, for identifying areas where assistance may contribute to democratic development, and for assessing the probable effectiveness of particular forms of intervention. It establishes indicators that can be used to identify discrepancies between real political practice in a particular system and the most *desirable* forms of political practice. By seeking to explain these discrepancies, the analyst can assess their significance for overall system performance in realizing democratic development, and can evaluate the utility of potential methods for improving system performance. Analysis based on this conception of democratic development has the virtue of recognizing that there are likely to be many different paths toward democratic development reflecting the differing economic and social conditions in, and political and cultural experiences of, countries embarked on its achievement.

The first part of the model is derived from the proposition that there are two sets of organizing principles through which liberal-democratic values are given effect. One is summarized in the concept of liberal-constitutionalism, which comprises the principles of constitutional or limited government, the entrenchment of enforceable rights, the rule of law (incorporating the principles of the supremacy of law, equality before the law, and the impartial and fair administration of the law), and democratic control of institutions of state security. This principle is well understood by Palestinian theorists and activists. Hanan Ashrawi, a prominent spokeswoman for the Palestinian delegation in the 1991 Madrid peace talks, wrote her memoirs as the Palestinian National Authority (PNA), the first serious self-rule of Palestinians in Palestine, began its work. She warned,

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[5] Axworthy, pp 23-31.

> The political and security structures took precedence over institution-building and the enhancement of civil society. The legal system remained fragmented and contradictory and the judiciary incomplete. So did the regulations and work systems that were badly needed to create professionalism and accountability as the procedural requirements of nation-building.[6]

The second aspect of Perlin's model is summarized in the concept of popular sovereignty under a system of representative democracy, which subsumes those principles that give effect to democratic decision-making: the existence of governing institutions and processes that are effective, responsive, and accountable to citizens; the selection of political elites through regular, free and fair, competitive elections; the accountability of elites to citizens; a genuinely competitive system of party politics effectively representing a broad spectrum of societal interests and contributing to accommodation of diverse interests; a system of group politics based on the principles of pluralist theory; and a system of political communication providing for a free flow of ideas and information. Palestinians also have wise things to say about sovereignty. Edward Said, the world famous Palestinian author, emphasized the above democratic requirements for Palestine frequently in his writing. Years after the PNA had begun operating, Said—along with other well-known Palestinian activists and intellectuals—issued a declaration calling for radical change in the Arafat regime. He wrote,

> The declaration's boldest sections focus on the need to improve the internal Palestinian situation . . . above all, to strengthen democracy, rectify the decision-making process (which is totally controlled by Arafat and his men), assert the need to restore the law of sovereignty and independent judiciary, prevent the further misuse of public funds, and consolidate the functions of public institutions so as to give every citizen confidence in those that are expressly designed for public service.[7]

It needs to be emphasized that the model presents an ideal standard of democratic development that likely will never be fully realized. As such, this case study does not explore

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[6] Ashrawi, 1995, 15.

[7] Retrieved from http://www.thenation.com/doc/20020204/said. On 08/24/08.

every indicator outlined by Perlin, but uses his approach as a guideline to explore those principles of liberal democracy that do apply in the Palestinian context.

Further, Perlin's theory acknowledges that liberal democracy is constantly evolving. The practices of democratic governance as they exist in established democracies today are the result of a constant process of adjustment, reflecting continuing debate about how best to realize the purposes of liberal democracy. There is no universally applicable best way to organize the practice of democracy; democratic governance can be understood to embrace many different sorts of institutional arrangements.

Perlin rightly emphasizes the conditions necessary for the achievement and sustainability of a democracy, and the creation of a democratic political culture is foremost among these. The first part of this paper surveys the modern history of Palestine and assesses the extent to which these consolidating factors are present. This section identifies many of the obstacles to democracy in Palestine—lack of economic development, civil instability, corruption, the terrible plight of the Palestinians in refugee camps, and the failed peace process.

As Ashrawi and Said make clear, there is much to criticize in the performance of the Palestinian National Authority (PNA) under President Arafat with regards to the principles of liberal-constitutionalism. But it must not be forgotten that, from day one, the PNA laboured under a heavy external burden. The external factors affecting the emergence of democracy in Palestine—namely, Israel and the United States—are the focus of the next section.

The Oslo Agreements that brought Arafat back to Palestine and established the Palestinian National Authority still left critical issues, like the future of the settlements, boundary demarcations, and the status of Jerusalem, reserved for ongoing negotiations. The constant supervision of Palestinians by the Israeli authorities in Gaza and the West Bank continued. Therefore, unlike South Africa, for example, where Mandela's African National Congress, upon taking power, at least had full sovereignty over the territory of the state, Arafat's PNA

was subject to the security demands of Israel. Moreover, the United States has failed to exercise its diplomatic clout because of powerful domestic lobbies.

The Perlin model raises important questions about the transition to democracy in Palestine.[8]

- *Political Engagement of Citizens*
    - Have citizens typically been interested and informed participants in politics and public affairs?

- *Democratic Political Culture*
    - Have citizens and state elites been committed to liberal and democratic values and the legitimacy of a liberal-democratic constitution?

- *Civil Society*
    - Have networks of groups formed around any social, economic, or cultural interests, outside the sphere of state authority?

In Perlin's model, the free and fair election of political elites is a basic component of popular sovereignty. But the success of Hamas raises the fundamental issue of what the response should be when free and fair elections produce a party that rejects democratic norms. The future of Palestinian democracy is obviously crucial for Palestinians, a people who have been dealt a bad hand throughout the twentieth century, and it is crucial as well for stability with Israel and other states in the Middle East. But the evolution (or not) of Hamas is also of central importance to democratic theorists, as it is a test case of the potential conflict between two key aspects of the democratic model—the necessity for a culture of tolerance vis-à-vis the primacy of popular sovereignty, which, from time to time, throws up a successful party that challenges the underlying conditions of democracy itself. This dilemma is discussed in "The Hamas Challenge."

This next section, "Constitutionalism and Sovereignty," analyzes the electoral success of the Hamas party in light of the operating principle of popular sovereignty as expressed by representative democracy. The examination is twofold: How does Hamas's success fit within

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[8] See Appendix I.

the elements of popular sovereignty; and to what extent does Hamas embody the elements of a liberal democracy?

Questions relating to popular sovereignty include

- *Governing Institutions*
    - Are Palestinian governing institutions (under Hamas) effective, responsive, and accountable to citizens?
- *Elections*
    - Have political elites been chosen through regular, free, and fair elections?
- *Party Politics*
    - Is there a genuinely competitive system of party politics that represents a broad spectrum of societal interests and accommodates diverse interests?
    - Does the electoral system in Palestine produce outcomes that represent the distribution of party support?
- *Representative Government*
    - Does Palestine's political system represent its citizens' interests (based on the principles of pluralist theory)?

The compatibility of violence with democracy is not unique to the Hamas challenge in Palestine. In Israel, the former leaders of extremist organizations gradually accepted democratic norms, and two of them eventually rose to become prime minister. In Northern Ireland, we have another example of violence and extremism that, finally, after a generation of turmoil, has moved toward democratic peace and stability. The section on Northern Ireland explores approaches to dialogue that may be relevant to the conflict between Fatah and Hamas and between Israel and Palestine.

The rise of Hamas highlights a central dilemma of democratic theory: What happens when the principles of liberal-constitutionalism are at odds with the results of a free and fair election? The final sections of the paper draw general and specific conclusions on this contentious issue.

Consolidating Factors: A Survey of Modern Palestinian History

Ottoman Palestine and the British Mandate

During the period of the Ottoman Empire's rule over historic Palestine,[9] there was no administrative unit of this name. The region was divided into a number of district administrations that were part of the wider area of suzerainty known as Syria. In practice, the local governors enjoyed a great deal of autonomy. The great majority of inhabitants were Arabs. The pograms in Tsarist Russia saw an upsurge in Jewish immigration between 1881 and 1914, with some 70,000 refugees arriving in that period.[10] Most of the migrants were motivated by an idealistic desire to enhance the Jewish presence in the Holy Land. In such an underdeveloped terrain, however, the struggle was too much for many. About half of them moved on. In 1914, 7.6 percent of the population was Jewish.[11] Most of these Jews lived in Jerusalem, where they constituted an estimated 64.4 percent of the population.[12]

During the First World War, the Allied powers, needing to make gains against the Ottomans and secure the strategic importance of the region for post-war benefit, supported the self-determination of both the Arab and Jewish inhabitants of Palestine.[13] To this end, several contradictory agreements concerning the future of the region were issued. The McMahon-

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[9] Historic Palestine refers to the area of the former British mandate—Israel, the West Bank, Gaza, and East Jerusalem. It is not intended to have any political connotation.

[10] The statistic for the period 1881–1903, known as the First Aliyah or "ascent" is taken from Gilbert, 1989, p 5. The statistic for 1904–1914 (the Second Aliyah) is taken from the Israeli Ministry of Absorption, retrieved from www.moia.gov.il on 08/24/08.

[11] MacCarthy, 1990, pp 15-17. MacCarthy stresses that this figure is an educated guess rather than a firm statistic. Like many other rulers in the region, the Ottomans were reluctant to divide their subjects according to religious belief or ethnic origin.

[12] Wasserstein, 2000. Somewhat surprisingly, Wasserstein estimates the Jewish proportion of the city's population to be lower today than it was in 1910. n/p.

[13] Bickerton and Klausner, 2002, pp 38-41.

Hussein Correspondence of 1915-16, between Hussein bin Ali, Emir of Mecca, and Sir Henry McMahon, British High Commissioner in Egypt, essentially agreed that in return for an Arab uprising against the Turks there would be Arab independence and the possible reestablishment of the caliphate. Later discussion on the correspondence challenged what either man had meant by "Palestine" in these letters, thereby questioning the area of proposed Arab control, as well as noting that while there appeared to be a wartime promise, there had been no formal agreement—a point the Arabs did not concede. This was followed by the Sykes-Picot Agreement, negotiated between the British and French in 1916, which secretly planned the partition of the Ottoman Empire: much of Palestine would be given to either British or French control and modern-day Israel would be put under international administration. Finally, the Balfour Declaration of 1917, a public letter from the British Foreign Secretary Arthur Balfour to Lord Rothschild of the British Zionist Federation, stated:

> His Majesty's Government views with favour the establishment in Palestine of a national home for the Jewish people and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.[14]

The post-war settlement, ratified by the League of Nations in 1922, divided the region into British and French trusteeships. The French were granted Syria and Lebanon, and the British were granted Iraq, Palestine, and Transjordan. This, too, was not without controversy as the League of Nations' ratification used the Balfour Declaration in its preamble, thereby reinforcing Jewish claims in international law.

The British Mandate of Palestine continued with these borders until the 1947 United Nations partition plan. Meanwhile, the Jewish community in Palestine, the *Ha-Yishuv*, had moved forward in creating the institutions of a state, such as the *Haganah* (the defence body), and in buying land, which enabled increased Jewish immigration. The Arabs in Palestine, on the other hand, had fiercely opposed the use of the Balfour Declaration in the establishment of

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[14] Quoted in Bickerton and Klausner, 2002, p 41.

the mandate. The flow of Jewish immigrants into Palestine not only increased the tension but put historic Jewish communities at risk. Tensions boiled over in 1929 when communal disturbances in Jerusalem left three Arabs and three Jews dead. Three days later, 67 Jews were massacred at Hebron, although many more owed their lives to the protection of Arab families.[15]

During the era of the Great Depression in the 1930s, government-sponsored anti-semitism in Europe, such as Hitler's Nuremberg laws, drove up Jewish immigration. Between 1933 and 1936, around 165,000 Jews entered Palestine, bringing the Jewish population to 400,000, or 30 percent of the total, by 1936.[16] The increased immigration, complementing the ever-simmering violence, led to the Arab Revolt of 1936–1939. A Royal Commission headed by Earl Peel in 1936–37 was the first to recommend the partition of Palestine into Jewish and Arab states. The commission also led to closer ties between the British and the Jews, as 15,000 Jews were brought under arms as British-trained uniformed auxiliary and a blind eye was turned toward Arab-targeted attacks by Zionist terrorist groups such as the *Irgun*.

Despite the partition proposal, a White Paper published in 1939 proposed a single state of Palestine to be established within ten years. It also limited Jewish immigration to 75,000 over the next five years, thereby guaranteeing an Arab majority. Nevertheless, 26,000 Jews in Palestine joined the British forces over the course of the Second World War. The Nazis, with their anti-Semitic policies, were clearly the prime enemy. There were also clear benefits toward helping themselves by helping the British: the *Haganah*, and terrorist groups such as the *Irgun* and the Stern Gang, used this period to organize militarily while at the same time storing weapons, conducting attacks against Arabs, and arranging entry for illegal Jewish

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[15] Shoenburg, retrieved rom www.jewishvirtuallibrary.org/source/History/hebron29.html. On 08/24/08.

[16] Government of Palestine, Survey of Palestine, 1946. Retrieved from http://www.pef.org.uk/Pages/People/Gavish.htm on 08/23/08

immigrants. By the end of the mandate in 1947, despite the sporadic attempts by the British authorities to restrict immigration, the Jewish population had increased tenfold.[17]

Conversely, on the principle that "my enemy's enemy is my friend," several prominent Arab leaders aligned themselves with the Axis powers during the war. This, combined with several other factors, including the aftermath of the Holocaust, would lead to profound developments on the Palestine issue, albeit not ones that were acceptable to all sides.

The UN Partition Plan, Israeli Independence, and the First Arab-Israeli War

Having made no tangible progress on intercommunal tensions, the British mandatory power was faced with an onslaught of terrorist attacks, kidnappings, and assassinations by the *Irgun* and the Stern Gang. In January 1947 the British chose to hand the issue of Palestine to the United Nations, specifically to the United Nations Special Committee on Palestine (UNSCOP). Eight months later, UNSCOP recommended the termination of the mandate and the partition of Palestine into Jewish and Arab states, the establishment of Jerusalem as an international trust, and an economic union between the two new states. Under this plan, 43 percent of Palestine was given to the Arab state and 56 percent to the Jewish state, although at the time the population consisted of 1,223,840 Arabs and 608,230 Jews.[18] The plan was also flawed in that key Arab towns were located in the Jewish state and vice versa. Specifically, the Jewish state contained 498,000 Jews and 407,000 Arabs, the Arab state 725,000 Arabs and 10,000 Jews, and the internationally controlled city of Jerusalem 99,320 Jews and 65,120 non-Jews.[19]

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[17] The census of 1922, conducted by the British Mandatory Authority, listed 83,790 Jews in Palestine. The Supplement to the 'Survey of Palestine' prepared by the Government of Palestine for the United Nations, 1947, pp 12-13.

[18] Ibid pp 12-13.

[19] Ibid pp 12-13.

The Jews, unlike the Arabs, supported the partition plan, seeing the greater goal of sovereignty, with its subsequent control of immigration, as an approaching reality. This came to pass on 29 November 1947, when the UN General Assembly voted in favour of the partition plan. Within a month the Arab Liberation Army was formed, trained and armed by Syria for the Arab League states. It was a volunteer army of only 5,000 men, mainly from Iraq, Syria, and Lebanon and with very few Palestinians.[20] It entered Palestine in December 1947 and by the end of January 1948 had gained control over Jerusalem. By April 1948, however, the tide had turned in favour of the *Haganah*, which in early May captured Haifa and gained effective control over roughly the size of the area designated to the Arabs by the United Nations' partition plan. In the process, 531 Arab villages were deliberately depopulated or destroyed and two-thirds of the Arab population driven out.[21] This episode is known to the Palestinians as the *Naqba*, or disaster.

Correctly assuming that the United Nations would not react, David Ben-Gurion, Israel's first prime minister, declared independence on 14 May 1948. The next day, armies from the neighbouring Arab states invaded Palestine. Several months later, in early 1949, a general ceasefire was agreed upon. Israel had increased its size by 20 percent. Transjordan, renamed the Hashemite Kingdom of Jordon, controlled East Jerusalem and what became known as the West Bank. Egypt had seized the Gaza Strip. Over 60 percent of the Palestinian Arab population—some 750,000 people—were now refugees.[22] At no point had they been consulted about their future destiny. Indeed, for years, their very existence as a people was to

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[20] Bickerton and Klausner, 2002, p 89.

[21] Said, 2003, p 11.

[22] Estimates of the number of people who fled Palestine vary. The Final UN estimate was 711,000. See "General Progress Report and Supplementary Report of the United Nations Conciliation Commission for Palestine, Covering the Period from 11 December 1949 to 23 October 1950,' retrived from http://domino.un.org, on 08/21/08. According to UNWRA, the number of registered refugees was 914,000 by 1950. UNRWA defined a Palestinian refugee as a person 'whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948 and who lost both home and emns of livelihood as a result of the 1948 conflict. This definition has generally been applied only to those who are living in a country where UNRWA provides relief, according to www.un.org/unwra/overview/qa. (08/24/08).

be denied in many quarters. Meanwhile, Israel established the right for any Jew from anywhere in the world to claim citizenship. It experienced a wave of immigration, with many of the new arrivals occupying the areas vacated by the fleeing Palestinians.

Suez and the Six Day War

In 1954, Gamal Abd al-Nasser became president of Egypt after a coup. Pursuing policies of nationalism and pan-Arabism, on 29 July 1956 he nationalized the Suez Canal Company, which had been controlled by British and French interests. Three months later, a secret meeting took place at Sévres in France between British, French, and Israeli representatives. On October 29, Israel invaded Egypt. Two days later, Britain and France invaded the Suez Canal Zone under the pretext of securing the waterway and separating the belligerents. The two allied powers vetoed a motion of censure at the UN Security Council. The matter was brought to the General Assembly, which held an emergency special session in November. It called for a ceasefire and the withdrawal of invading forces. The US administration was outraged by the unilateral military action and brought pressure on the three powers to conclude a ceasefire. The UN Emergency Force (UNEF) was established to secure and supervise this.

This uneasy truce came to an end on 14 May 1967, when Nasser ordered Egyptian forces into the Sinai Peninsula. He requested that the UNEF be withdrawn from the area and closed the Gulf of Aqaba to Israeli shipping. Then, on May 30, he signed a mutual defence pact with Jordan. In a pre-emptive strike, Israel destroyed most of the Egyptian Air Force on the ground on June 5. Over the next six days, the Israeli Defence Force (IDF) achieved a series of spectacular victories, taking first Gaza and then the entire Sinai from Egypt, East Jerusalem and the West Bank from Jordan and, finally, the Golan Heights from Syria. Israel now controlled three times the territory that it had in 1949.

Creating Facts: Settlement of the Occupied Territories

After the Six Day War, the Israeli government moved swiftly to "create facts."[23] On 26 July 1967, Israeli Defence Minister Yigal Allon presented a plan to Prime Minister Levi Eshkol for a settlement with the Palestinians.[24] According to its strategists, Israel would need to retain military control of the Jordan Valley and certain areas of the West Bank that were mainly uninhabited desert. Palestinian access to Jordan would be controlled and any eventual Palestinian autonomy would be restricted to separate populous enclaves. A northern enclave would include Nablus, Jenin, and Ramallah; a southern enclave, Hebron and Bethlehem; and a Jericho enclave would include a crossing to Jordan. Israel should also annex certain areas in the Jerusalem corridor to secure approaches to the city. Acting on this strategy, the municipal boundaries of the Israeli section of Jerusalem were extended to include the Old City and other areas. These districts were formally annexed to Israel.

The Allon Plan advocated the establishment of settlements in areas perceived as having security importance. While some of the settlements founded in the West Bank, Gaza, Sinai, and the Golan Heights were justified on the grounds of perceived interests of security, others were established on land that religious settlers claimed had been given by God to the Jews. The *Gush Eminem* (Block of the Faithful) movement was founded to advance the cause of the religious settlers, many of whom believed that, in the wake of the Six Day War, secular Zionists had inadvertently brought about the start of the Final Redemption that would lead to the Messianic Age in *Eretz Yisrael*—the Promised Land.

At first, progress on creating settlements was mainly concentrated on the annexed territory of East Jerusalem. By 1972, 9,200 settlers were living there (these numbers would rise to 181,402 by 2006). Elsewhere, expansion of the settlements was initially slow. By 1972, there

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[23] Ariel Sharon, retrospectively quoted in *The Guardian*, 310//2000.

[24] Colonel Merrill A. McPeak, 'Israel:Borders and Security.' *Foerign Affairs*, April1976. See also *Journal of Palestine Studies*, 1:3, pp 148-49.

were only 800 settlers in the West Bank, 600 in the Golan Heights, and 700 in Gaza.[25] If the settlement policy was to prove more than an aspiration, people to occupy the territories had to be found.

The potential answer came from the last place with a large Jewish population—estimated at over two million people—who had not had the opportunity to emigrate to Israel: the Soviet Union. For many years, the official Marxist ideological stance had been hostile to Israel; Lenin regarded Zionism as a form of bourgeois nationalism. Although the Soviet Union had briefly supported the establishment of the state of Israel, during the Cold War it had been a strong supporter of the Arabs. During the 1960s, only 4,000 Jews had been permitted to emigrate. After a sustained campaign by Zionist organizations, the restrictions were relaxed. In the 1970s, the number emigrating rose to 250,000. In 1989 a record 71,000 Soviet Jews were granted exodus from the USSR, but many chose destinations other than Israel, most notably the United States. Israel is now home to 825,000 former Soviet Jews, who form some 20 percent of the population. The situation has not been entirely easy. The Jewish identity of many of the immigrants is frequently tenuous and this has led to friction with the religious establishment.[26]

Since 1967, each Israeli government has invested resources in establishing and expanding settlements in the Occupied Territories. Israel has used a complex legal and bureaucratic mechanism to take control of around 50 percent of the land in the West Bank. According to Peace Now, nearly 40 percent of all settlement land is legally and privately owned by Palestinians.[27] Nevertheless, Israeli law applies within the settlements. Indeed, today there are 23 Israeli local authorities within the Occupied Territories.

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[25]Retrieved from the Israeli Central Bureau of Statistics
http://www1.cbs.gov.il/reader/cw_usr_view_Folder?ID=141 on 08/24/08.

[26] B'Tselem, 2002, Retrieved from http://www.btselem.org/Download/200205_Land_Grab_Eng.doc on 08/23/08.

[27] 'Breaking the Law in the West Bank. . .Israeli Settlement Building on Private Palesinian Property.' Report of Peace Now's Settlement Watch Team, October 2006. Se also *New York Times*, November 20, 2006.

The Israeli settlements and the Israeli settlement policies have been declared illegal by virtually all the international legal agencies: the United Nations in resolutions 446, 452, 465, and 471; the International Court of Justice in a ruling on 9 July 2004; and Amnesty International on 23 March 2005.

The Palestine Liberation Organization, Fatah, & the Yom Kippur War

On 29 May 1964, the Palestine National Council (PNC) was convened for the first time. It was founded largely through the good offices of the Arab League. Three days later, the Council established the Palestine Liberation Organization (PLO), which was intended to be the legislative body. Under the influence of the Egyptian president, the organization initially embraced a Nasserite pan-Arab stance—the creation of a unified Arab state—but later it called for the destruction of the state of Israel and its replacement by an independent, secular state.

The PLO was a confederation of a number of secular parties and factions committed to the liberation and independence of the Palestinian homeland. The largest party, al-Fatah, aimed to achieve this through armed struggle. *Fatah*, which translates "Palestinian National Liberation Movement," is intentionally close in sound to the word *fath*, which means "conquest." The word is used to denote the early Islamic conquests, and so it has positive connotations for Muslims.

The defeat of the Arab armies in 1967 led to a realization among Palestinian militants that a victory over Israel was unlikely. A sustained campaign of guerrilla warfare was therefore embarked upon through Al-Assifa, the military arm of Fatah. This tactic achieved a measure of success. In 1969, when Yasser Arafat took over the chairmanship of the Executive Committee of the PLO, Fatah is recorded as carrying out 2,432 guerrilla attacks on Israel.[28] This led to Israeli attacks on the main guerrilla bases in Jordan. In the view of the Jordanian

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[28] BBC News, 6 January 2006.

government, Fatah and the other constituent groups within the PLO were becoming a state within a state. The government asserted itself in Black September in 1970, with heavy fighting in Jordan and the expulsion of the Palestinian factions to Beirut.

Egypt and Syria had learnt lessons from the Israeli pre-emptive strike of 1967. Seeking to reverse the losses of the previous wars, they attacked Israel on 6 October 1973, starting what became known as the Yom Kippur War. While Israel won the war militarily, it came precariously close to defeat, requiring an American airlift to sustain its forces. The war consumed one-third of Israel's annual budget, further increasing its economic and military dependency on the United States. The Arab states, meanwhile, had proven their ability to fight cohesively and had inflicted severe military and psychological damage on Israel; they would be able to enter any future negotiations as equals. On the other hand, Israel's continuing success confirmed that a military solution to the problem was, at best, a limited option.

Jordan, apart from sending a token force to fight in Syria, was not involved in the Yom Kippur War. After Black September, its government had recognized that re-securing control of the West Bank was not necessarily in its best interests. The net winner in this decision was the PLO. In 1974, the Arab League recognized the group as the sole Palestinian voice. This recognition was extended internationally. Yasser Arafat was invited to speak to the UN General Assembly as a precursor to further PLO involvement in the United Nations. The Palestinians appeared to have acquired a voice at the international level.

Following their expulsion from Jordan after Black September, Palestinian resistance groups established themselves in Southern Lebanon, which they used as a base for attacks on Israel. Israel responded by occupying Lebanon south of the Litani River in 1978. A further Israeli invasion of Lebanon in 1982 led to the dispersion of Palestinian factions to a number of Middle Eastern countries. From 1982 to 1993, Fatah's headquarters were in Tunis.

The First Intifada

The tense situation leading to the First Intifada in 1987 was the product of a generation of Palestinians who had grown up knowing life only under Israeli occupation and the resentment implicit in that. They were increasingly disillusioned with the Arab states that had accomplished so little for them, as well as with the PLO, which had symbolized their struggle but whose military and diplomatic success had been limited. The refusal of the United States and Israel to negotiate with the PLO fuelled more extreme elements. Increasing Israeli settlement in the West Bank and Gaza, coupled with land sales that were often forced, added tinder to the Palestinian fire.

When the Intifada began, sparked by an automobile accident in Gaza between an Israeli vehicle and Arabs, the PLO was not in control of the uprising. Though they later co-opted the leadership of the movement, their focus on international events and actions reduced their ability to influence the Palestinian people.

Over the next year of stone-throwing and dissent, an estimated 1,028 Palestinians were killed—254 of them children.[29] Countless numbers were arrested and wounded.[30] Schools, colleges, and universities were closed, houses demolished, and strict curfews imposed. An estimated 1,000 Palestinians were killed under suspicion of collaboration. However, only an estimated 40 to 45 percent of the Palestinans killed as alleged collaborators indeed maintained contact with the Israeli authorities. A total of 96 Israelis were killed.[31]

The violence dealt severe economic blows to Israel, particularly in the tourism industry. This impact encouraged the PNC to make a unilateral Palestinian Declaration of Independence in

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[29] B'Tselem, 2002, Statistics. Retrieved from www.btselem.org/english/stattistics/first intifada Tables.asp. on 08/23/08.

[30] 'Alleged Palestinian Collaborators with Israel and their Families: A Study of Victims of Internal Political Violence' Peace Papers, No 12, Truman Institute, Hebrew University of Jerusalem. Summer 1999, p 19.

[31] B'Tselem, 2002. Statistics. Retrieved from www.btselem.org/english. Statistics.first intifada Tables.asp on 08/23/08.

November 1988. It proclaimed a "parliamentary system of government, based on freedom of expression and the freedom to form political parties . . . social justice, equality and non-discrimination in the public rights of men and women on grounds of race, religion, colour or sex and the aegis of a constitution which ensures the rule of law and an independent judiciary." Implicit in the Declaration was acceptance of a two-state solution to the issue of historic Palestine. This theme was taken up by Yasser Arafat in his address to the UN General Assembly on 13 December 1988:

> The situation in our Palestinian homeland can bear no more waiting. Our people and our children, leading our march to liberty, holding aloft the torch of freedom, are being martyred daily for the sake of ending the occupation and laying the foundation of peace in their free, independent homeland and in the region as a whole.

> The United Nations bears an historic, extraordinary responsibility toward our people and their rights. More than forty years ago, the United Nations, in its Resolution 181, decided on the establishment of two states in Palestine, one Palestinian Arab and the other Jewish. Despite the historic wrong that was done to our people, it is our view today that the said resolution continues to meet the requirements of international legitimacy which guarantee the Palestinian Arab people's right to sovereignty and national independence.[32]

Although the Intifada was ultimately suppressed by the Israelis, it achieved certain successes, albeit at great cost. Most of all, it made the Israelis recognize the existence of a Palestinian people, which previously had been denied—the Palestinians, if referred to at all, were described as South Syrians, a legacy of the Ottoman administration.[33] The Intifada also

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[32] *Le Monde diplomatique*, archived December 2001. Retrieved from http://mondediplo.com/focus/mideast/ arafat88-en. On 08/23/08. The US State Department refused admission to Arafat, and the General Assembly had to meet in Geneva so that he could address it. This cannot be said to have encouraged a positive view of the US administration's commitment to the peace process.

[33] The nature of this denial was expressed by Prime Minister Golda Meir: 'There were no such thing as Palestinians. When was there an independent Palestinian people with a Palestinian state? It was either southern Syria before the First World War, and then it was a Palesine including Jordan. It was not as though there was a Palestinian people in Palestine considering itself as a Palestinian people and we came and threw them out and took their country away from them. They did not exist.' Quoted in the *Sunday Times* of 15 June 1969 and the *Washington Post* of 16 June 1969.

opened the way toward direct negotiation and contributed to a growing conviction among the powers that there could be no peace in the region without a resolution to the Palestinian issue.

The Rise of Hamas

The establishment of Hamas in December 1987 was almost contiguous with the start of the first Intifada. It does not appear that the two events were directly related, but both were certainly products of the same groundswell. Hamas is an acronym for *Harakat al-Muqawama al-Islamiya* (Islamic Resistance Movement), as well as an Arabic word meaning "zeal." Its goal is to eliminate the state of Israel and replace it in historic Palestine with an Islamic state.[34]

Hamas began as an offshoot of the Muslim Brotherhood, a religious, social, and political organization formed in Egypt in 1928. The Muslim Brotherhood was opposed to the secular drift and foreign influences invading Arab countries and encouraged a return to Islamic society. It started proselytizing in Palestine in 1935. Despite being home to the third holiest site in Islam, Palestine was considered to be one of the more secularized places in the Arab world.

Hamas's founder and spiritual guide, Sheikh Ahmad Yassin, was a member of the Muslim Brotherhood in Gaza and was known prior to the establishment of Hamas for his work as a teacher and spiritual leader. An accident in his youth had left him paralyzed and wheelchair bound but that did not limit his activity. In 1973, he founded *Al Mujamma Al Islami* (the Islamic Association) to coordinate the Muslim Brotherhood's activities in Gaza.[35]

The Islamic Association was involved in activities typical of any religious institution—educating children, collecting alms, and caring for the poor and orphans. In fact, the idea that it represented any kind of security threat to the Israelis was considered so remote that funds for the movement came directly and indirectly from Israel, possibly to draw

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[34] Levitt, 2006, p 8.

[35] Council on Foreign Relations, 2007 Retrieved from www.cfr.org/publication/8968 on 08/23/08.

support away from the PLO. According to documents obtained by United Press International from the Israel-based Institute for Counter Terrorism, *Al Mujamma Al Islami* was legally registered in Israel in 1978 by Yassin. It should be remembered that it was only with the inception of the first Intifada that the organization that became Hamas espoused violence against Israel. According to Matthew Levitt, Yassin was initially opposed to armed operations.[36] With the outbreak of the Intifada, however, he felt that the Islamic Association would lose much ground by not taking up armed resistance, and so Hamas was born.[37]

The idea of sponsoring a counter-source of power to the exiled PLO may have seemed irresistible to at least some members of Menachem Begin's administration—although it turned out to be the political equivalent of the Sorcerer's Apprentice. It has been suggested that the main thrust of this policy was the subsequent creation of Islamic "Village Leagues," a system of local councils under Israeli supervision that were run by hand-picked Palestinians. The Village Leagues were designed to further subvert the PLO's authority in the Occupied Territories.[38]

It is likely that Hamas cooperated with the Village Leagues in order to obtain resources. Yasser Arafat certainly believed this. He said as much in an interview with *Corriere della Sera* on 11 December 2001: "Hamas is a creature of Israel which, at the time of Prime Minister Shamir, gave them money and more than 700 institutions, among them schools, universities and mosques. Even Rabin ended up admitting it, when I charged him with it, in the presence of [President] Mubarak." The role of Israel in the creation of Hamas was further alluded to by Daniel Kurzer, the US Ambassador to Israel, in a speech in Jerusalem reported

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[36] Levitt, 2006, p 8.

[37] Early in the Intifada, Yassin was arrested by the Israelis and sentenced to life imprisonment for his alleged involvement in the abduction and murder of an Israeli soldier. Given the fact that Hamas is a "resistance movement," evidence of its command structure is vague. Musa Abu Marzug is frequently identified as a key figure, but since he lived in the United States until 1992, he is unlikely to have had much effect on the Intifada. In that year, he became head of the Hamas Political Bureau, which was based in Amman. Under arrest in the United States from 1995 to 1997, he was expelled from Jordan in 1999 and now lives in Damascus.

[38] Bickerton and Klausner, 2002, p 228.

in the *Haaretz* on 20 December 2001: "Israel perceived it to be better to have people turning to religion rather than toward a nationalistic cause."

In fact, Hamas was able to generate great support during the Intifada through the dual message of achieving both nationalistic and Islamic goals. Many Palestinians perceived Hamas, with its blend of religious ideology and Palestinian nationalism, as an honest grassroots movement that was proving itself capable of providing effective social welfare programs and public services.

While in 1988 the PLO focused on its Declaration of Independence, acting as a government-in-exile from its base in Tunis, Hamas produced its Charter, calling for the destruction of the state of Israel and its replacement with an Islamic state. Any prospects for a peaceful resolution to the problems of the region are rejected: "Initiatives, and so-called peaceful solutions and international conferences to resolve the Palestinian problem, are all contrary to the beliefs of the Islamic Resistance Movement. . . . There is no solution to the Palestinian problem except by Jihad" (Article 13). Article 8 iterates the slogan of the Islamic Resistance Movement: "The ultimate goal is Islam, the Prophet is its model, the Qur'an its constitution, Jihad is its path, and death for the sake of Allah is the highest of its wishes."[39]

The idea of "re-Islamizing society" was encapsulated in 52 leaflets that the group released during the uprising. Leaflet No. 28, dated 18 August 1988 and entitled "Islamic Palestine from the [Mediterranean] Sea to the [Jordan] River," epitomizes the genre:

> The Muslims have had a full—not a partial—right to Palestine for generations, in the past, present, and future. . . . No Palestinian generation has the right to concede the land, steeped in martyrs' blood. . . . You must continue the uprising and stand up against the usurpers wherever they may be, until the complete liberation of every grain of the soil of Palestine, all Palestine, with God's help.[40]

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[39] Quotations from the Hamas Charter are taken from the Avalan Project at Yale University, retrieved from www.yale.edu/lawweb/avalan/mideast/hamas on 08/23/08.

[40] Quoted by Mishal and Sela, 2000, p 51.

Thus Hamas, with its revolutionary approach to Palestinian discourse, was able to threaten what Mishal and Sela have described as "the PLO's hegemony and political domination of the Palestinian arena."[41]

Hamas stated that it would join the PLO under terms it knew to be unacceptable, such as a pledge by the PLO to rescind acceptance of UN Security Council Resolution 242 and to grant Hamas 40 percent of the seats on the Palestinian National Council.[42] With the PLO's refusal, Hamas gained public support among the masses, emerging as the strongest voice of a Palestinian nationalism free of any restrictions. Its popularity was strengthened by its increased ability to attack the Israeli military establishment, demonstrated in December 1992 over the course of a week with the killing of five Israeli soldiers and the kidnapping and killing of a border guard. The violence was carried out by Hamas's newly formed military wing, the Qassam Brigades.[43] The Israeli response of deporting 400 Islamists to Marj al-Zuhur in Lebanon only cemented Hamas's image of fighting for Palestinians. Whereas the PLO was often perceived as simply talking, Hamas was regarded as taking action. Whereas the PLO was based in Tunis, Hamas was local, starting in Gaza and soon spreading to the West Bank and Jerusalem.

The Oslo I Accords

It is often forgotten that, until the 1990s, it was impossible to get Palestinians and Israelis together in the same building, let alone the same room. In a sense, therefore, the bilateral negotiations that followed were an achievement in themselves, although Israeli intransigence in refusing to recognize the existence of the Palestinians as a people was an inhibiting factor. At the Madrid Conference in 1991, the PLO was represented at the first bilateral talks

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[41] Ibid p 8.

[42] Kristianasen, 1999, p 21.

[43] The Qassam Brigades were named after the revered Sheikh Izz ad-Din al-Qassam, the first proponent of combining Islam and revolutionary struggle, who was killed in Palestine by the British in 1935.

between the Arab nations and the Israelis, although a façade of its delegation being subsumed into the Jordanian one had to be maintained.

This situation changed in the late summer of 1993 when reports surfaced that secret negotiations had taken place between Israel and the PLO in Oslo, Norway. In September 1993, first the Israeli cabinet and then the Fatah central committee voted in favour of the Declaration of Principles on Interim Self-Government for the Palestinians. The Accords were intended to provide a framework for future relations between the two parties. They provided for the creation of a Palestinian National Authority to administer the territory under its control, and called for the withdrawal of Israeli forces from parts of the Gaza Strip and West Bank. On 9 September 1993, Arafat wrote a letter to Israeli Prime Minister Yitzhak Rabin stating that the "PLO recognized the right of the State of Israel to exist in peace and security."[44] It was anticipated that this arrangement would last for a five-year period during which a permanent peace settlement would be negotiated.

Interim self-government was to be granted in phases. As a result of the agreements, working parties began drafting a constitution for the proposed Palestinian National Authority. It became known as the Basic Law and was intended to last only until 1999 when the interim period specified in the Oslo Accords ended. According to Nathan J. Brown of Georgetown University, the "faulty drafting and legal ambiguities" in this document, which was not completed until 2002, became a source of future friction.[45]

On 4 May 1994, Arafat and Rabin signed an agreement in Cairo detailing the terms of the withdrawal of security forces from Gaza and Jericho, which was completed in Jericho on May 13 and in Gaza on May 18 (although the Israeli settlements would remain). Arafat swore in members of the Palestinian National Authority on July 5 in Jericho—an unparalleled

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[44] US State Department Dispatch, September 1993.

[45] Brown, 2008, Retrieved from http://www.carnegieendowment.org/files/brown_palestine_elections.pdf on 08/23/08.

victory for him in the eyes of Palestinians and seemingly the beginning of the end of Israeli occupation. For the first time in decades, the situation in historic Palestine appeared hopeful.

On the other hand, the Accords were highly contentious on both sides, with Israeli hawks such as then-Likud party leader Benjamin Netanyahu and former Prime Minister Yitzak Shamir denouncing them as the first phase in the destruction of Israel, and Hamas leading the calls that Arafat had sold the Palestinians short.

Hamas's Suicide-Bombing Campaign

Even before the signing of the Cairo agreement, an upsurge of violence on both sides swept away the feelings of optimism. On 25 February 1994, at the Cave of the Patriarchs in Hebron (which includes sections for Jewish and Muslim worshippers), Baruch Goldstein, an American-born reserve doctor with the Israeli Defence Force and a member of an extremist movement, opened fire and killed 29 Muslims. Possibly in response to the massacre, Hamas launched a concerted campaign of suicide bombing. Between April 1994 and the suspension of suicide attacks in October 1998, Hamas and oter fundamentalist roups were resonsible for the deaths of 161 people in suicide attacks.[46]

Western media frequently expressed the view that suicide bombing is a tactic based in an extremist vision of Islam. In fact, the policy is remarkable for the absence of Islamic rhetoric surrounding it, although the suicide bombers are invariably described as "martyrs" and many, if not all, embrace a radical theology. Yet it is evident that the tactic has been employed because, in the view of Ali Wyne,

> it is one of the most strategically utilitarian forms of asymmetric warfare. . . . Ramadan Shalah, Hamas' secretary general, supplies the rationale for suicide bombing: "Our enemy possesses the most sophisticated weapons in the world and its army is trained to a very high standard. . . . We have nothing with which to repel the killing and thuggery

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[46] Israeli Ministry of Foreign Affairs, July 2, 2008**.** Retrieved from www.mfa.gov.il/MFA/Terrorism on 08/23/08.

against us except the weapon of martyrdom. It is easy and costs us only our lives. . . . Human bombs cannot be defeated, not even by nuclear bombs."[47]

Suicide bombing compelled Israeli forces to withdraw from Gaza in 1994 and from the West Bank in 1995. Ten years later, Israeli Prime Minister Ariel Sharon's decision to unilaterally evacuate all Jewish settlers from the Gaza Strip might be seen as yet another strategic victory for the campaign. A further success from Hamas's point of view was that it brought the organization into direct conflict with the Palestinian National Authority (PNA), which succumbed to international pressure to crack down on Islamic militancy and the suicide bombings. The widespread arrests that took place contributed to a perception that Fatah was a friend of Israel while Hamas represented the true resistance—and led eventually to civil war. An early manifestation of this occurred on 18 November 1994, when a riot erupted at the Palestine Mosque in Gaza between Islamists and the PNA police forces, where police killed 14 and wounded 270.[48] PNA connivance was also thought to have occurred in the April 1995 explosion that killed a leading Qassam Brigades member, Kamal Kahil, who had been wanted by both the PNA and Israel. Hamas and Islamic Jihad, working in a familiar cooperation, replied one week later with two suicide attacks on Israeli settlements in Gaza, leading to the PNA arresting 200 Islamists and activating the State Security Court for the first time for secret nighttime sittings.

As a result of its violent tactics, Hamas is listed as a terrorist organization by a number of states including Canada, the European Union, Japan, and the United States. It is banned in Jordan. Australia and the United Kingdom list the armed wing of the organization, the Qassam Brigade, as a terrorist organization, but not the party itself.

Yet it must be acknowledged that whereas the activities of Palestinian extremists are widely reported, those of Jewish extremists, epitomized by certain aspects of the settler movement, are less familiar to the world at large. Acts of violence by Jewish extremists, when reported at

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[47] Ali Wyne, 2005. "Suicide Terror as Strategy; Cases Studies of the Kurdistan Workers Party. *Strategic Insights*, 4:7 (July). p 2.

[48] Kristianasen, 1999, p 25.

all, tend to be treated by Western media as one-off incidents that have no basis in a wider ideology or movement. In responding to the Goldstein massacre, for example, Prime Minister Rabin denounced the killer as a "foreign implant" and "an errant weed."[49] In fact, Goldstein was a long-established settler who had received two citations for his service with the IDF.

Regardless of the definitions of terrorism, it is incontestable that there is no "democratic control of internal and external security institutions"[50] in Palestine. The violence both within Palestine, and perpetrated by Palestinian factions in Israel, is in direct contrast to the operating principle of democratic control of security measures. Clearly defined limits on the authority of military and law enforcement agencies are lacking, as are legal protections against the political use of force and accountability to democratic institutions. Furthermore, violence is being perpetrated by multiple parties, which undermines the very idea that one state body could have a monopoly on the use of force. Lastly, security agents cannot be seen as acting in a manner consistent with their responsibilities under a regime of entrenched rights, another factor of liberal-constitutionalism that relates to internal and external security.

Oslo II – The "Taba" Accords

It was against this background of mounting distrust and tension that the Oslo negotiations resumed in the summer of 1995. The negotiations were held at Taba, a small Egyptian tourist resort on the Israeli border on the Red Sea. The agreement signed in Taba on 24 September 1995 and four days later in Washington was known as the Oslo II or the Taba Accords. It detailed how areas of the West Bank and Gaza would be turned over to the Palestinian National Authority. The region was divided into three areas. Area A, which was to be placed under direct PNA control, included seven major cities making up 3 percent of the West Bank. Area B, which consisted of 450 towns and villages comprising 24 percent of the West Bank, was to be jointly controlled by the PNA (civil and police authority) and the Israeli Army

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[49] *Jewish Chronicle*, 4 March 1994.

[50] See Perlin's Theory of Change Model, Appendix I.

(overall security). The remaining 73 percent of the West Bank, Area C, composed of sparsely or unpopulated land, Israeli military outposts, and Jewish settlements, was to remain under exclusive Israeli control.

The Accords were a point of contention for many Palestinians and Israelis. The Palestinians, aware of continuing Jewish settlement in the West Bank—in 1995 the number of settlers grew by 4 percent to 133,000[51]—were suspicious of Israel's likelihood to transfer control of Area B to the Palestinian National Authority. Fundamentalist Israelis, on the other hand, denounced the plan as a dismantling of *Eratz Yisrael* (the boundaries of Biblical Israel). Foreign Minister Shimon Peres attempted to reassure Israelis that "Israel would maintain control of 73 percent of the land, 80 percent of the water, and 97 percent of the security arrangements" in the West Bank.[52] Despite these assurances, Prime Minister Yitzhak Rabin was assassinated on 4 November 1995 by a right-wing Israeli radical, Yigal Amir.

The assassination of Rabin threatened the progress of Oslo II; however, Shimon Peres, his successor as prime minister, continued with the Israeli withdrawal from Area A, which was completed by the end of 1995. This allowed Arafat to proceed on 20 January 1996 with elections for the president of the Palestinian National Authority and members of the Palestinian Legislative Council, the legislative arm of the PNA. Despite such disturbing matters as suicide bombings and the assassination of Rabin, the atmosphere was one of optimism. Many Palestinians believed that the government they were electing would lead to the creation of an independent Palestinian state.

Arafat won an overwhelming victory in the presidential election, gaining 88 percent of the vote, while Fatah won 55 of the 88 seats. Hamas boycotted the election, feeling that participation would lend legitimacy to the PNA, which had been created out of what they considered unacceptable negotiations and compromises with Israel. Independent international

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[51] 'The Population of Israel, 5755-1995,' Demographics Centre, Ministry of Labour and Social Affairs. Central Bureau of Statistics, 1995. Retrieved from www.mfa.gov.il/MFA/Archive/Communiques/on 08/23/08.

[52] Bickerton and Klausner, 2002, p 286.

observers reported the elections to have been free and fair, but that boycotts by Hamas and other opposition movements had limited voter choices.

Hamas remained a potent political force. The suicide-bombing campaign escalated, even though the Hamas's chief bomb-maker, Yahya Ayyash, had been assassinated 15 days before the elections.[53] On the morning of 25 February 1996, a suicide bomber exploded himself on Bus 18 on the main Jaffa Road in Jerusalem: 26 victims were killed and 48 injured. A week later, a second suicide bomb was exploded on the same line, killing 19 people and wounding seven. These bombings were part of a wave of attacks in which 59 people were killed.

The continuing vibrancy of Hamas placed PNA President Yasser Arafat in a dilemma. The organization was not only a direct threat to his leadership; its campaign of violence was undermining the peace process to which he was committed. He could not afford to appear to be doing the bidding of Israel and the United States by trying to destroy it, and so he launched an offensive against it with the aim of forcing Hamas into the political mainstream as a legitimate political party.[54] The PNA arrested some 1,000 militants and took over mosques in Gaza.

In fact, Benjamin Netanyahu's policies were as responsible for the growing strength of Hamas as anything done by the PNA or by the group itself. The right-wing Likud leader had succeeded Peres as prime minister in May 1996. Netanyahu had campaigned on the issue that the peace process had gone too far. In September 1997 he enraged King Hussein of Jordan after Mosssad, the Israeli secret service, bungled an assassination attempt on Khaled Mishal, the head of the Hamas Political Bureau in Amman. In return for the captured agents, Netanyahu was forced to release Sheikh Ahmad Yassin after ten years in prison. Yassin's triumphant return to Gaza significantly enhanced Hamas's status and granted the movement

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[53] It is generally assumed, probably correctly, that Ayyash was assassinated by the Israelis (who never acknowledged their part in an assassination), but he was also on the wanted list of the PNA. His funeral in Gaza City was attended by an estimated 100,000 people, the largest gathering in the history of the city, according to Kristianasen, 1999, p 30.

[54] BBC *News in Depth*, 19 October 2000.

the position of "second among equals" in relation to the PNA. Still possessing his talent for rhetoric, the Sheikh issued calls for closer ties to the PNA, and emphasized that Hamas did not want to attack civilians but that retaliatory attacks were necessitated by Israeli actions. He also stated that Hamas would end all violence if Israel withdrew to pre-1967 boundaries, dismantled all settlements, released all prisoners, and promised non-interference with the Palestinian state.

The release of Yassin coincided with a falling-off of violent incidents provoked by Hamas and other jihadist organizations. While it is possible that the two events were causally connected, it is more likely that cooperation between the Israelis, the PNA, and the CIA was leading to more effective anti-terrorist methods. In an interview with the Jordanian newspaper *Al-Urdun* on 24 October 1998, Hamas spokesman Ibrahim Ghosheh addressed the organization's failure to follow through on threats of revenge following the assassination attempt on the life of Mishal in Jordan and the killing of the two Awdallah brothers—leading members of the Hamas military wing who were ambushed by the Israelis on 11 September 1998 in the West Bank:

> For two years now . . . the [Israeli] security organs have not stopped tracking down al-Qassam operations and foiling operations almost daily. They [Palestinian security services], too, have not stopped hunting down our *mujahidin*. . . . The fact is, Palestinian security organs know every detail.[55]

The Wye River Memorandum and Camp David II

With the Wye River Memorandum, Arafat, in seeking to strengthen his position, instead solidified his opposition. The Wye River Memorandum was a political agreement brokered by the United States to implement the earlier Oslo II Interim Agreement. Negotiated at Wye River, Maryland, it was signed by Netanyahu and Arafat on 23 October 1998, at the White

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[55] Ely Karmon, March 2000, 'Hamas' Terrorism Strategy: Operational Limitations and Political Constraints,' *Middle East Review of International Affairs*. Retrieved from http://www.ciaonet.org/olj/meria/ meria00_kae01.html on 08/23/08.

House, with President Clinton playing a key role as the official witness. The terms to which Arafat agreed for further Israeli withdrawals from Areas B and C made his complicity in the matter so suspect that he was widely denounced. There were even calls for his death.[56] Although Hamas was not mentioned specifically in the Wye agreement, the provisions on combating terrorism were clearly aimed at this group.[57] Further, the United States was to be involved directly and officially in the security processes for the first time.

Almost immediately, a cycle of recrimination began with each side accusing the other of reneging on the deal. The PNA accused Netanyahu of trying to add clauses to the agreement. Israel accused the Palestinian Legislative Council of failing to amend its constitution to remove the clauses relating to Israel's destruction. Israel claimed that they had started to implement the economic aspects of the agreement, but that the PNA had not sufficiently implemented its agreement to crack down on terror.[58]

The election in the spring of 1999 of Labour Party leader Ehud Barak as prime minister, seen as a possible heir to the Rabin legacy, led to a revival of hope among optimists. The renewal of peace talks at Sharm al-Sheikh in Egypt in September 1999 resulted in yet another timetable for the permanent settlement of a final peace accord by September 2000—seven years after Oslo.

Probably conscious of rumblings in his internal constituency, Arafat went on the offensive at the subsequent talks, held at Camp David in July 2000. He demanded that Barak pledge 90 percent of the West Bank and refused to accept anything less than Palestinian sovereignty over East Jerusalem, including the *Haram Al Sharif* (Temple Mount). Arafat also maintained

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[56] Bickerton and Klausner, 2002, p 319.

[57] David Schenker, 'Arafat vs. the "Terrorist Infrastructure," a Status Report.' David Schenker, December 10, 1999.

[58] The latter criticism was unfair. As has been demonstrated, the PNA had cooperated in curbing Hamas, but the Israelis seem to have failed to recognize the constraints under which Arafat had to operate in not appearing to collaborate too closely with the perceived enemies of Palestine. Even so, the Palestinian security forces were holding 1,100 alleged Islamic militants in detention by the end of January 1999. It would appear that the Israeli Defence Force, weary of the incessant disturbances, was looking to the PNA to take responsibility for the whole of the security issue, rather than, as in the past, a realizable part of it.

the traditional Palestinian position on the right of return for their refugees. Given the fact that Arafat was making demands that he knew the Israelis could not possibly accept—although the Americans pushed them toward maximum concessions—it is not surprising that the talks ended in failure with the issuing of a bland communiqué.

President Clinton, who was approaching the end of his second term, devoted a great deal of his final days in office to narrowing the gap between the parties. On 7 January 2001, he presented his views to the Israeli Policy Forum on Israeli-Palestinian Violence, stating that there could "be no genuine resolution to the conflict without a sovereign, viable, Palestinian state that accommodates Israel's security requirements and the demographic realities."[59] He maintained that there should be Palestinian sovereignty over Gaza and the vast majority of the West Bank.[60] The settlements should be incorporated into Israel while minimizing the amount of land annexed, "for Palestine to be viable must be a geographically contiguous state."[61] To compensate for this, there would have to be some swaps of territory. Further, Clinton stated that Israel should have lasting security guarantees, and that Jerusalem should be shared. Later reflecting on the failure of the peace process, Clinton recalled that Arafat had told him, "You are a great man." "I am not a great man," he replied. "I am a failure, and you made me one."[62]

The Al-Aqsa Intifada and the Collapse of the Peace Processes

Even before Camp David II, Arafat had declared, to great Palestinian approbation, that with or without a final agreement there would be Palestinian sovereignty by 13 September 2000.[63] Although this may have had some advantage as a pre-talks manoeuvre, it came to nothing

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[59] The *Guardian*, January 9, 2001.

[60] Retrieved from http://www.jewishvirtuallibrary.org/jsource/Peace/ciawb.html on 08/24/08.

[61] Ibid.

[62] Clinton, 2004, *My Life*. Chapter 25. Also BBC News Channel, updated 22 June 2004

[63] *Guardian*, 14 November 2006

when the Palestinian Legislative Council voted in early September to postpone the declaration. Palestinian anger, previously checked by the potential of a settlement, boiled over at the idea of continued Israeli control, ever-expanding Jewish settlements, and the betrayal of this latest decision, which seemed to collude with Israeli wishes.[64]

Then on 28 September 2000, Israeli opposition leader Ariel Sharon, with a Likud party delegation and surrounded by hundreds of Israeli riot police, visited the *Haram Al Sharif*/ Temple Mount. There he vowed that Israel would never give up the Mount—the holiest site in Judaism—and asserted the right of all Israelis to go anywhere in *Eretz Yisrael*. The ensuing riots spiralled into the Al-Aqsa (Second) Intifada, which quickly moved from the stone-throwing seen over a decade earlier into full-fledged armed combat. This second Intifada, which has never been declared to be at an end, has seen many casualties on both sides.

Negotiations at Sharm-el-Sheikh to end the violence in October 2000 resulted in the appointment of a US-led fact-finding committee and the Mitchell Report, published in April 2001. Considered an authoritative report on the origins of the second Intifada, the Mitchell Report recommended a return to the peace process that had broken down at Camp David II. But the report also acknowledged that the divergence of expectations made a resolution difficult, if not impossible, and expressed the frustration felt by outsiders in their dealings with the parties.

> The step-by-step process agreed to by the parties was based on the assumption that each step in the negotiating process would lead to enhanced trust and confidence. To achieve this, each party would have to implement agreed-upon commitments and abstain from actions that would be seen by the other as attempts to abuse the process in order to predetermine the shape of the final outcome. If this requirement is not met, the Oslo road map cannot successfully lead to its agreed destination. Today, each side blames the other for having ignored this fundamental aspect, resulting in a crisis in confidence.[65]

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[64] Bickerton and Klausner, 2002, p 339.

[65] Sharm el-Sheikh Fact-Finding Committee, 2001, Retrieved from http://www.al-bab.com/arab/docs/pal/mitchell1.htm on 08/23/08.

Both sides accepted the Mitchell Report as a way forward, but given the deteriorating situation on the ground in the Occupied Territories and the unlikelihood that Arafat could bring it under control, it was a question of hope rather than expectation.

Meanwhile, the Israeli people responded to this new crisis by moving to the right and electing Ariel Sharon as prime minister in February 2001. In the spring of 2002, Israel formally resolved to build a security barrier along the pre-1967 boundaries with just five points for crossing. As the Intifada continued, in March 2002 Israel commenced Operation Defensive Shield, a massive reinvasion of much of the West Bank. The situation had moved so far away from what seemed like an almost certain peace two years earlier that Netanyahu, who had become foreign minister, unofficially commented in November 2002 that Oslo was "null and void."[66]

As the Israeli position changed, the Hamas's suicide-bombing campaign intensified. Between September 2000 and November 2004, Hamas conducted 112 suicide attacks, resulting in 474 of the 918 fatalities that Israel sustained at the hands of Palestinian insurgency.[67] It appears that Fatah also became more militant. Early in 2002, the Al-Aqsa Martyr's Brigade was founded. Although its exact relationship to Fatah is unclear, its activists seem to be drawn chiefly, if not exclusively, from Tamzin, an extremist wing of Fatah.[68] Its formation was, at least in part, a response to the growing power of Hamas, as well as a revival of the previous campaign of guerrilla warfare against Israel. Arafat's failure to capitalize on the opportunities offered by Camp David II, together with the emergence of a very different administration in the United States, gave both the Israelis and the Americans the opportunity to marginalize him. In February 2002, Prime Minister Sharon ordered that Arafat be confined within his

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[66] Wasserstein, 2000, p 140-149.

[67] Levitt, p 12.

[68] The group's relationship with Arafat was also ambiguous. There is conflicting information from its different leaders. "We receive our instructions from Fatah. Our commander is Yasser Arafat himself," Maslama Thabet, one of the group's leaders, told *USA Today* in March 2002. Another activist, Naser Badawi, was reported as telling the *New York Times* on 30 July 2002 that, while the group members respected their leader, the decision to carry out attacks remained with the Al-Aqsa Brigades leadership.

headquarters in Ramallah. A lengthy siege followed, during which Arafat became a focus of the world's attention. Excluded from the next stage in the peace process, Arafat was obliged to appoint Mahmoud Abbas as Palestine's first prime minister on 19 March 2003. Abbas represented the Palestinians in the negotiations, which became known as "the Road Map," a timetable for a two-state solution that was supported by "the Quartet"—the United States, the European Union, Russia, and the United Nations.

There was plenty of evidence to undermine Arafat's status as a leader. A report released by the International Monetary Fund (IMF) on 15 September 2003 revealed that over a five-year span, he had diverted $900 million in public funds into a special bank that he controlled.[69] The IMF officials uncovered this information with the help of Salem Fayyad, who had been appointed Palestinian finance minister in June 2000. In hindsight, Arafat's appointment of a man of known integrity seems extraordinary, but it was probably at the insistence of donor nations and institutions concerned about the destination of their money. Fayyad's openness with the facts enabled the IMF officials to create a table covering the period from 1995 to 2000, "outlining the diversion of revenue from the budget controlled by President Arafat."[70] A team of American accountants appointed by Fayyad in 2003 to investigate the presidential finances confirmed the IMF's findings. Their report, produced in November 2003, determined estimated Arafat's personal financial holdings at between $1 billion and $3 billion.[71]

According to Edward W. Said, other high-ranking members of the PNA operated lucrative monopolies of building materials, tobacco, oil, and so on, and deposited the profits in Israeli banks. "Not only are Palestinians subject to harassments from Israeli troops, but they have

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[69] International Monetary Fund, 2003 Retrieved from http://www.imf.org/external/pubs/ft/med/2003/eng/wbg/wbg.pdf. On 08/24/08.

[70] Ibid.

[71] CBS News, 9 November 2003. Part of the Arafat's wealth was in a secret portfolio worth close to $1 billion with investments in companies like a Coca-Cola bottling plant in Ramallah, a Tunisian cellphone company, and venture capital funds in the United States and the Cayman Islands.

also watched their own men participating in this abuse of their rights along with hated alien agencies."[72]

The Palestinian Economy

One of the facilitating conditions for liberal democracy, a functioning market economy (with state regulation to ensure fairness in economic relations), is clearly lacking in Palestine. The effects of the Intifada have been dire for the Palestinians. Even before its outbreak, the Palestinian economy was one of the most remittance-dependent in the world, with income outside the territories comprising 21 percent of Palestinian gross national income.[73] Unemployment stood at 22 percent, and 43 percent of the population lived below the poverty line, with 15 percent living in such "deep poverty" that they could not meet subsistence needs.[74] In 2003, the unemployment rate in the West Bank and Gaza skyrocketed to 33.5 percent, and by 2004 three-quarters of the Palestinian population was living below the poverty line of two dollars per day.[75] Average real per capita GDP was almost 40 percent below 1999 levels. "With a larger decline in investment from an already low level, this also signals a further hollowing out of the Palestinian economy and an increase in its dependency on foreign aid."[76]

The security barrier or "iron wall" that the Israelis have been constructing since June 2002 has had an extremely harmful effect on the Palestinian economy and on the social status of many Palestinians. The barrier is a combination of fences, walls, ditches, patrol roads, and electronic surveillance devices. Public pressure within Israel for such a fence increased with every Palestinian suicide bombing. The Israeli government insists that it is a security barrier,

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[72] Said, 2003, p 19.

[73] Levitt, 2006, p 6.

[74] Ibid.

[75] Ibid.

[76] World Bank, 2003, Retrieved from www.worldbank.org/on 08/23/08.

not a border. Nevertheless, many Israelis regard it as such and right-wingers are concerned that it establishes a physical border that will end Israeli claims to the settlements beyond it.[77]

Much of the barrier runs through the Palestinian Territories, and so 38 Palestinian communities with a population of 49,400 are situated to the west of it (i.e., on the Israeli side). The residents of these towns and villages require permits to live in their own homes. They can leave their communities only though a gate in the barrier. With the inclusion of East Jerusalem, 8.5 percent of the Palestinian Territories is now west of the barrier. Palestinians can no longer travel into East Jerusalem—the city that has been the religious, social, and economic centre of their lives for centuries. Fifty-four Palestinian communities with a population of 247,800, located east of the barrier, are completely or partially surrounded by it. One of these is Bethlehem.

The barrier has 43 gates. Twenty-five of these are agricultural gates: 13 provide access at certain seasons for farmers who live to the east of the barrier and have land on the west of it, and 12 are for farmers who need to tend their holdings daily. To access their own land, they need a crossing permit from the Israeli Civil Administration. Eleven gates are checkpoints to enable entry into Israel for Palestinians who have permits to work in Israel, while seven gates open daily for the general population. "It is difficult to understate the humanitarian impact of the barrier," stated a 2005 United Nations report. "The route inside the West Bank severs communities, people's access to services, livelihoods and religious and cultural amenities... The land between the barrier and the Green Line constitutes some of the most fertile in the West Bank."[78]

Since 2005, the Palestinian village of Bil'in has been cut off from large swathes of its agricultural land by a barbed wire security barrier, built to protect the nearby Israeli settlement of Modi'in Illit, one of the fastest-growing settlements in the Occupied Territories.

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[77]Retrieved from CNN.com/World on 08/23/08.

[78] United Nations, 2005, Retrieved from http://domino.un.org/UNISPAl.NSF/
361eea1cc08301c485256cf600606959/32943465e443defe8525700c0066b181!OpenDocument&Click=on
08/23/08.

Yet, as in many other cases across the West Bank, Israel has built the fence some distance away from the settlement, confirming, for many, the suspicion that the building of the barrier is in effect a land-grab to ensure future settlement expansion. Human rights activists, both Israeli and Palestinian, have maintained weekly protests about the barrier at Bil'in. They obtained an injunction in the Israeli High Court to halt its construction, but expressed the pessimistic view that the IDF would simply ignore the verdict, "as in the past."[79]

Thousands of olive trees have been uprooted to make way for the security fence, destroying the livelihood of Palestinian farmers. According to a *Daily Telegraph* report on 27 November 2002, many of the trees were illegally sold by the contractors, "sometimes for thousands of pounds each," to rich Israelis. Moreover, the report estimated that 11,000 Palestinian farmers would lose all or some of their land holdings to the fence.

> Shoif Omar, from the village of Jayous, said, "I have lost almost everything. I have lost 2,700 fruit and olive trees and 44 of 50 acres I own have been confiscated for the fence…." The village lost seven wells, 15,000 olive trees and 50,000 citrus and other fruit trees. "This area is the agricultural store for the West Bank. They are destroying us," he said.[80]

The olive harvest is critical to the fragile Palestinian economy; it is "almost the only crop that grows on the stony hillsides of the West Bank without irrigation."[81] There are an estimated nine million olive trees on the West Bank, and 35,000 small farmers are dependent on the crop for their livelihoods. The veteran Israeli peace campaigner, Uri Avnery, reckons that "a whole family can live now on ten olive trees. Without them, they cannot exist."[82] The olive industry contributes a vital $118,000 million to the Palestinian economy.[83] In addition to the disruption caused by the fence, the industry is under frequent attack from Israeli settlers. On

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[79] Alternative Information Centre. Retrieved from www.alternativenews.org on 08/23/08.

[80] *Daily Telegraph*, 27 November 2002.

[81] Ibid.

[82] Uri Avnery, 'Naboth had a Vineyard. *Spotlight*, 26 October 2002. Retrieved from www.redress.btinternet.co.uk/spotlight.htm on 08/23/08.

[83] UN statistics retrieved from www.reliefweb.int/rw/rwb.nsf. On 08/23/08.

23 October 2002, the *Washington Post* reported that the settlers had set hundreds of trees in the Palestinian Territories on fire. According to Avnery, "the Israeli settlers try to prevent the harvesting, to steal the fruit or to burn the groves."[84]

The frequent closures and delays at frontier crossings controlled by the Israelis have cost the Palestinian economy dearly. According to the World Bank, closures during first three months of 2005 cost at least $17 million in lost exports, equivalent to approximately 3 percent of all Palestinian exports in 2005.[85] Of this amount, approximately 40 percent was in irrecoverable agricultural products (strawberries, flowers, tomatoes, and so forth) that spoiled in trucks while waiting for the crossing to reopen.[86]

The fishing industry in the Gaza Strip—a vital contributor both to the local economy (it employs 30,000 people) and the nutrition of the population—suffered severely following the abduction of Israeli Cpl Gilad Shalit in June 2006. The Israeli navy established a blockade, which prevented the fishing fleet from leaving port. According to the Oslo Accords, Palestinians are entitled to fish up to 20 nautical miles off the coast. In April 2007, the IDF announced that it was permitting Gazan fishermen to take to the waters again for the high season, but only for a range of six nautical miles from the coast. According to the United Nations Office for the Coordination of Humanitarian Affairs, "the fishing industry faces long-term decline and even possible extinction" if this limit is maintained.[87] Annual income has dropped from $10 million to less than half that since the start of the Intifada, according to

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[84] *New Internationalist*, 1 January 2002. Avnery writes a moving account of how he organized a human shield of Israelis to protect the Palestinian pickers from the attacks of the settlers.

[85] International Monetary Fund, 2007 Retrieved from http://www.imf.org/external/np/wbg/2007/eng/032607ed.pdf on 08/23/08.

[86] Ibid.

[87] United Nations Office for the Coordination of Humanitarian Affairs, 2006 Retrieved from http://domino.un.org/unispal.nsf/db942872b9eae454852560f6005a76fb/dd9d58ddd1d5477c85257236005159b1!OpenDocument on 08/23/08.

the PNA Department of Fisheries.[88] The IDF defended the blockade on the grounds that it was preventing any attempt to take Cpl Shalit out of Gaza, but the measure must be regarded as an illegal collective punishment.

The net result of the deprivations suffered by the inhabitants of the Palestinian Territories has been a huge increase in the number of people wanting to leave. Nader Said of Birzeit University, who has monitored Palestinian attitudes toward emigration over 12 years, conducted another survey in September 2006 and found that 32 percent of Palestinians wanted to emigrate.[89] Dire economic conditions are cited as the prime reason, followed by lawlessness, political deadlock, and civil war. According to Ahmed Sabon, the Palestinian deputy foreign minister, 10,000 Palestinians emigrated between June and October of 2006 and a further 45,000 were preparing to leave.[90] The economic decline has also had a significant impact on the Christian minority. The percentage of Christians living in historic Palestine has fallen from around 20 percent to 2 percent since 1948. What was once a pluralistic society has ceased to be one in many respects.

Palestine's situation in the twentieth century has been hardly conducive to the growth of a liberal democracy. The near-constant violence has undermined the integrity of market transactions and the principles of liberal-constitutionalism. While the 1997 constitution did pledge to protect human rights (which is in accordance with liberal-constitutionalism), the difficulties in enforcing these rights during times of violence have been numerous. Citizens cannot be assured of assured of equal protection under the law and of equal treatment in the administration of the law in the context of widespread violence and civil instability.

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[88] World Bank, 2005 Retrieved from http://siteresources.worldbank.org/INTWESTBANKGAZA/Data/ 20751555/EMR.pdf on 08/23/08.

[89] Christian Science Monitor, October 24, 2006.

[90] *Al Jazeera*, 18 December 2006.

External Factors: Palestinian Democracy & Relations with Israel and the US

Palestinian Democracy and Relations with Israel

It has been a huge problem for the PNA that its major issues cannot be isolated from external factors largely beyond its control. It is not an independent state. It does not have real authority over any part of its claimed territory. Indeed, it cannot even prevent the effective annexation of lands—through the "iron wall," Israeli settlement expansion and military bases—that are generally acknowledged to be part of its territory. Entry and departure into the Palestinian Territories is entirely at the discretion of the Israelis, as is movement between Gaza and the West Bank.[91] According to a Special Report published by United Nations Office for the Coordination of Humanitarian Affairs, 38 percent of the West Bank is now taken up by Israeli infrastructure.[92] Nor, crucially, does the PNA have external access to its territories. The Gaza International Airport was demolished by the Israelis shortly after it was opened.[93] The proposed port of Gaza has never been permitted to be completed. All land frontiers are under the control of the Israeli forces. The virtual impossibility of movement between the

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[91] The World Bank (*Guardian*, 10 May 2007) estimates that 50 percent of the West Bank is closed off to Palestinians without a permit. There are now 47 permanent checkpoints. Forty-one sections of road, covering a distance of some 700 kms, are restricted to Palestinian traffic, while Israelis are allowed to travel freely. In addition, the United Nations Office for the Coordination of Humanitarian Affairs estimates that there is a weekly average of 200 flying checkpoints throughout the West Bank.

[92] United Nations Office for the Coordination of Humanitarian Affairs, "OCHA Special Focus Occupied Palestinian Rerriroty," August 30 2007.

[93] The Gaza International Airport was opened in 1998 thanks to funding provided internationally and served as the home base for the two Fokker 50s of Palestinian Airlines. The radar station and runway were destroyed by the IDF in December 2001. During the Lebanon War of 2006, Israel bombed the terminal building. The airline, which is owned by the PNA, still operates out of El Arish International Airport in Egypt. It employs 388 people.

Gaza Strip and the West Bank has meant that Palestine has developed into two entities with different economic characteristics and political cultures.[94]

On 15 November 2005, Israel and the PNA came to an Agreement on Movement and Access. It was agreed that the Rafah Crossing would be manned by Palestinian Force 17, the Presidential Guard. The process would be monitored by a special border force provided by the European Union. Israeli concerns about security were to be assuaged by the right to electronic surveillance and a regulation that any Palestinian trucks leaving Rafah for Egypt are not allowed to return, Israel insisting that goods go through the crossing under its control at Kerem Shalom to prevent the smuggling of arms into Gaza. The intention was that the Rafah Crossing would ultimately enable goods to pass between Gaza and Egypt.[95]

Any potential progress in this direction was disrupted by the Hamas's takeover of the Gaza Strip in June 2007. The Palestinian officials and the European Union monitors left their posts and the Egyptians sealed the border. On 23 January 2008, masked gunmen blew a gap in the wall and thousands of Gazans poured through to purchase desperately needed supplies in Egypt. Six days later, Egypt sealed the border again, apparently with the cooperation of Hamas.[96] There is a strong case for suggesting that a controlled opening of the Rafah Crossing could lead to a diminution of violence—both anti-Israeli and internal—in the Gaza Strip. This point was well expressed in an editorial in the *Haaretz* on 10 February 2008: "The Qassam attacks will end only when the Palestinians have something to lose. This has so far not come about through Israeli retaliatory actions; it may occur if the blockade is lifted in the Gaza Strip, at least in the southern border."

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[94] Makovsky, Herzog, and Young, 2006. 'Policy Watch Number 1083', Updated. 'Palestinian Dependence on Israel. Washington Insitute for Middle East Policy. March 23, 2006. Retrieved from http://www.washingtoninstitute.org/templateC05.php?CID=2453 on 08/23/08.

[95] United Nations Office for the Coordination of Humanitarian Affairs, 2006, Retrieved from http://domino.un.org/unispal.nsf/db942872b9eae454852560f6005a76fb/dd9d58ddd1d5477c85257236005159b1!OpenDocument on 08/23/08.

[96] A senior Hamas official, Mahmoud al-Zahar, was quoted on Al Jazeera on 2 February 2008 as saying that his delegation and the Egyptians had agreed on solving the problems of the crossing, but he did not go into details.

In a World Bank report, David Craig, the country director for the West Bank and Gaza, indicates that restrictions must be eased if the Palestinian economy is to improve.[97] The economic deprivations and repressive measures have contributed to extremism, which in turn has led Israeli officials to claim that the restrictions are a necessary response to terrorist attack. "We have no interest in seeing Palestinian hardship but our measures are defensive,"[98] commented Mark Regev, a spokesman for the Israeli Foreign Ministry. While acknowledging the legitimacy of Israeli security concerns, the World Bank insists that these measures cannot be imposed "against the background of Palestinian hardship and collapse."[99]

> The relationship between Palestinian economic growth and stability and Israeli security remains unarguable and of fundamental importance to both societies' well-being. . . . While there is consensus on the legitimacy of Israel's security concerns, it is difficult to reconcile this with the clear correlation between access restriction and the protection and expansion of Israeli settlement activity in the West Bank. The commitments entered into by Israel under the 2005 Agreement on Movement and Access (AMA) remain as unfulfilled as they are critical. The AMA must be implemented immediately; the loosening of restrictions on people and produce is a long-term source of stability, not a consequence of it.[100]

The Occupied Territories and Illegalities

Rampant illegalities in Palestine are in direct opposition to liberal-constitutionalism's principle of the supremacy of the rule of law, and undermine the efficacy of any governing body within Palestine. There is little doubt that the situation in the Palestinian Territories has

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[97] World Bank Technical Team, 2007 Retrieved from http://www-wds.worldbank.org/servlet/main?menuPK=64187510&pagePK=64193027&piPK=64187937&theSitePK=523679&entityID=000020953_20070806160232. On 08/23/08. The report notes that high transportation costs resulting from the restrictions have made Palestinian goods increasingly uncompetitive. "Even more importantly, the system has created such a high level of uncertainty and inefficiency that the normal conduct of business in the West Bank has become increasingly difficult and investment has been stymied." The report states that the restrictions must be dismantled if the Palestinian economy is to improve.

[98] *Guardian*, 24 May 2007.

[99] World Bank, 2007, "Two Years after London," Retrieved from http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/AHLCMainReportfinalSept18&cover.pdf on 08/23/08.

[100] Ibid.

deteriorated as a result of hostile actions of the Israelis. Assassinations, illegal detention without trial, allegations of torture, and collective punishments not only violate international law but have been huge factors in the destabilization of the Palestinian Territories. The media-monitoring group, Al Haq, for example, has expressed its deep concern: "The practice of targeted assassinations, officially endorsed by the Israeli executive and judicial branches, constitutes an inherent violation of the right to life and the right to a fair trial as enshrined in binding customary and conventional international law."[101]

Israeli Military Courts were established in the Palestinian Territories in 1967 to try Palestinians accused of "security offences." B'Tselem's examination of Israeli Government statistics led it conclude that on July 30, 2008, 8,500 Palestinian prisoners are being held in Israel, of whom 691 are aminstrative detainees. The United Nations alleges that almost 400 of the prisoners are children.[102] More than 900 were held in administrative detention without charge or trial, including some held since 2002.[103] There have been a numerous allegations that Palestinians have been subjected to torture in Israeli jails. The judgement of the US Supreme Court in the case of *Hamdan v Rumsfeld*[104] has clear relevance to the issue of the Israeli Military Courts. It decreed that the military commissions violated both the US Uniform Code of Military Justice and the four Geneva Conventions ratified in 1949.

As a form of collective punishment, house demolition has been a consistent policy of the Israeli Defence Force (IDF). The demolitions are based on Section 119 of the Emergency Defence Regulations, which were introduced by the British Mandatory power in 1945. Such procedures are not subject to court orders but are carried out entirely at the discretion of the

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[101] Al Haq Press Release, 30 May 2007. Retrieved from www.alhaq.org on 08/23/08.

[102] Retrieved from www.btselem.org/english/statistics/Detainees and Prisoners.asp. on 08/23/08. Peace must come to the Middle EastFor the Sake of the Children,' Office of the Special Representative of the Secretary-General for Children and Armed Conflict, April 19, 2007

[103] Ibid.

[104] Hamdan v Rumsfeld – 126S Ct 2749 (2006). The case concerned the legality of the military commissions established by the Bush administration to try detainees at Guantanamo Bay.

local military commander. According to a 2004 report by B'Tselem, the Israeli Information Centre for Human Rights, since the start of the al-Aqsa Intifada in 2000 the IDF had demolished 628 housing units which were home to 3,983 people.[105] Almost half the homes were never occupied by anyone suspected of involvement in attacks on the Israelis. IDF representatives pleaded before the Israeli High Court of Justice that prior warning of demolition was always given except in extraordinary cases. But according to B'Tselem, in only 3 percent of cases were occupants given notice: "Demolition of houses is an administrative procedure based solely on suspicion, in which the occupants are denied the right to the process of law."[106] HaMoked, an Israeli human rights organization, has pointed out that:

> The demolition is not carried out in place of criminal punishment, but in addition to it. Worst of all, the main victims of the demolitions are the occupants of the demolished structure, and not the persons Israel claims were involved in acts of violence (who are dead, or are in custody and await, in most cases, long prison sentences). Clearly, then, the act constitutes collective punishment, which violates the fundamental principle that an individual may not be punished for the actions of someone else.[107]

Collective punishments are prohibited under various enactments of international law.[108] Israel's policies in the Palestinian Territories also violate a number of rights under the International Covenant on Economic, Social and Cultural Rights. These include the right to an opportunity to make a living, the right to an adequate standard of living, the right to adequate food, clothing, and housing, and the right to enjoy the highest attainable standard of physical and mental health. Raji Sourani, director of the Palestine Centre for Human Rights,

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[105] B'Tselem, 2004, Retrieved from http://www.btselem.org/english/publications/summaries/200411_punitive_house_demolitions.asp on 08/23/08.

[106] Ibid.

[107] See "Demolition of Houses" on the HaMoked website www.hamoked.org, accessed 08/23/08.

[108] Marjorie Cohn of Thomas Jefferson School of Law, 2006, cites Article 50 of the Hague Regulations ("No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly or severally responsible"); and Article 33 of the Fourth Geneva Convention ("No protected person may be punished for an offence he or she has not personally committed"). Collective punishment is also forbidden by Article 75 of Protocol 1 of the Geneva Conventions.

entitled his submission to the UN Conference on Civil Society, which took place in Brussels in August 2007, "Enforcement of International Law in the Occupied Palestinian Territory: The Only Real Roadmap for Peace." It is difficult to escape the conclusion inherent in the title.

Illegalities have been committed not only by the Israeli government but also by the Palestinian National Authority. As stated previously, the PNA was established in 1994, according to the Israeli-Palestinian Interim Agreement, to manage the civil affairs of Palestinians living under its auspices. It had therefore, *inter alia*, to establish legal bases and principles that would govern its relations with Palestinian society. In its temporary constitution established in 1997 and in the amended version of 2003, the PNA asserted that it would work to join international and regional bodies that protect human rights and that it would respect all human rights declarations. Among other implications, this amounted to a commitment to amend all applicable laws in accordance with international standards. Since law in both the West Bank and Gaza was a potpourri of a legal residue left by various occupying powers—Ottoman, British, Jordanian, Egyptian and Israeli—this obviously was a top priority.

One issue is the death penalty. Although international law does not ban it, it does place severe restrictions on its application.[109] Yet the PNA issued 63 death sentences between 1995 and 2005 against persons convicted of various crimes, including crimes relating to national security: 13 prisoners were executed and another 8 were murdered while in PNA custody.[110] In one case, two brothers were executed in 1998 after a summary trial before a military court

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[109] The International Covenant on Civil and Political Rights requires that only persons convicted of the most grievous crimes should be subjected to the death penalty. It may be imposed only where the rules of due process, as set out in Article 14 of the Covenant, are strictly adhered to and provided that defendants have the right to appeal the court's decision. The PNA's legal codes permit the death penalty for 17 defined crimes in the West Bank and 15 in the Gaza Strip.

[110] 'Death Penalty Under Palestinian National Authority,' Palestinian Centre for Human Rights, September 14, 2006.

only three days after they had been charged with two murders.[111] Most of these death sentences were issued by the State Security Courts, which do not follow due processes. President Yasser Arafat established these courts in February 1995 without determining their mandates. The Palestinian Centre for Human Rights and other human rights organizations have campaigned consistently for their abolition.

> They [State Security Courts] routinely violate fundamental human rights, including the right to a fair trial before an independent and impartial court and to appeal against sentences to a higher judicial body. Trials in State Security Courts are summary, the accused are not given time to prepare a defence and are denied access to effective legal counsel. Sentences issued by these courts cannot be appealed to a higher body, including death sentences.[112]

In 2001, in an attempt to stall widespread criticism, the PNA promulgated the Penal Procedures Law which prescribed the procedures to be followed to implement death sentences. The convicted person has the right to challenge the sentence before the Appeal Court within 15 days of sentencing. If the appeal is rejected, the case goes to the president, who can grant amnesty.

The Israeli-Palestinian Interim Agreement of 1995 obliged the PNA not to search for and harass alleged collaborators. Even so, Dr Fathi Subuh, a professor of education at Al-Azhar University in Gaza, was declared to be a prisoner of conscience by Amnesty International after his arrest by the PNA's Preventative Security Service (PSS) on 2 July 1997. His case was seen as a test-case for academic freedom in the Palestinian Territories. He had set his students an exam as part of his "critical thinking" course that included a question on their opinions about corruption in the PNA. Weeks later, the PSS confiscated the exam papers from Dr Subuh's home. In prison, Dr Subah's pre-existing medical condition deteriorated and he was hospitalized. On 14 November 2007, 31 members of the Palestinian Human Rights Monitoring Group and prominent academics at Bir-Zeit University took an advertisement in

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[111] Palestinian Centre for Human Rights, 2006, Retrieved from http://www.pchrgaza.org/Interventions/Death%20Penalty.pdf on 08/23/08.

[112] Ibid.

al-Quds newspaper calling for his release.[113] Although he was released on November 26, this example points out inconsistencies within Palestine concerning the protection of human rights.

The 2001 Amnesty International Report on Prisoners of Conscience in the PNA was highly critical. It claimed that in 2000 more than 360 people had been arrested 'for political reasons', although most had been released by the end of the year. 'Torture and ill-treatment were wide-spread. At least 300 peole arrested in previous years were held without charge or trial. . . . State Security Courts continued to sentence political detainess after unfair trials. Three people were sentenced to death. The Palestinian Authority (PA) failed to bring those responsible for human rights abuses to justice.'[114] Torture of detainees was widespread. Seven detainees died in custody, and at least one person had "disappeared."[115] Unlawful killings, including possible extrajudicial executions, continued to be reported.

The Human Rights Watch Report on Israel and the Palestinian Territories for 1997 went some way to explaining the PNA policy of arbitrary detention, without exonerating it. Some of the activity, at least, was a response to pressure from the United States and, by implication, Israel. According to the report, the Palestinian Authority was under pressure from the US to "act decisively against anti-Israeli violence, one of Israel's conditions for continuing the

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[113] See www.pchrgaza.ps, accessed 08/24/08.

[114] Amnesty International Report, 2001. AI Index. POL. 10/001/2001

[115] Ibid.

negotiating process."[116] Arbitrary arrests and detention without charge or trial were condoned as a means of containing the terrorist threat posed by Hamas and Islamic Jihad.[117]

The Perlin model emphasizes human rights as a core aspect of liberal-constitutionalism. In Palestine, there have been many abuses of this ideal, both by Palestinians and Israelis. But there is also a large constituency, again made up of Palestinians and Israelis, who hold to this ideal and ensure that it is part of the public policy debate.[118]

Palestinian Democracy and US Policy

The democratic process in the Palestinian Territories has been inhibited by the failure of Israel and the United States to negotiate with, or even to acknowledge, many of the legitimate representatives of the Palestinian people. The diplomatic boycotting of Yasser Arafat and the demonstration of his political impotence was undoubtedly a factor in the rise of Hamas.

The failure of the US administration to adopt an even-handed approach has been another major obstacle. As Afif Safieh, a Catholic Palestinian who is currently the PLO representative in the United States, has put it:

> With all respect to the Quartet, the US remains the only superpower in the World, and it indeed behaves in that way toward the Arabs. On the other hand,

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[116] Retrieved from http://hrw.org/doc/?t-mideast&c=islpa on 08/24/08. The site contained the annual Human Rights Watch Annual Reprt On Israel and the Occupied Territories for the years 1989-2008

[117] For example, on 5 August 1997, Secretary Albright told reporters, "What we would like is as robust a reaction to the terrorists as [Arafat] took in March 1996, when he undertook a series of very specific steps to deal with the terrorist threat," an apparent reference to the round-up of several hundred suspected Islamists who were then held without charge or trial, and the summary closure of charitable organizations affiliated with Hamas or Islamic Jihad. (Retrieved from www.fas.org/news/iraq/1997/11/97111405_npo.html - 17k on 08/24/08.) The US applauded when the PNA started rounding up suspected Hamas activists in September, without charges being filed—and closing Hamas-affiliated charitable organizations. State Department spokesman James Foley said on 8 September 1997, "We think any step in the direction of an active, relentless effort to dismantle [the security infrastructure] in the territories is a positive step." (Human Right World Watch Report 1998, p 343, retrieved from http://books.google.ca/books?id=LzoDuFXAiW8C&pg=PA343&lpg=PA343&dq=Foley+We+think+any+step+in+the+direction+of+an+active,+relentless+effort+to+dismantle+%5Bthe+security+infrastructure%5D+in+the+territories+is+a+positive+step&source=web&ots=GXoZI7VEgp&sig=U2_YrEjEEuscJfX032ymtfKrscQ&hl=en&sa=X&oi=book_result&resnum=1&ct=result#PPR3,M1 on 08/24/08.

[118] See Appendix I.

toward Israel, it behaves as if it had the political weight of Liechtenstein or Luxembourg. I'm just asking my American friends . . . Do your interests include the Israeli occupation in the Territories? For this is it worth it for you to fight with the Arab world?[119]

The United States is indeed the only external power that has the economic weight to impose a solution on the opposed parties, if only because of the vast amount of aid it pours into Israel annually. Although official estimates hover at around $3 billion annually, the real totals are vastly higher.[120] The Palestinians have received more modest but nevertheless considerable support. The United States Agency for International Development (USAID) claims that, since 1993, it has given them more than $1.7 billion in economic assistance—more than any other donor country.[121]

Given the virtual dependence of both the Israelis and the Palestinians on US support, the question has to be asked why no US administration has used its economic clout to bring about a solution to the problem. The answer probably lies with the powerful lobbies within the American political system. It is significant that President Bush did not address the issue until the last months of his second term (following the same timeline as Clinton). Only at this stage is a US president released from the thrall of such lobbies as the American Israel Public Affairs Committee (AIPAC). The goal of this organization, according to its website, is "to help make Israel more secure by ensuring that American support remains strong."[122] The

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[119]Afief Safieh, 2005, "In Search of a Palestinian Identity,' Jerusalem: PASSIA.

[120] Shirl McArthur, Congressional Correspondent for the Washington Report on Middle Eastern Affairs, July 2006. A January 2, 2008 Congressional Research Service report by Jeremy M. Sharp, using available and verifiable data, estimates that the US gave Israel at least $2,500.2 million in 2007. This figure does not include $137,899 spent on a joint missile project or the $1.4 billion of loan guarantees. The Washington Report on Middle Eastern Affairs estimated that total US aid to Israel between 1949 and 1997 equalled $133,132 billion (including inteest costs)—23,240 for every Israeli. Retrieved from http://www.wmea.com/backissues/0390/9003011.html on 08/24/08.

[121] Retrieved from www.usaid.gov/wbg/ on 08/24/08.

[122] Retrieved from http://www.aipac.org/about_AIPAC/default.asp on 08/24/08.

100,000-member national grassroots movement has been described by *The New York Times* as "the most important organization affecting America's relationship with Israel."[123]

As if this powerful lobby were not enough, there is another that to many outside observers can only appear bizarre. These are the evangelical Christians known as Christian Zionists. While not unique to the United States, it is only there that they have a powerful following. Their "theology" is so far from that of the mainstream churches that many Christians are incredulous about their existence. Christian Zionists are vociferous in their support for Israel, believing that all Jews must be gathered into the Promised Land before the Second Coming of Christ can occur. Then things will turn nasty for the Jews. They will be given the choice of accepting Christ or rejecting him: salvation or damnation. Such doctrines, which in the rest of the world would be dismissed as the views of a lunatic fringe, are embraced by many of America's estimated 40 million evangelical Christians. One of the most prominent Christian Zionists, television evangelist Hal Lindsey, has a huge following. He is one of the few authors to have had three books on the *New York Times* best sellers list simultaneously. When Ronald Reagan was president, he invited Lindsey and other televangelists to discussions at the White House. It can only classified as beyond belief that Hal Lindsey was appointed as a policy adviser to—the Pentagon![124]

The effect of such powerful pro-Israeli lobbies has been to inhibit genuine discussion of the situation in Palestine, to encourage political opportunism, and to persuade the Congress to spend vast sums assisting Israel. Without a doubt much of this funding has been used to shore up the economically untenable and contentious Israeli settlement policy and to build the illegal "iron fence," to both of which the US administration is officially opposed. Stephen Walt of Harvard University and John Mearsheimer of the University of Chicago recently authored a book on this phenomenon, *The Israel Lobby and US Foreign Policy*. They argue

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[123] Ibid.

[124] Reverend Dr, Steven Sacker, 2004, *Christian Zionism: Road Map to Armageddon?* London: IVF Publications.

that "the lobby, working with Israel itself, has pushed US policy in ways that are in neither the United States' nor Israel's national interest," and that the United States "should end its special relationship with Israel and treat it like a normal country."[125]

American policy has not only been biased in favour of Israel but has also targeted extremist elements in the Muslim world as "the enemy." As William Dalrymple has pointed out, the so-called success of US-led "war on terror" has contributed to the rise of religious fundamentalism.

> As clear and unambiguous opponents of US policy in the Middle East—in a way that, say, Musharraf, Mubarak and Mahmoud Abbas are not—religious parties have benefited from legitimate Muslim anger: anger at the thousands of lives lost in Afghanistan and Iraq; at the blind eye the US turns to Israel's nuclear arsenal and colonization of the West Bank; [and] at the Islamophobic rhetoric that still flows from Bush and his circle in Washington.[126]

There is no issue that has the same global impact as the Palestinian-Israeli conflict. Solving it might well transform the entire political landscape of the Middle East for the better. This would serve the interests of all parties involved, including Israel.

A major issue that has to be addressed is the view of extremists on both sides, represented by Hamas and the Israeli settler movement, that the land is indivisible. At the heart of the problem is an issue that the US administration has overlooked—that Israel treats the Palestinian Territories as if they were part of Israel without conferring any of the rights to the inhabitants that accrue with citizenship. In fact, in the 40-year occupation, Israel has done little or nothing to develop the Palestinian Territories economically or politically.[127]

There is an impasse in relations between Israel and the Palestinians where once there were at least false hopes. US administrations have failed to exercise their full diplomatic clout

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[125] Mearsheimer, quoted in Oakland Ross, "Tel Aviv Audience Takes 'Israel Lobby' in Stride," *Toronto Star*, 13 June 2008, AA2.

[126] *The Guardian*, 27 September 2007.

[127] There is by no means an exact parallel, but this is in contrast to the Allied treatment of post-war Germany, which was developed politically, economically, and institutionally to take its place in the community of nations.

because they have been overly concerned with placating domestic constituencies. This failure has left a diplomatic vacuum. As Jimmy Carter expressed it, "This is the first administration since Israel became a nation that hasn't made any real effort to have peace talks. It's left a vacuum there, and vacuums are always filled with increased violence."[128]

The Hamas Challenge

Support grew for Hamas following the increased public perception of corruption within Arafat's regime, along with its failure to govern. The corruption under the Fatah-dominated government reinforced the view that it was cooperating with Israel's political agenda. The rise of Hamas as a powerful political force can be further ascribed to a number of factors:

- The dichotomy between the Tunis-based leadership of the PLO in exile and the locally based Hamas, who had suffered with the people and, to some extent, triumphed during the Intifada.

- The failure of the United States to pressurize Israel into concessions toward the more moderate policies of the PLO. The extreme measures of Hamas could then be portrayed as the only effective approach.

- The tendency among defeated peoples to return to fundamentals and look to a past golden age. This tendency explains the recurring references of Islamic fundamentalists to the crusades and early military conquests of Islam. This approach contrasts with Arab secularist organizations like Fatah that seek to advance, at least in part, by emulating Western values and technology.

- Certain Israeli policies, for example, the ill-judged assassination of Sheikh Ahmed Yassin on 22 March 2004. An estimated 200,000 people attended his funeral.[129] The subsequent growth in support for Hamas was reflected in its ability to carry out 555 attacks on Israeli targets in 2004. Mortar attacks increased by 500 percent over the previous year.[130]

The death of Yasser Arafat in Paris on 11 November 2004, from an undiagnosed illness, brought about a sea-change in Palestinian politics. Here was an opportunity to make the

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[128] Review in the *Sunday Times* of *Palestine: Peace not Apartheid* by Jimmy Carter, November 2006.

[129] Levitt, 2006, p 38. Yassin's successor, Abdel Aziz al-Rantissi, was assassinated less than a month later.

[130] Ibid, p 12.

transition to new leadership through elections. Hamas and Islamic Jihad groups chose not to participate in the presidential election in January 2005, when Mahmoud Abbas was elected. Their boycott reduced the turnout in Gaza to less than 50 percent. Hamas chose instead to mobilize its support in the May 2005 municipal elections, taking control of Beit Lahia and Rafah in the Gaza Strip, and Qalqilya and five of Bethlehem's seven Muslim wards (one-third of the total number) in the West Bank.[131] Abbas attempted to consolidate his power by calling the first elections for the Palestinian Legislative Assembly in ten years.[132]

The election that followed on 25 January 2006 was supervised by international observers and was hailed as the most open and fair ever conducted in the Arab world. The result astounded the world. Since Arafat's Fatah had gained control over the PLO in the late 1960s, no other group had been privy to Palestinian electoral power. This all changed when Hamas captured 44.5 percent of the popular vote and 74 of the 132 seats in the legislature.[133] While most observers had expected Hamas to make a good showing, not even its supporters had expected a majority victory and the subsequent control over the PNA and its institutions.

It is difficult to avoid the conclusion that it is the weakness of the Palestinian constitutional system that has failed to restrain Hamas's activities and to support the efforts of President Abbas in that regard. The Palestinian electoral system, like the Turkish one, appears heavily weighted in favour of the winner and was possibly devised on the assumption that this would give an advantage to the secular party. This system may have contributed to many of the ills of the PNA. Hamas gained an overwhelming majority of seats in the legislature on less than half the popular vote—only 3 percent more than that achieved by Fatah.[134]

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[131] Levitt, 2006, p 17.

[132] The failure to hold elections when it was a statutory obligation to do so had been justified by the Arafat regime as a result of the Intifada and the restrictions imposed by the Israeli occupation.

[133] Aaron D.Pina, 2006. 'Fatah and Hamas; The New Palestinian Factional Reality," Washington DC: GPO, Congressional Research Service, p 1.

[134] BBC News, 13 February 2006.

This disparity is a source of great tension. It is significant that one of the first moves announced by President Abbas following the effective split of the Palestinian Territories between the Hamas-controlled Gaza and the Fatah-controlled West Bank was a change in the dual electoral system—a move immediately denounced (possibly correctly) by Hamas as illegal. Abbas abolished the district vote, where a great deal of Hamas's strength lay, and retained the party lists.

Another great weakness in the system is that there is no constitutional court that can vet legislation in terms of its constitutional legality. There is provision for one in the Basic Law, but in the words of Nathan J. Brown, its creation has been in "legal limbo."[135] A move to create one had been endorsed in the previous Fatah-dominated parliament when a law had been passed giving increased powers to the president, which included the establishment of a constitutional court to which he had the power to nominate judges. One of Hamas's first moves when it gained a parliamentary majority was to seek to overturn this legislation, despite the fact that it lacked the necessary two-thirds majority.

As if the situation of Hamas's governance was not complicated in itself, numerous external factors had to be addressed in the post-election environment. Nations and organizations that regarded Hamas as a terrorist organization abruptly suspended most of their aid aid and cut off official contact with the new government led by Prime Minister Ismail Haniya. Yet Hamas had agreed to a ceasefire with Israel before the election and kept this agreement for several months afterwards. While the organization has employed some anti-Western rhetoric, it has never acted outside of the boundaries of historic Palestine. Nor has it ever been linked to the elements of global terror, despite its assumed connections. In fact, FBI officials concluded that Hamas's "extensive fund raising activity itself acts as a disincentive for operations terrorist activity in the United States."[136]

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[135] Brown, 2008, Retrieved from http://www.carnegieendowment.org/files/brown_palestine_elections.pdf on 08/24/08.

[136] Matthew Levitt 2006. *Hamas, Politics, Charity and Terrorism in the Service of Jihad*, New Haven: Yale University Press, p 214.

Security issues became paramount. The Quartet (the United States, Russia, the European Union, and the United Nations) demanded that before funding to the PNA was re-established, Hamas must recognize Israel's right to exist, cease all violence, and acknowledge previous agreements made by Fatah. Israel made additional demands that included the dismantling of the infrastructure of the Qassam Brigades and the revision of the Hamas Charter to eradicate all demands for the destruction of the state of Israel. The Hamas's response to these demands was lukewarm, with no movement on recognition of Israel, an offer to selectively recognize previous agreements, and an offer for a long-term ceasefire—but only if Israel withdrew to the 1967 boundaries.

A major factor in the Hamas electoral profile was that it had successfully pioneered social-service institutions, especially in Gaza. Once in power, however, in the words of Jim Lederman, the longest serving foreign correspondent in Jerusalem, "it quickly found itself in the same position as would a small chain of corner groceries that had suddenly been asked to take over Tesco."[137] Its refusal to acknowledge deals made by the Fatah government undermined the donors' insistence on the transparent financial probity that Fayyad had represented. As a result, there was little to negotiate with the major donors and the cash flow was reduced to a trickle. In March 2006, 165,000 public sector employees simply stopped receiving their pay.[138]

At the same time, the government inherited administrative confusion stemming from Arafat's practice of attempting to route all power to himself. The division of powers between President Abbas and the elected Assembly was ill-defined, although Abbas succeeded in retaining control of the PNA's vital security apparatus. An attempt to form a coalition government in June 2006 proved untenable. In December, the first round of factional violence broke out, with the Fatah-controlled PNA Security Forces and Hamas militias

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[137] Lederman, 2006, Retrieved from http://www.opendemocracy.net/conflict-debate_97/gaza_sum_3727.jsp on 08/24/08.

[138] BBC News Channel, 30 May 2006.

clashing in Ramallah and then throughout the Gaza Strip. After talks in Mecca in February 2007, a ceasefire was signed and further agreement reached on a coalition government in which several key ministries would be held by independents. According to the BBC, much of the wrangling was over the word *respect*. While the Abbas faction called for the honouring of its previous agreements with outside institutions, Hamas would only agree to respect them.[139]

The argument turned out to be academic because fighting broke out again in May 2007. In June, both parties moved to seize what territory they could. Fierce fighting erupted in the Gaza Strip where the rout of Fatah's forces was as sudden as it was unexpected, leaving the Hamas militias in control of the entire area. Following the retreat of Fatah to the West Bank, President Abbas announced the dissolution of the Fatah–Hamas coalition government and declared a state of emergency, dismissing the Hamas Prime Minister, Ismael Haniya, and naming Finance Minister Salem Fayyad in his place.

At the time of writing, the split between the Palestinians of Gaza and those of the West Bank appears complete. It is not generally realized, however, that the situation represents an incipient crisis for the nascent Palestinian democracy. It may come as soon as January 2009, the fourth anniversary of Mahmoud Abbas's election as President. Hamas insists that his term will then expire. Fatah, with some legal justification, claims that, since the terms of president and parliament are constitutionally intended to be concurrent, his term does not end until a year later. Even if an election were held that encompassed the whole of the Palestinian Territories, as things stand, the enabling agencies such as police, schools, and officials would be under the control of two mutually opposed factions. What's more, if there were some kind of resolution between the parties, an election could in practice only be held with the permission of the Israelis, who control movement over most of the West Bank and East

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[139] BBC News, 9 February 2007.

Jerusalem.[140] Short of the kind of unforeseen developments that are a feature of the region, there appears to be three potential scenarios.

- Fahah and Hamas come to a resolution for a fair and free election and/or a coalition government. An election would be complicated by what rules would apply: the Basic Law, as favoured by Hamas, or the presidential decrees of Mahmoud Abbas. A further complicating factor would be whether Israel would connive at any election involving Hamas, or agree to release the Hamas parliamentary representatives (including the Speaker) that it currently holds in custody.

- The situation remains as it is with Mahmoud Abbas ruling through presidential decree and a rump parliament in the West Bank, as did Yasser Arafat, while Hamas continues its Islamic regime in the Gaza Strip.

- The separation of the West Bank and the Gaza Strip is formally recognized and each departs on its own social and political agenda, although doubtless hopes would be expressed for a future reunion.

Some politicians in Israel and the West have expressed the view that the dichotomy represented by the latter two scenarios and the resulting territorial division between Hamas and Fatah may represent an opportunity to reach an agreement between Israel and Fatah. For example, Anat Kurz, senior research fellow at the Institute of Research Studies at Tel Aviv University, believes that the time is right for a grand gesture:

> Israel has to make the Palestinian people an offer they can't refuse in order to bypass Hamas on the road to making and implementing a deal. The thaw in Israel's relations with the Arab states as a consequence of such a deed will help reduce both the security risks it takes upon itself and the price it pays in terms of concessions without which a deal is impossible.[141]

Not all share this view. Israeli commentator Yossi Alpher sees the situation as having been created by a general bankruptcy on the part of the powers-that-be.[142]

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[140] For a fuller discussion of these issues see Brown, 2008, at http://www.carnegieendowment.org/files/brown_palestine_elections.pdf.

[141] Anat Kurz, 2007, Retrieved from www.bitterlemons.org on 08/24/08.

[142] In the *Middle East Times* of 28 August 2007, Alpher wrote that the Hamas's "violent takeover of Gaza last June, which, by any standard, signalled the abject failure of American, Israeli and Fatah policy, is now being defined as 'a window of opportunity.'"

Since Hamas has taken over the Gaza Strip, information about the precise effects of its rule there has been hard to come by. Media outsiders who gain access (entirely controlled by the Israelis) are painfully aware of the kidnapping of the BBC correspondent, Alan Johnston. Regardless, veteran American reporter, Marie Colvin, in a report for the *Sunday Times* on 30 September 2007 noted "Hamas wants you to believe that it has created a benevolent sanctuary where once chaos reigned." She describes polite Hamas gunmen presiding at checkpoints, and the uncharacteristic civility and safety of the streets. "Then you start talking to people—in private. Young men show you bruised limbs and welts on their feet, every girl wears a hijab head covering and, for the first time, women wear *niqab*—Saudi-style face coverings that reveal only the eyes. And people whisper. Welcome to Hamastan."

It must be concluded that the pattern of government developed in Gaza by Hamas was intended also for the West Bank. It is clear that many Palestinians would not be prepared to accept such an agenda. Nevertheless, the message that has been sent to the Palestinians is an embarrassing one to the West. Free and fair elections led to the choice of Hamas by the Palestinian people, which in turn led to the boycott of the legitimate government by Western interests. While it appears that Palestinians may vote as they wish, the message is that any governance must satisfy Western security concerns.

Few, if any, political parties in a democracy possess private armies, as do Fatah, Hamas, and other Palestinian factions, although there are other examples—one is Ireland; another, significantly, is Israel—of armed forces turning themselves into political parties. The election of Hamas led to what amounted to a civil war, which may have been fomented by the West but was certainly not begun by it. No outside influence could have created the animosities that led to the bitter fighting in Gaza and elsewhere. Implicit in the domestic conflict is a strong element of tribalism and factionalism, and even organized criminal activity.[143]

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[143] One such organization is The Army of Islam (*Jaish al-Islam*) which, despite its title, is a personal fiefdom of crime controlled by the Dagmoush family. It appears that, since the Hamas takeover in Gaza, there has been a crackdown on Dagmoush activity. It was suspected that they were behind the kidnapping of Alan Johnston.

Constitutionalism and Sovereignty: What Happens When They Conflict?

The above discussion of Hamas leads to the central question of this paper—should extreme and anti-democratic parties be permitted to benefit from electoral success in the democratic process?

There have been a number of occasions when, through the process of democratic election, an extreme party has been elected and has used its powers to abolish the democratic system—a program that usually the party has been quite open about in its presentation to the electorate. Indeed, the abolition of democracy and the substitution of its own political or religious agenda is often the central plank in the extremist party platform.

Such occasions fall into at least three categories.

1. *Europe in the inter-war years and beyond*: The rise to power of the Nazis in Germany was preceded by the rise of Fascism in Italy and elsewhere. Both regimes overthrew ostensibly democratic systems, although it must be stressed that Hitler never achieved a parliamentary majority. Similarly, the Communist Party seized power in Czechoslovakia in 1948 partly through the electoral process.

2. *Post-colonial Africa*: Almost without exception, the ending of European colonial rule in sub-Saharan Africa was achieved by a process of free elections that were followed rapidly by the imposition of a one-party state. This generally reflected the division of the country on tribal lines—a relic in many cases of the colonial era—and the lack of a party system that was based on any kind of ideology.[144]

3. *The Islamic World*: There are forces in virtually every Muslim country that would seek to impose an "Islamic" constitution and society. In a number of countries that have been ruled by autocratic or semi-autocratic regimes, anti-democratic forces have benefited from the

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[144] Post-Saddam Iraq demonstrates many of these characteristics.

adoption of a kind of limited democratic choice. These changes were frequently instigated as a result of Western pressure or encouragement and were clearly intended to assist the emergence of secular elites who would support the ruling party. Frequently, the result has been the opposite, with fundamentalists capitalizing on their grassroots support and reputation for incorruptibility.[145]

Given their electoral successes, it comes as no surprise that many Islamic fundamentalist groups have become avid advocates of free elections as a hitherto unexpected route to the power that has eluded them. There is a powerful argument that, if Muslims desire an Islamic society, they should be entitled to achieve one through the democratic system or in other ways. It is also argued that such parties are opposed only to Western-style democracy. Within the Muslim society that they wish to inaugurate, there may be different forms of freedom that the West does not recognize because it does not understand them.

It is also true that since anti-democratic forces usually make no pretence about their desire to destroy the system, and the electorate could in no way claim to be deluded by their agenda (would the same could be said of democratic parties in the West!), their success has a genuine element of public endorsement. Nevertheless, an objective of anti-democratic parties is generally the suppression or curtailment of ethnic, religious, social, and other minorities (especially women), undermining a free media and often the rule of law. Therefore, by definition, they cannot fulfil a fundamental aim of democratic society—to provide a place for everyone within it.

The decree of President Abbas imposing martial law upon the West Bank and, theoretically, Gaza too, requires all future candidates for election to acknowledge the PLO as the "sole,

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[145] The earliest example of an anti-democratic Islamic party achieving electoral victory occurred in Algeria. The *Front Islamique du Salut* (FIS) capitalized on local dissatisfaction to win local elections in 1990 and the first round of parliamentary elections in December 1991. Yet when the country looked almost certain to become the world's first elected Islamic republic, there was a military coup and the democratic process was brought to a halt. FIS leaders were imprisoned, the Islamists declared *jihad* on the state and thousands were killed in the ensuing chaos.

legitimate representative" of the Palestinian people.[146] This decree was enacted in the expectation that it would effectively debar Hamas from future elections.[147] President Abbas, together with many others, has clearly decided that Hamas is a non-democratic organization and therefore should not be allowed to enjoy the fruits of an election victory. It is true that Article 27 of Hamas's Covenant constitutes an attack on the PLO's ideal of a secular state of Palestine. But the decree, with its demand that candidates endorse the PLO, suggests that, as in other places in the Arab world, national unity is confused with conformity.

Hamas may not consider itself to be anti-democratic; they fielded a significant number of female candidates in the election and fought a more professional election campaign than Fatah. Yet Hamas cannot be described as democratic in anything other than Islamic fundamentalist terms. The articles of its Charter and the practical consequences of its rule in Gaza demonstrate that it is an anti-democratic political party.

Within the world of Islam, there are those who regard democracy as a Western concept that is incompatible with Muslim society, and those who view democracy as a natural and necessary extension of the Islamic tradition. The debate has been summarized by John L. Esposito and John O. Voll:

> The relationship between Islam and democracy is strongly debated among the people who identify with the Islamic resurgence in the late twentieth century and the beginning of the twenty-first. Some of these Islamists believe that "democracy" is a foreign concept that has been imposed by Westernizers and secular reformers upon Muslim societies. They often argue that the concept of popular sovereignty denies the fundamental Islamic affirmation of the sovereignty of God and is, therefore, a form of idolatry…. Many prominent Islamic intellectuals and groups, however, argue that Islam and democracy are compatible. Some extend the argument to affirm that under the conditions of the

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[146] BBC News, 23 September 2006.

[147] If President Abbas genuinely wanted to prevent Hamas's rule, it might have been sufficient to invoke Article 8 of the Palestinian constitution: "The Palestinian political system shall be a parliamentary democracy based on political pluralism. The rights and liberties of all citizens shall be respected, including the right to form political parties and engage in political activity without discrimination on the basis of political opinions, sex or religion. The parties shall abide by the principles of national sovereignty, democracy and peaceful transfer of authority in accordance with the Constitution."

contemporary world, democracy can be considered a requirement of Islam. In these discussions, Muslim scholars bring historically important concepts from within the Islamic tradition together with the basic concepts of democracy as understood in the modern world.[148]

It is important to get matters into historical perspective. Even in most Western nations, democracy is a comparatively new phenomenon. Recall that in the United Kingdom, generally regarded as one of the great cradles of modern democratic principles, universal suffrage and religious freedom only developed over the past two centuries.[149] It is equally important not to fall into the evolutionary trap: the idea that societies are moving through varying stages of development toward a common goal. There are significant cultural differences between Islam and Christianity, which has underpinned the development of political institutions in the West. These differences are perhaps more fully realized by Muslims than by Western political strategists.[150]

Anti-Democratic Tendencies within Islam

An examination of the issues relating to the rise of Islamic fundamentalist and allegedly anti-democratic parties involves at least three elements:

- the nature and theology of Islam in pursuit of models of tolerance and pluralism;

- the variability of Shari'ah Law in its application; and

- the development of civic and local democracy.

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[148] Esposito and Voll, 2001, Retrieved from http://www.neh.gov/news/humanities/2001-11/islam.html on 08/24/08.

149 Nevertheless, long before universal suffrage for men and women was granted in 1929, the disenfranchised British were proud of their Constitution, which encompassed such issues as equality under the law, an impartial judiciary, Habeas Corpus and freedom from arbitrary arrest, freedom of speech, and the like. It is important to remember that there are important aspects of the democratic process that are not concerned with periodic general elections.

[150] The attempts to impose "democratic" solutions in Iraq and Afghanistan demonstrate aspects of this failure of understanding.

A number of influential Islamic intellectuals have articulated a vision of Islamic democracy that conflicts with the ideals of Western secular democracy. Sayyid Abul A'la Mawdudi, who in 1941 founded the Jamaal-e-Islam Party in British India, asserted that in Islamic democracy, the sovereignty of God and the sovereignty of the people are mutually exclusive. Mawdudi formulated the concept of "theo-democracy," in which three principles underlie an Islamic political system: *tawhid*, the unity of Allah; *risala*, the prophetic messengers who reveal his will; and the *caliphate*, which represents the unity of all Muslims. Under this system, the government must accept the supremacy of Islamic Law over all aspects of political and religious life. In this worldview, which is not restricted to Muslims, the separation of politics from religion creates a spiritual vacuum that opens the way for political systems with no sense of moral value. From such a perspective, a secular state opens the way for the abuse of power.

The scholar often cited as having a huge impact on the growth of Islamic fundamentalism is Sayyid Qutb of Egypt (1906-1966). A member of the Muslim Brotherhood, after a brief stint in the United States he came to believe that true Islamic society was incompatible with Western society. In a 30-volume tome, *Fi Zalal al-Qu'ran – In the Shade of the Qu'ran*, he argued that the Muslim world had returned to the pre-Islamic state of ignorance because of its domination by the West and moral decay. He blamed Christianity for the development of a secular society in which religion has a restricted place (Jesus said, "Render unto Caesar…" and "My kingdom is not of this world"). Pure Islam, which knows no such separation of powers, had rescued mankind from such a catastrophe once before and would do so again through a *jihad* against innovation and the universal implementation of Shari'ah Law. Those who opposed the establishment of the kingdom of God on earth (through Shari'ah) were not real Muslims and were therefore subject to retribution. Violence would be a legitimate part of the struggle. The vanguard movement would grow until it formed a truly Islamic community and achieved world dominion.[151]

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[151] Heywood, 1992, p 75.

The dominant schools of Islamic theology see religion and civic government as a unified system. This is exemplified by the immutability of Shari'ah Law, a *Weltanschaung* that precludes the concept of Natural Law on which many Western concepts of democracy and communal and individual freedoms are based. Unlike Western legal systems, Shari'ah is not merely a system of law but a comprehensive code of behaviour that embraces both public and private life. The source of Shari'ah is the Qur'an, which Muslims believe to be the words of Allah revealed to the Prophet Muhammad over a 23-year period. As the revelation of divine law, Shari'ah is unchangeable.

Natural Law, on the other hand, as defined by Thomas Aquinas in his *Summa Theologica,* is "the rational creature's participation in the eternal law." To put it simply, it is assumed that God's purpose (the Natural Law) can be discerned by all people of good will, not just Christians, or as John Milton writes: "Just are the ways of God/And justifiable to men." The preamble to the American Declaration of Independence is firmly based on Natural Law: "We hold these truths to be self-evident. . . ." Natural law entails a philosophical dualism of principles that enables people of God and people of good will to share the ideals of a liberal society.

In Islam, the term "natural law" tends to refer to the natural world that Allah has created and the way it functions according to his will, rather than to a philosophical system for rationally and intuitively discerning that will. As Dr Anver E. Emon put it:

> The dominant Positivist Thesis as expressed in the premodern *usul al-fiqh*, or legal theory, holds that where there is no scripture on a matter, one is left in a state of legal suspension. . . . This position enshrines within Islamic law a strict scriptural position. Jurists argued that all determinations of God's law must find expression, directly or indirectly, from scripture. Extra-scriptural indices, whether in the form of rational proofs, or references to nature, do not provide a proper basis or foundation for asserting the divine law.[152]

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[152] Retrieved from www.hamline.edu/law/jlr/pdfs/EmonFinal2.pdf on 08/24/08.

The implementation of Shari'ah Law negates the rights of women. A delegation from the Bahrein Women's Petition Committee, which met with United Nations' human rights officials in 2006, delineated some of the injustices: patriarchal Shari'ah courts that refuse to accept women's evidence while accepting unfounded allegations by men; the nomination of sectarian judges; the widespread practice of "temporary" and "pleasure" marriages; the denial to married women of their financial rights; the denial to mothers of custody of their children in the event of a divorce; and so on.[153]

Islamic criminal law is clearly at odds with concepts of human rights as defined in the various conventions. This point is freely accepted by overwhelmingly Muslim countries like Sudan, Pakistan, and Saudi Arabia, which have frequently criticized the UN's 1948 Universal Declaration of Human Rights for its failure to take into account the cultural and religious context of Islam. In 1981, Said Rajaie-Khorassani, the Iranian ambassador at the UN, described the Declaration as a secular understanding of the Judeo-Christian tradition that could not be implemented by Muslims without breaking Islamic Law.[154]

The Organization of the Islamic Conference resolved to address this issue. On 5 August 1990, its 45 foreign ministers, "keenly aware of the place of mankind in Islam as vice-regent of Allah on Earth,"[155] adopted the Cairo Declaration on Human Rights. Although the Cairo Declaration does contain clauses that uphold human rights, these more liberal clauses are overshadowed by the stipulation that "all human rights . . . are subject to the Islamic Shari'ah" (Article 24). Thus Article 22 ordains that "everyone shall have the right to express his opinion freely in such a manner as would not be contrary to the principles of the Shari'ah." Article 14, which asserts that "there shall be no crime or punishment except as provided for in the Shari'ah," implicitly endorses the *hadd* penalties in force in

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[153] See www.defendingwomen-defendingrights.org/bahrain.

[154] Lippman, 1999.

[155] 'Cairo Declaration of Human Rights in Islam' reprinted in UN Document A/Conf. 157/PC/62/Add.18 (1993) and Columbia Centre for Human Rights: Twenty-five Human Rights Documents, pp 190-93.

fundamentalist Islamic countries.[156] The Declaration concludes, "The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration (Article 25)."[157]

One of the first acts of the incoming Hamas government was to announce that it would introduce Shari'ah Law—presumably in both its civil and criminal form. It is questionable whether President Abbas would underwrite such a proposal. Since the effective division between Gaza and the West Bank, it is likely that Shari'ah will be fully implemented in the former while the latter will continue to have a plurality.

Democratic Tendencies within Islam

Despite these anti-democratic strands, the values of Islam are compatible with democratic norms. Many Muslims cite the Qur'an (42:38), which defines "mutual consultation" or *shura* as one of the traits of the righteous. *Ijma* or consensus of believers is another quality they find capable of democratic interpretation, as is *baya*, an oath of loyalty to a ruler that involves mutual obligation. The prevailing ethos tends to be consensual rather than confrontational. Some Muslims extend these concepts to affirm that, in the contemporary world, democracy is a requirement of Islam.[158]

The Palestinian religious philosopher Ismail al-Faruqi, who achieved academic distinction in both the Arab world and in North America, proposed an epistemological framework known

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[156] The imposition of *hadd* penalities is frequently among the first symbolic measures implemented by fundamentalist Islamists on gaining power. *Hadd* penalties are meted out for the most serious offences under Shari'ah Law, such as adultery, drinking alcohol, apostasy, theft, and highway robbery. Penalties include stoning, amputation, lashes, and beheading. At the present time, Islamic criminal law is applied in Saudi Arabia, Yemen, the United Arab Emirates, Libya, Pakistan, Iran, Sudan, Mauritania, parts of Somalia, and in some northern states of Nigeria.

[157] Adama Dieng, a distinguished international lawyer from Senegal and himself a Muslim, has been highly critical of the Cairo Declaration. He argues that it threatens the human rights consensus on which the international human rights instruments are based. It institutionalizes discrimination against minorities and women. Further, he points out that many of its provisions are below the legal standards actually existing in a number of Muslim countries (BBC News, 23 September 2006).

[158] For a discussion this topic, see John L. Esposito and John Obert Voll, *Islam and Democracy* London: Oxford University Press, 1996.

as the "Islamization of Knowledge" within which modernization might be realized.[159] In response to what he called "the malaise of the *ummah*" (faithful), he argued that the use of methods and concepts that originated entirely in the secular West had caused a decline in Islamic ethical standards. Even worse, it had led to an inability to respect the norms of Islam itself. He believed that clashes between the traditional *ulama* (Islamic scholars) and those seeking secular reforms were inevitable without the restraints represented by an Islamic framework.

Al-Faruqi proposed restoring the basis of Islamic philosophy and *ijtihad*—the legitimate interpretation of the Qu'ran and the Sunnah (the reputed actions and sayings of Muhammad). A body of knowledge that had been so "Islamized" would not offend traditionalists since it would be constrained within the limits of Islamic ethics. He considered that, if this process were sufficiently widely based, it would provide an opportunity for the professional classes to mentally and economically liberate Muslim societies. They would work with the *ulama* rather than in opposition to them. Al-Faruqi was murdered by unknown hands in America in 1986, but his program has had a profound effect in certain areas, particularly in enabling the application of Islamic law to economic activity within Islamic societies and of Islamic tenets within non-Islamic systems.

An Islamic scholar who has had great influence in recent years is Yusuf al-Quaradawi, chair of the Dublin-based European Council for Fatwa and Research. He is also chair of a question and answer service based in Qatar called IslamOnline, and he appears on Al-Jazeera's weekly religious phone-in show. While al-Quaradawi is a firm supporter of Shari'ah Law, he is also regarded as an authority on *fiqh*—a form of Islamic jurisprudence that addresses those issues on which the Qur'an and the Sunnah are either silent or vague. In these cases, Muslim jurists try to reach conclusions using other means, such as analogy and historical consensus. Unlike Shari'ah, *fiqh* is neither sacred nor unchangeable.

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[159] See Martin Gilbert 1989, *Israel: A History*, New York: Doubleday, 1989 and Andrew Heywood 1992, *Political Ideologies: An Introducton*, New York: St. Martin's Press.

Al-Quaradawi's views on democracy are inconsistent but include some support, at least in theory, for democratic principles. On 6 June 2007, he told an inquirer on IslamOnline that "Islam calls for democracy and grants people the right to choose their governors. . . . Free integral elections should be guaranteed, where values of justice and the rule of law prevail."[160] To a British student of comparative religion, he commented on 26 May 2004:

> Applying the Shari'ah requires two essential types of understanding . . . understanding the sources from which the rules are derived, the Qur'an and the Sunnah . . . and the reality in which these rules are applicable. Hence the application of the Shari'ah is not in a vacuum: rather it is in a reality that is changeable due to time and space.

Yet in response to another question, he said that "Shari'ah cannot be amended to conform to changing human values and standards. It is the absolute norm to which human values and conduct must conform."[161] He opposes secularism as a form of atheism and a rejection of Islam. Al-Quaradawi does not claim to be a constitutional theorist; however, his vagueness on how to actualize a true Islamic state perhaps reflects a paucity of consideration of the issue among many Islamic scholars.[162]

Many of the interesting ideas on Islam and democracy come from the Muslim diaspora in Europe and in North America. Unlike their contemporaries in predominantly Muslim countries, diaspora Muslims are obliged to re-examine their faith in terms of the society around them. For some, this process leads to the espousal of extreme fundamentalism; for others, it leads to an attempt to seek rapprochement between conflicting value systems.

The Free Muslims Coalition Against Terrorism was founded by Kamal Nawash, a former Palestinian refugee who is now a successful attorney in the United States, to promote "a

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[160] See www.IslamOnline.net/English.

[161] Retrieved from www.IslamOnline.net on 08/24/08.

[162] This vagueness is reflected in an interview in *Der Spiegel* on 27 May 2005, in which al-Quaradawi states, "Islam is a single nation. There is only one Islamic law and we all pray to a single God. Eventually such a nation will become a political reality. But whether or not that will be a federation of already existing states, a monarchy, or an Islamic republic remains to be seen."

modern secular version of Islam which is peace-loving, democracy-loving and compatible with other faiths and beliefs."[163] The coalition has chapters in ten US states, and in Egypt and Iraq. It sees the promotion of secularism and the destruction of terrorism as prerequisites to democracy in Islamic countries. But the organization points out that many Muslims equate secularism with failure.

> The 20th century saw the creation of "secular" Muslim states from Morocco to Iran... Most of these "modern" Arab states brought their citizens repressive rule, war and poverty.
>
> The common response by many citizens of the Middle East who favour the creation of Islamic states is that "we tried capitalism, we tried socialism, and we tried communism and they all failed so let us try Islam…" If fair and free elections were held tomorrow, the majority of Arab countries would probably elect totalitarian leaders with an intolerant pro-Islamist agenda. The election of extremists would spell death to democracy. We must first expel Islamic extremists and terrorists from Arab and Muslim societies before democracy sweeps the region.[164]

An "intolerant" Islamic agenda would see the full implementation of Shari'ah Law, which would contravene human rights as defined in the UN's 1948 Declaration. Yet a limited form of Shari'ah Law can coexist with democratic processes through a system of legal pluralism. Article 2 of the Palestinian constitution recognizes Islam as the country's official religion and states that Islamic Law represents "a fundamental source of law." Similarly, Article 7 recognizes Shari'ah Law as "a major source of legislation." A parallel legal system is envisaged: "Civil and religious matters of the followers of monotheistic religions shall be organized in accordance with their religious teachings and denominations within the framework of law, while preserving the unity and independence of the Palestinian people."

In fact, a system of legal pluralism is practised in many countries. In the United Kingdom, for example, the Church of England and the Roman Catholic Church operate under Canon Law, which is applied only to adherents who voluntarily submit to that law. Similarly, Muslims in

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[163] Retrieved from http://www.freemuslims.org/about/ on 08/24/08.

[164] Retrieved from http://www.freemuslims.org/issues/democracy.php on 08/24/08.

the United Kingdom may seek judgment in Shari'ah courts. A parallel system also exists in India and Israel, where a combination of historical precedent and a sizeable Muslim minority ensures its continuation. In these countries, the religious courts have a sphere of authority but are nevertheless subject to the overview of civil courts.

The hazards of parallel legal systems from a democratic point of view have been analyzed by Ōmer Çana, associate professor of Political Science at Fatih University in Ankara. He writes that "communal divisions institutionalized in a system of legal pluralism are easily politicized. Identity politics crystallizing around legal issues in such a system may come to threaten the stability of the system itself and the capacity of the state to safeguard rights."[165] The parallel system is a source of tension in many Western countries that have significant Muslim populations.

Conditions Favourable to Democracy in Palestine

Strengthening democratic processes and pursuing institutional reform may no longer be immediate national priorities for most Palestinians. The humanitarian crisis, growing poverty, unemployment, and loss of property and land mean that basic survival and providing for the family surpass everything else for the vast majority. A growing number of Palestinians are skeptical that a two-state solution and an independent, viable Palestinian state will ever be possible. Nevertheless, a recent opinion poll conducted by the Jerusalem Media and Communications Centre found that 51.1 percent of Palestinians in the West Bank and Gaza still favour a two-state solution. Only 2.3 percent of the sample favoured an Islamic state.[166]

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[165] Çana, 2003. This point was picked up by the Turkish Constitutional Court in its comments on the Refah Partisi case. It noted that those appearing before courts under a system of legal pluralism would be obliged to reveal their beliefs. This, in the Court's view, would be an infringement of religious liberty and a potential risk to human rights.

166 Poll no. 62, 16-20 August 2007 retrieved from www.jmcc.org/publicpoll/results.htmlon 08/24/08. Somewhat surprisingly, support for an Islamic state was found to be higher in the West Bank than in Gaza, but at 2.8 and 1.8 percent, respectively, the result was statistically insignificant.See Jerusalem Media and Communication Centre, http://www.jmcc.org/new/07/poll.htm.

Amid the gloomy prognostications that increasingly dominate discussions of the future of the Palestinian Territories, it is useful to delineate some aspects of the situation that are positive or potentially so:

- One positive indicator is the high level of educational achievement in the Palestinian Territories, with 100 percent enrolment in primary education and over 80 percent enrolment at the secondary level.[167] Post-secondary enrolment is over 40 percent in the 18–24 age group—a rate comparable with that of middle-income countries. The World Bank considers access to both elementary and secondary education in Palestine "highly equitable with respect to gender, location (rural and urban), refugees, status and household income." Palestinian children scored above average in educational achievement for the (MENA) region. With a 91.9 percent adult literacy rate, the Palestinians are the most educated population in the MENA region. A great deal of the credit for this must go to the Ministry of Education and Higher Education in the Palestinian Authority.[168]

- According to the *CIA World Factbook* of July 2006, 43.4 percent of Palestinians are under the age of 16, which creates the potential for a young and vibrant workforce but also for an explosive situation if nothing is done to bring about peace and develop the economy.[169]

- A plus in the political system is that the Palestinian Legislative Council has demonstrated a commendable desire to criticize officials and vote independently and critically on measures put before it. It would appear also that Mahmoud Abbas, in his role as president, has sought to exercise his prerogatives judiciously. Things have moved on from the days of a system dominated by one man and his party. The presidential and legislative elections in 2005 and 2006 were both considered fair and free, despite the problems with Israeli-imposed travel restrictions.

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[167] World Bank Middle East and North Africa Human Development Group, 2006, retrieved from www.worldbank.org/ on 08/24/08.

[168] There is a downside to this impressive achievement: the World Bank Middle East and North Africa Human Development Group notes the "important mismatches between educational profiles and the labour market, with substantive gender differences. Female participation in the skilled labour force is low, even though women represent about 50 percent of enrolments in tertiary education. . . . Unemployment for women with university degrees is 34 percent." The high rates of enrolment in secondary education are driven by the fact that the public service, in particular the Ministry of Education, is the largest employer in the Palestinian Territories. But the supply of graduates has outstripped the demand. As the World Bank Group observes, "there were over 25,000 graduate applications for 2,200 new teaching jobs advertised by the Ministry of Education and Higher Education in 2005."

[169] Retrieved from http://www.tomeraider.com/ebooks/non-fiction/world_and_travel/ cia_world_factbook_2006_ebook--BK665.php on 08/24/08.

- In common with many emergent nations, there is a sense of mutual cultural identity among Palestinians.

- A plethora of groups have been established that relate to human rights, dissemination of information, political advocacy, grassroots activism, and intermediate development. Many of these groups bridge the boundary between Israel and Palestine. Their existence might be regarded as a hopeful blueprint for the future. They are essential in any democracy.

- There is good potential for the development of the olive industry. The Palestinian olive is of high quality with a unique taste. It represents 40 percent of the West Bank's agricultural production.

- According to the World Bank, Gaza has good economic and energy supply prospects. "Substantial gas resources lie offshore. It can receive supplies by sea and it borders Egypt which is an energy-rich country that provides a potentially low cost energy alternative to supplies from Israel.[170]

- Relative to other countries in the region, the World Bank considers the Palestinian investment climate to be good. "Petty corruption is low, the bureaucracy is relatively efficient and financial markets are well developed."[171]

- The World Bank considers that when the Rafah crossing from Gaza to Egypt was opened in 2005, it operated "efficiently and securely"[172] under European Union supervision for eight months until the Israeli government closed it at the end of June 2006. Its reopening would give Palestinian producers the opportunity to access Egypt's ports and Cairo International Airport.

- There is great potential for the development of religious and other tourism in the Palestinian Territories. The West Bank contains the city of Bethlehem and many other sites sacred to Christians. Gaza has the potential for development as a Mediterranean resort. The number of tourists staying at hotels in the Palestinian Territories rose 108 percent in 2007 to levels not seen since the Intifada began.[173]

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[170] Retrieved from http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/ 294264-1166008938288/ICA2007.pdf on 08/24/08/

[171] Ibid.

[172] "Potential Alternatives for Palestinian Trade; Developing the Rafah Trade Corridor.' World Bank Technical Team. United Nations Information System on the Question of Palestine. Retrieved from domino.un.org/ UNISPAL.NSF/85255db800470aa485255d8b004e349a/bbc475552ab8cf22852572b3004f72ab!OpenDocument on March 21, 2007.

[173] *Observer*, 18 May 2008. Palestinian hotel firms have plans to add 10,000 rooms in East Jerusalem, Jericho, and Bethlehem over the next three years in projects worth $300 million.

- The West Bank has genuine potential as a financial centre, situated as it is close to the oil-rich nations of the Gulf and with the opportunity of attention from the Palestinian diaspora. A Palestine Stock Exchange opened in Nablus in 1997. It now lists 37 companies and eight brokerage firms. In the first six months of 2008, its Al-Quds Index gained 38.6 percent, making it the best performing index in the Arab world.[174]

- Demographers are predicting parity between the Jewish and the Arab populations in historic Palestine within ten years.[175] This may give greater impetus to the desire for an overall settlement. Preliminary figures from the Israeli census of February 2008 claim that the Palestinian Territories has one of the fastest-growing populations in the world, with numbers surging by 30 percent in the past decade.[176]

Dialogue: Northern Ireland's Potential as a Model of Peace for Palestine

Northern Ireland offers a positive example that a terrorist organization can eventually be brought to the table, accept democratic norms, and negotiate a settlement that might put society on a new path.

The progress toward peace and reconciliation that has been made in Northern Ireland is in sharp contrast with the Israeli-Palestinian situation. The former Northern Ireland Minister, Michael Ancram, reckons that "we live in an age where there has never been a greater failure by the West to engage in dialogue. The result is increasing incidence of standoff, of fear, and of violence. Nowhere is this more the case today than in the Middle East."[177] In a recent lecture to the Middle East Institute Global Strategy Forum, Ancram draws a number of

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[174] Arab Bank (Switzerland). Palestine Stock Exchange Review, July 2008, Retrieved from www.arabadvisors.com/publishedreports.htm on 08/24/08.

[175] *Haaretz*, 29 October 2007. However, Dani Dayan, chairman of the Jewish Communities' Yesha Council, which represents West Bank settlers, has argued that the number of Palestinians was "grossly exaggerated" and "politically motivated. . . . The so-called demographic effect is one of the most crucial argument Palestinians and left-wing Israelis use to advocate withdrawal from Judea and Samaria" (*Guardian*, 11 February 2008).

[176] *Haaretz*, 29 October 2007.

[177] Ancram, 2007, Retrieved from http://www.michaelancram.com/sp_display.aspx?id=141 on 08/24/08.

parallels between Northern Ireland and historic Palestine and suggests alternative approaches to dialogue and peace.

Although there are great differences between Northern Ireland and Palestine, there are also significant parallels. Both can be perceived as "settler states" where "interlopers" have ousted the native population from its historic lands and rights. From the sixteenth century onwards, the lands of Irish Catholics were sequestered by Protestant settlers, creating a "victim culture" of the dispossessed. The Palestine conflict is not so long-seated, but there, too, the bulk of the population is heir to the original conflict.

The conflict in both countries has given rise to myths of culture based on what are often distorted but deep-felt versions of history. Conceptions of identity are reflected in a use of language of that hardens attitudes and deepens misunderstandings. "Northern Ireland" is a British designation; to the Loyalists it is "Ulster," while to the Nationalists it is the "North of Ireland." These differences, which to an outsider appear to be mere semantics, reflect definitions that are worlds apart in geographic and political meaning. Similarly, the far-right Jewish settler movement refers to the whole of historic Palestine as "Israel," while Hamas claims the whole area to be "Palestine." Any dialogue conducted on the basis of these different understandings will be brief and unproductive.[178]

According to Ancram, the first requirement in any constructive peace process is the tacit acknowledgement by both sides that they cannot win. It is impossible for a "terrorist" group to defeat determined government forces supported by a significant portion of the local population; it is likewise impossible for government forces to defeat permanently a terrorist group supported by a significant portion of the local population. However legitimate the armed struggle and its associated rhetoric may appear to be, it has the effect of enhancing a "security" agenda.

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[178] Language also divides perceptions concerning those engaged in armed struggle. The well-known phrase, "One man's terrorist is another man's freedom fighter," has its origin in the Northern Ireland troubles. It has almost become a cliché, but it expresses succinctly the dichotomy of view that pervades such conflicts.

Recognition of the other side's legitimacy has been an important aspect of the peace processes in both Northern Ireland and Palestine, although in former it has progressed while in the latter it has stalled. The 1998 Belfast Agreement, in which the Government of the Republic of Ireland agreed to amend its 1937 constitution to state that a united Ireland should only come about with the consent of a majority in Northern Ireland, is reminiscent of the exchanges between Israel and the Palestinians in 1993. Once the right of each side to self-determination is recognized, or perhaps more accurately, sinks in, progress can be made at certain levels. Ancram suggests that Hamas, by discussing cross-boundary issues with Israel, has implicitly recognized the right of Israel to exist.

> If Hamas was to accept the legal right of Israel to exist, it would lose all credibility with its own supporters. The IRA would have had the same problem. From what Hamas told me, the fact of their engagement with Israel, on issues such as water and electricity supplies and other cross-boundary matters is in itself a de facto recognition of Israel. Negotiations in a Mecca style format would be further de facto recognition.[179]

Further, Ancram makes the point that both sides must be engaged in dialogue that is sufficiently open-ended to encompass the different aspirations of the participants. Parties to this dialogue are not required to set aside their aspirations but to regard them precisely as such. Instead of attempting to consign the opposed groups to legal commitments, in Ireland a process of exploratory dialogue was used.

> What followed was vicarious dialogue that resulted in a narrative which encompassed in general terms the aspirations and grievances of all the participants sufficient to give them a degree of confidence without requiring them to sign up to each others positions—but equally not to expostulate against them.
>
> In place of negotiating commitments, we were exploring boundaries, establishing lines in the sand beyond which they would not go. Narrow horizons suddenly began to broaden. The hitherto impossible suddenly became remotely possible…. Exploratory dialogue should be as multilateral as possible to seek out potential areas of common ground . . . [and] low profile

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[179] Ancram, 2007, retrieved from http://www.michaelancram.com/sp_display.aspx?id=141 on 08/24/08.

dialogue is more likely to succeed than that carried on in the bright spotlight of international publicity.[180]

From the earliest days of talks in Ireland, "power-sharing" has been seen as the key to a peaceful outcome.[181] The theory is applicable in states that have major internal divisions along ethnic, religious, or linguistic lines. John McGarry and Brendan O'Leary argue that, in Northern Ireland, power-sharing provided a way out of the impasse: "Inclusion in power-sharing coalitions, we submit, can make radicals less extreme, because it . . . can strengthen the position of moderates within radical factions."[182] In developments that in retrospect seem extraordinary, in the election on 7 March 2007 the moderate parties on both sides of the political and cultural divide were largely replaced by extremist ones—the Ian Paisley's Protestant-based Democratic Unionist Party and the Sinn Fein—who have agreed to form a power-sharing government.

There may be sufficient parallels with the Northern Ireland situation to make an exploratory dialogue along similar lines in historic Palestine a worthwhile exercise. The power-sharing solution may have more parallels to the Fatah versus Hamas situation than the Palestinian versus Israeli one. Even so, a key issue in the dialogue must be whether the Hamas's aim of establishing an Islamic state is subject to negotiation. In the past, Hamas has been willing to agree to both ceasefires and power-sharing—the prime starting-point for any dialogue. Instead of forcing a condition-laden set of terms on Hamas, the party should be engaged in a dialogue to better discern common ground and the scope for compromise.

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[180] Ibid.

[181] Power-sharing is a variation of consociationalism, the political theory defined, but not devised, by the Dutch political scientist, Arend Lijphart.

[182] McGarry and O'Leary, 2004, *The Northern Ireland Conflict Consociational Arrangements*, London: Oxford University Press, p 262. An attempt at power-sharing in Northern Ireland failed in 1973 because the more radical groups, Sinn Fein and the Democratic Unionists, were excluded from the process. The result was a disaster for Ulster Unionist Brian Faulkner, the First Minister, and his Social Democrat and Labour Party deputy, Gerry Fit. Both were denounced as 'collaborators' by their respective co-religionists. The Assembly qas suspended by the British Government within a year. The intensity of the insurrection conducted by the Provisional IRA increased.

General Conclusions

Perlin's model is organized on the premise that democratic development incorporates two interdependent principles—liberal-constitutionalism and popular sovereignty. Each involves the establishment of a complex array of institutions and processes that can be mutually reinforcing or mutually destructive. The election of Hamas points out the dilemma that popular sovereignty can lead to assaults on liberal-constitutionalism. But the example of Northern Ireland points out that, over time, it is possible to persuade extremist leaders to forego violence and embrace democratic values.

What is clear from the Palestinian case is that Islamist movements have broad support and deep social roots. Islamist movements in Palestine and across the Middle East are here to stay. How to develop a coherent engagement strategy with such movements is one of the most compelling, but difficult, challenges for democracy-builders. In Great Britain, both the Irish extremist movements and the British government shared a long history and many cultural similarities, yet it took a generation of consistent effort to persuade the "hard men" that they should lay down their guns. It required the British to realize that they could not wipe out the IRA by military force, and it required the IRA to realize that Britain would not leave Northern Ireland whatever the provocations of terrorist attacks in London. Only after this essential learning had occurred could the two sides engage in meaningful negotiation. There is still obviously much essential learning that has to occur in Palestine—between Hamas and Fatah, between Israelis and Palestinians, and between the West and Islam.

The particular history of every country or society creates a political culture that, over time, either develops democratic norms of tolerance, the rule of law, and working institutions, or a counter-set of values—authoritarianism, inequality, exclusion, and a propensity for violence. In the case of Palestine, almost all of the necessary or facilitating conditions for democracy outlined by Perlin—democratic political culture, a non-polarized system of stratification, a functioning market economy, and an internally cohesive political community—are absent.

There should be little surprise that this society has had such difficulties in creating viable institutions and a democratic culture. Perhaps what is more surprising than the emergence of an extremist, violent faction like Hamas is that the great mass of Palestinians have used the forms of democracy to bring about change and have even supported peace with Israel, at least as measured by public opinion polls, despite the great provocations of the Israeli-Palestinian conflict.

Is the democratic glass half-full, or half-empty? Rex Brynen, an authority on the Middle East from McGill University in Montreal, told Canada's Democracy Council in February 2007 that "in Palestine, Western governments are attempting to strangle the democratically elected Hamas government they don't like, and arm the corrupt opposition that they do like, amid signs of civil war."[183] He concluded that the process of democratization in the Middle East is comatose. On the other hand, Sari Nusseibeh, the president of Al-Quds University in Jerusalem and one of the best-known Palestinian analysts in the Middle East, is more hopeful. While recognizing that Hamas and the iron wall are "two sides of the same coin, both slam the door shut on dialogue," [184] he has faith in the Palestinian majority:

> Over the decades, the Palestinian people had developed a will to live in peace with Israel, and the PLO leadership had to come to terms with that. It was our collective desire for the same freedom and dignity that other nations enjoyed that lured Arafat out of his underground lair and forced him to come to terms with Israel and the Jewish people.[185]

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[183] Perlin and Wood, 2007, p 47.

[184] Nusseibeh, 2007, p 529.

[185] Ibid, p 11.

Specific Conclusions

- The nature, ideology, and operating procedures of civil society organizations must be carefully assessed.

Nusseibeh writes that in his younger days, "no one could have imagined Sheikh Yassin's obscure charity in Gaza, given a quick start by Sharon, some day controlling the fate of our people."[186] It is easy to romanticize civil society organizations as a "school for democracy," but it is clear from its charter that Hamas does not envision a pluralist society. It is opposed to the construction of a political system that allows the will of the majority to prevail while simultaneously protecting the rights of minorities. At best, human rights are to be interpreted within a repressively Islamic framework. In the words of Abdullah Iskandar, "when Hamas justifies its practices by speaking of Law, it only states an imagined law that rejects pluralism, coexistence and opposition, a law that stipulates the treatment of factions and parties as rogue bodies that should be persecuted."[187] Aid-givers and democracy-builders, therefore, must learn all they can about the nature and approach of local organizations.

- It is equally important to examine the approach of the historically dominant party.

In the 2006 general election, Palestinians seem to have voted not so much for Hamas as against the dominant party, Fatah. The relationship of Fatah and the PLO with the local Palestinian population is complex. Arafat and the PLO succeeded in giving Palestinians a sense of identity and in galvanizing a people dispersed in refugee camps or under foreign occupation—but from a distance. With Fatah forced to reside in Tunis, local movements sprang up in Palestine. By the time of the First Intifada in 1987, Arafat and Fatah, though symbols of their people, were remote from many critical activities that were occurring on the ground. Thus, when Arafat and his party returned in triumph to win Palestine's first election and to govern the country, their mission in large part was to re-establish their roots in a population that had been locally organized to rebel against the Israeli overlords. It was not a

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[186] Nusseibeh, 2007, p 530.

[187] *Al Hayat*, 10 September 2007.

success. Only ten years after their return, they were humiliated in the 2006 election.[188] Crafting the political institutions of Palestine proved to be an enormous challenge. Aid-givers and democracy-builders often neglect governmental and party institutions and instead concentrate on civil society, but Fatah's failure demonstrates the wisdom of Max Weber's axiom that politics is mostly the slow boring of hard boards: attention has to be paid to the appropriate tools.

- The discussion of Islam makes a clear case that the values of this great religion are compatible with democratic norms.

The West has a largely one-sided view of Islam because extremists wave the Qur'an; however, with the exception of fundamentalist regimes, Shari'ah Law is variable in its application. Article 7 of the Palestinian constitution identifies Shari'ah Law as "major source of legislation," which suggests that parallel legal system is envisaged. Most Middle Eastern countries have dual religious and secular court systems. The democratic concepts of consensus and consultation are also affirmed by Islam.

- The full imposition of Shari'ah Law is incompatible with both democratic principles and the views of many Palestinians.

A criminal code based on Shari'ah Law does not accord full rights or status to minority groups, prohibits apostasy from Islam, restricts free speech and a free media, and severely oppresses women. The pronouncements and actions of Hamas suggest that it is seeking to establish a fundamentalist, Islamic republic.

- Israel has failed to address the problems of the West Bank and Gaza in economic or political terms.

In the forty years of occupation, Israel has behaved as if it possesses the rights of a ruling power without assuming the responsibilities. Its pursuit of its own agenda in the Occupied Territories has inhibited genuine progress toward peace.

- The stance of the West in dealing with Hamas has been misguided.

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[188] Compare this with the years of success the Congress Party enjoyed in India after it had been the main agent in achieving Indian independence.

The West extols democratic values but reverts into a security shell in the event of an undesired electoral outcome. As Rex Brynen writes, "the priorities of stability and counter-terrorism—and fear of Islamist oppositions—have eclipsed pious expressions of support for democratic change."[189] The result is that, in the eyes of the Middle East, Western advocates of democracy appear to be hypocrites. The violence sanctioned by Hamas cannot work, but nor will total isolation.

- US administrations have failed to exercise their full diplomatic clout because they have been overly concerned with addressing domestic constituencies and promulgating the war against terror.

- International agencies play an important role in encouraging and supporting the development of democratic institutions in Palestine.

The Palestinian National Authority was created under exceptional and difficult circumstances. Most post-World War Two examples of countries moving toward independence have included a measure of institution-building. The work of external agencies such as the European Union in supporting the growth of freer institutions is important (i.e., Algeria), as are welfare and educational provision, and a free media. In Palestine, the failure to develop adequate constitutional safeguards and an independent judicial system has been a weakness of the parliamentary system. However, there appears to be a free and healthy media in touch with pan-Arab and international influences.

- The plethora of self-help and campaigning groups listed in Appendix III represent the potential lifeblood of any democracy.

Democratic culture requires that people learn mutual respect even if they do not agree with other viewpoints. Democracy-builders in Palestine must have the perspective that it will take time for respect to replace violence, but the process has to start now. The 2006 election of Hamas should be regarded not as the end of democracy in Palestine, but as a vivid demonstration that there are no quick fixes and that democratic cultures take a long time to build.

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[189] Perlin and Wood, 2007, p 47.

- As the example of Northern Ireland suggests, exploratory dialogue and power-sharing can lead to a peaceful outcome.

The result of the 2006 Palestinian election came as a thunderbolt to many outsiders. The decades of effort toward resolving the Israeli-Palestinian conflict suddenly seemed to have achieved very little. Israel had withdrawn from Gaza but had built a security fence that is a physical refutation of the hope that eventually Israelis and Palestinians might live as good neighbours. The election of Hamas, with its extreme platform, seemed to demonstrate that the roots of democracy were very shallow indeed in Palestinian soil. But democracy lives on hope. It is always imperfect and must always be built anew. Sari Nusseibeh discusses at length his disappointments as a Palestinian democrat, but refuses to give in to despair. His father also had a dream of establishing a modern, liberal Arab nation in Palestine, but this aspiration was shattered by war: "Rubble, he used to tell me, often makes the best building material."[190] There is much democratic rubble in Palestine today, but with that kind of hopeful spirit, a sustainable democracy can still be built.

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[190] Nusseibeh, 2007, Retrieved from www.nytimes.com/2007/03/29/books/29bronner.html on 08/24/08.

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Appendix I: Perlin's Theory of Change Model

1. Propositions About the Nature of Liberal Democracy

Operating Principle A:
LIBERAL-CONSTITUTIONALISM

Element A1:   Constitutional Government

a) Constitution establishing clear rules for the exercise of authority is relatively settled with amending procedures that do not permit arbitrary changes by incumbent elites.

b) Constitution is based on the principle of limited government with well-defined & effective limits on the general scope of government authority.

c) Constitution establishes independence of the judiciary.

d) Elites in other governmental institutions accept the judiciary's right to interpret & safeguard the constitution.

Element A2:   A Framework of Entrenched & Enforceable Rights

a) Constitutional entrenchment of rights.

b) Enumeration of rights includes the protection of the basic freedoms (conscience, associations, speech,) political rights (to vote & seek office,) & legal rights (due process protections for persons suspected or accused of crimes.)

c) Substantive rights to protect & promote equality (e.g. for women, minorities, persons with disabilities.)
d) Mechanisms for giving effect to entrenched rights, including human rights codes & procedures for enforcing them, as well as government policies to give effect to rights through such mechanisms as support to affirmative action.

Element A3:   The rule of law incorporating the principles of the supremacy of the law, equality before the law, & the impartial & fair administration of the law

a) Constitution clearly establishes the supremacy of the law & the principle that all persons, regardless of their role or status in society, are subject to the law.

b) All persons are assured of equal protection from the law.

c) All persons are entitled to equal treatment in the administration of the law.

d) Investigative & prosecutorial functions of law enforcement are exercised impartially & fairly.

e) Impartial & fair adjudication of the law occurs through an independent judiciary.

f) Exercise of due process in criminal proceedings recognizes the right of persons accused of a crime to protection against arbitrary acts & the means to provide an adequate defense.

g) Agents of state security are insulated from arbitrary use by elites in other governmental institutions.
h) There exist mechanisms of independent review & appeal for protecting citizens against abuses by law enforcement agencies & personnel.

Element A4:   Democratic control of internal & external security institutions

a) There exist clearly defined & enforceable legal protections against the political use of military, intelligence, & law enforcement agencies & personnel.

b) There exist clearly defined lines of accountability of military, intelligence services, & law enforcement agencies to democratic institutions.

c) There exist clearly defined limits on authority of all agencies of law enforcement.

d) Independent mechanisms exist for reviewing & controlling the activities of intelligence agencies.

e) State security agents understand & act in a manner consistent with their responsibilities under a regime of entrenched rights.

Operating Principle B:
POPULAR SOVEREIGNTY EXPRESSED THROUGH INSTITUTIONS & PROCESSES OF REPRESENTATIVE DEMOCRACY

Element B1: Governing institutions that are effective, responsive, & accountable to citizens.

The allocation of authority among different orders of government provides for governance that is effective, responsive & accountable to citizens.

a) Central, regional, & local organs of government have appropriate levels of authority to exercise their responsibilities in a manner consistent with these objectives.

b) Central, regional, & local organs of government have appropriate levels of fiscal capacity to exercise their responsibilities in a manner consistent with these objectives.

The organization of executive-legislative relations within governing institutions provides for governance that is effective, responsive & accountable to citizens.

a) The organization of executive-legislative relations is based on settled principles that limit the possibility of inter-institutional or intra-institutional conflict.

b) The principle of the legitimacy of opposition in the legislature is recognized, institutionalized & provided adequate resources to be effective.

c) Legislature has appropriate procedures & resources for exercising scrutiny of the executive.

d) Legislature has appropriate resources to be effective in representing citizen interests in policy-making.

e) Members of the legislature are effectively connected to citizens.

Administrative structures, procedures, & practices within governing institutions provide for governance that is effective, responsive & accountable to citizens.

a) Competent, professional public service.

b) Appointments & promotions within administrative organs of government are based on the merit principle.

c) Policy-making procedures within the executive incorporating consultative mechanisms are designed to ensure representation of public opinion.

d) There is transparency & impartiality in administration of public spending.

e) There are institutions & processes to protect citizens from arbitrary actions by the executive (for example, freedom of information & privacy laws administered by officers accountable to legislature.)

f) There are processes to provide citizens with the means to appeal administrative decisions.

g) There are effective conflict of interest & other "anti-corruption" laws.

Element B2:Political elites chosen through, regular, free & fair elections

a) Universal franchise exists.

b) Formal rules & institutions exist to ensure independence of administration of elections.

c) Mechanisms are in place to ensure equality & fairness in system of voter registration.

d) Protections for secret ballot exist.

e) There exist mechanisms for ensuring equality & fairness in tabulation & reporting of election results.

f) Regulation of party & electoral campaign finance operates to ensure reasonable fairness in competition & to establish confidence in the integrity of the system.

Element B3: A genuinely competitive system of party politics effectively representing a broad spectrum of societal interests & contributing to accommodation of diverse interests.

a) There is an absence of barriers to forming parties & competing.

b) Internal party processes provide for open access to, & fairness in, nomination of candidates for office & selection of leaders.

b) Systems of Internal party governance are transparent & encourage citizen participation.

c) Election campaigns provide sufficient information to facilitate informed choice.

d) Regulation of party & electoral campaign finance ensures reasonable fairness in competition & establishes confidence in the integrity of the system.

e) Electoral system produces outcomes that fairly represent the distribution of party support.

f) There is an acceptance by all participants of the integrity & legitimacy of processes of party politics.

Element B4: A system of political communication that ensures a free flow of information about public affairs.

a) News media are politically independent whether state or privately owned.

b) The media accept that they have a responsibility to contribute to the public interest in a democracy.

c) In this regard, the media work constructively to inform citizens about public affairs in a free & impartial way.

d) Democratic values are embedded in the professional norms of journalism.

e) There are high standards of professional competence among journalists.

f) The legitimacy of independent media's role is accepted by political actors.

g). There are effective legal protections for independent journalism.

h) The media are free of political manipulation.

i) All significant political interests are accorded access to the media & can freely express their views.

Element B5: A system of group politics that ensures the representation of citizen interests based on the principles of pluralist theory.

a) There is an absence of barriers to interest group formation.

b) Government policy-makers & administrators recognize the legitimacy of advocacy.

c) There is open & equal access to decision-makers for advocacy groups.

d) Lobbying is regulated to ensure transparency & fairness in competition among groups.

e) Support is provided to disadvantaged or diffuse groups with weak financial & organizational resources to enable them to compete effectively.

2. Conditions Necessary to Achieve & Sustain Liberal Democracy

The information below distinguishes between conditions that are widely agreed to be an essential & integral part of a stable, self-sustaining, functioning democracy & those that facilitate the realization & sustainability of a functioning democracy. The importance of these "facilitating" conditions is more contentious.

Widely Agreed Condition 1: Political engagement of citizens

a) Citizens participate in politics (minimum requirement is that those who are eligible will vote.)

b) Citizens are interested in, attentive to, & informed about public affairs.

Widely Agreed Condition 2: Democratic Political Culture

a) State elites & citizens are committed to liberal values:

- Individual autonomy
- The "freedoms"
- Equality before the law
- Political equality
- Equality of opportunity
- Justice

b) State elites & citizen are committed to democratic values:

- Decisions through discussion & debate
- Tolerance of dissenting opinion
- Acceptance of necessity to make decisions through accommodation & compromise

c) State elites & personnel know & respect the limits on their authority, understand their duties under a liberal-democratic constitution, & are committed to the legitimacy of the system.

d) Citizens are committed to the legitimacy of the system: they accept decisions with which they disagree because they recognize the legitimacy of the processes by which the decisions have been made.

Widely Agreed Condition 3: Civil Society

a) There exists a substantial network of active, autonomous, organized groups pursuing a multiplicity of diverse individual interests outside the sphere of state authority.

b) Group participation is voluntary.

c) Groups are free to form around any set of social, economic, or cultural interests.

b) There is widespread citizen participation in group activity.

c) Individuals have multiple group memberships reflecting differing aspects of their individuality.

Facilitating Condition 1: Open, non-polarized, system of social stratification

a) Large middle class.

b) Social mobility based on achievement.

c) Government policies promote equality of opportunity.

d) Government policies provide some measure of social justice: for example, equal access to adequate health services & social support for disadvantaged members of society.

Facilitating Condition 2: A functioning market economy regulated to prevent disproportionate aggregations of power & ensure fairness in economic relations

a) There are state policies & laws to establish the conditions necessary to ensure the integrity of market transactions, to preserve competition, & to maintain the stability of the monetary system.

b) There is state regulation to protect collective bargaining rights for labour.

c) There is state regulation of workplace conditions.

d) There is state regulation to protect consumer interest.

Facilitating Condition 3: An internally cohesive political community

a) In societies where there are significant ethno-cultural &/or linguistic cleavages there are effective state policies to promote tolerance & protect cultural minorities.

b) In culturally diverse societies government policies effectively promote commitment to shared values that underpin social cohesion.

c) In societies where there are distinctive regional sub-communities, based on a strong sense of regional identity & interests, state structures are designed & function effectively to give representation to & accommodate regional sub-community differences through:

• Adoption of the federal principle or devolution of significant powers on regional governments, &;

• National institutions that incorporate the principle of regional representation; informal practices to ensure that the principle of regional representation is observed in the national government.

Appendix II: Palestine through the Perlin Model Lens

1. Propositions About the Nature of Liberal Democracy

Operating Principle A:

LIBERAL-CONSTITUTIONALISM

Element A1: Constitutional government

The Palestinian National Authority is governed by the provisional Constitution passed in 2002 and amended in 2003. Despite this, the constitutional government is hobbled by the lack of safeguards or an independent judiciary. In particular, the lack of a constitutional court which is capable of interpreting and ensuring compliance with the constitution. In particular, it is the due to the weaknesses of the constitutional system, which were designed to facilitate Arafat's rule, that failed to check Hamas once it gained power in the 2006 elections.

Element A2: Framework of entrenched and enforceable rights

As with the element of Constitutional Government, the lack of an effective Constitutional court limits the effective enforcement of the rights guaranteed in the Palestinian Constitution. Further, state agents in many cases do not act constitutionally. Further, institutions such as the State Security Courts do not give due process to those who are tried summarily before it. Despite the lack of an effective entrenched framework of rights, they are widely supported by the Palestinian population.

Element A3: Rule of law incorporating the principles of the supremacy of the law, equality before the law, and the impartial and fair administration of the law

Given the context of the ongoing and widespread violence and civil instability within the Palestinian territories, effective rule of law and the impartial administration of the law are virtually absent. Further, the Israeli administration of the Palestinian territories is often arbitrary and without regard to the rule of the law. Collective punishments such as home demolitions are one such example. Many would argue that there are many other aspects of the Israeli military administration that have been implemented unfairly. In many cases the Palestinian National Authority has violated the rule of law as well, in particular in terms of its use of the state security courts which do not provide for due process. There have also been reports of extra-judicial legal enforcement and corruption, all of which undermine fair administration and the rule of law.

Element A4: Democratic control of internal and external security institutions

There is little to no democratic control over either internal or external security institutions, whether this is violence within Palestine, or committed by Palestinian factions within Israel. All such violence is in direct contradiction to the operating principle of democratic control of security measures. The ongoing civil violence between Fatah and Hamas is the most visible example of this.

Operating Principle B:
POPULAR SOVEREIGNTY EXPRESSED THROUGH INSTITUTIONS & PROCESSES OF REPRESENTATIVE DEMOCRACY

Element B1: Governing institutions that are effective, responsive, & accountable to citizens.

The division of Palestine into Hamas-controlled Gaza and the Fatah-dominated West Bank has weakened the effectiveness and responsiveness of Palestine's governing institutions. Ongoing violence and instability as well as corruption within the Fatah old guard has limited accountability.

Despite this, the Palestinian Constitution provides that the Rule of Law shall be the basis of government in Palestine (Article 6), which, if implemented, could serve as the basis for holding accountable and responsive the legislature and executive.

Further, many non-governmental organizations have pushed for improved public administration within the Palestinian territories, and whose experience and encouragement has done much to push the Palestinian National Authority towards this ultimate goal, though developing truly accountable and effective institutions will remain nearly impossible so long as such deep divisions persist, whether between Hamas and Fatah, or between Gaza and the West Bank.

Finally, to the extent that Palestine's governing institutions are components of the Israeli Military Administration, they are neither effective, responsible or accountable to the citizens of Palestine.

Element B2:Political elites chosen through, regular, free & fair elections

The 2006 Legislative Election was hailed as the most open and fair ever conducted in the Arab world by international observers. The unprecedented openness and fairness of this election were attributable, in part, to the strong influence of President Abbas and a truly independent electoral commission. There is no reason to believe that they will not be able to do the same again, especially with such infrastructure already in place. Further, the Constitution guarantees that the governing system in Palestine will be democratic (Article 5), that all citizens have the right to vote (Article 26), and that both the President and the Legislative Authority (Articles 34 and 47).

Despite this, there is some uncertainty over the form that the next election will take. If the ongoing divisions between Gaza and the West Bank continue, it is unclear whether a Palestine-wide election can be held that is free from factional and partisan violence and pressure. Without a resolution to Palestine's internal civil divisions, free and fair elections may not be possible.

A genuinely competitive system of party politics effectively representing a broad spectrum of societal interests & contributing to accommodation of diverse interests

Palestine has a range of parties. In the 2006 legislative election, 9 smaller parties and independents gained 14.11% of the vote between them and won 13 seats. Despite this, the long-term dominance of Fatah and the meteoric rise of Hamas have effectively transformed Palestine's politics into a two-party system. Further, the division between the secular-nationalist Fatah and Islamist Hamas does not facilitate the representation of a broad spectrum of interests. Unlike two-party systems that divide along the right-left spectrum, Palestinian politics is factional, such that the accommodation of diverse interests is only done superficially. Despite this, the Palestinian Constitution guarantees to the right to form and join political parties (Article 26), meaning that small parties will continue to develop and compete, and may precipitate a move towards a genuine multi-party system.

Element B3: A genuinely competitive system of party politics effectively representing a broad spectrum of societal interests & contributing to accommodation of diverse interests.

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Element B4: A system of political communication that ensures a free flow of information about public affairs.

Palestine has a very free media. The Palestinian Constitution gives the right for any person to establish newspapers and other media (Article 27). The 2005 annual report on Palestinian Democracy published by the Palestinian Centre for Policy and Survey Research rated Palestinian media freedom at 739 out of 1000, a very high score. The victory by Hamas has limited press freedom, with the 2006 survey only scoring 662 out of 1000.

Element B5: A system of group politics that ensures the representation of citizen interests based on the principles of pluralist theory

One of the most well developed aspects of Palestinian public life is its civil society. The lack of sovereieignty in Palestine caused by the ongoing Israeli occupation has pushed Palestinians towards participating in civil society in the absence of government institutions. This has resulted in the development of a plethora of groups promoting a wide variety of objectives and interests and capable of representing the views of their members.

2. Conditions Necessary to Achieve & Sustain Liberal Democracy

The information below distinguishes between conditions that are widely agreed to be an essential & integral part of a stable, self-sustaining, functioning democracy & those that facilitate the realization & sustainability of a functioning democracy. The importance of these "facilitating" conditions is more contentious.

Widely Agreed Condition 1: Political engagement of citizens

Widely Agreed Condition 2: Democratic Political Culture

Widely Agreed Condition 3: Civil Society

Political turnout in Palestinian elections is relatively high. In the 2006 election, the turnout was 74.6%, and the Presidential elections were close to 70% as well. Shikaki supports this view, with polls showing that 54% of respondents show an interest in politics, and another 23% showing some interest, while 79% indicate that they follow the news often or very often.

Fogg suggests that, given the level of factional violence within the territories, that a democratic political culture is absent. Despite this, there remains a public desire for participation amongst the population as indicated by high turnout numbers, the numerous civil society groups, and the high degree of engagement and participation by Palestinians, all of which is constantly developing Palestine's democratic political culture. Palestine also has one of the most developed educational systems in the Middle East, which is a key determinant of a democracy. Most importantly, 88% of Palestinians want to have a democratic system in Palestine.

Despite this, 70% of Palestinians indicated that they have not participated in political activities other than voting in elections, and only 21% indicating that they have participated in non-voting political activities more than once. However, there are a range of indicators which suggest significant potential for the development of democracy within the Palestinian territories.

Facilitating Condition 1: Open, non-polarized, system of social stratification

An open and non-polarized system of social stratification is absent in the Palestinian National Authority.

Facilitating Condition 2: A functioning market economy regulated to prevent disproportionate aggregations of power & ensure fairness in economic relations

A functioning market economy is clearly lacking in Palestine. A large part of this is because of the economic weakness of the territories due to their dependence on Israel. The destruction of the international airport, the blockade of the port in Gaza, and the closure of the crossing at Rafah and elsewhere, all have debilitating effects on the Palestinian economy. Palestine is dependent on Remittances. As a result, a true, functioning market economy is absent, but there is significant capacity for the development of the Palestinian economy once the Israeli blockade is lifted.

Facilitating Condition 3: An internally cohesive political community

The division in Palestine between Hamas and Fatah, as well as Gaza and the West Bank, has undermined the internally cohesive political community of Palestine to the extent that this community is arguably absent. Despite this, Palestinians share a mutual cultural identity that binds them, regardless of the factional differences within the Palestinian political community.

Appendix III: Palestinians, Hamas, and Democracy

By Khalil Shikaki, Director, Palestinian Centre for Policy and Survey Research

Executive Summary

The January 2006 election of Hamas has raised many questions, particularly in Israel and in the West, about the commitment of the Palestinian public to democracy. For example, the accompanying paper in this series by the Centre for the Study of Democracy, "Optimism with Information," is cautiously optimistic that a "sustainable democracy can still be built" in Palestine, yet also concludes that the election of Hamas suggests that "the roots of democracy were very shallow indeed in Palestinian soil." Others argue that the election of Hamas demonstrates public commitment to fundamentalist religious and Islamist values—values that are incompatible with democracy. While these assertions are not without merit, they do deserve a closer examination.

Relying on extensive data collected by the Palestinian Centre for Policy and Survey Research,[191] this paper explores the extent to which Palestinians support democratic values, and why, if they do, they have voted for Hamas. It describes public attitudes toward democracy, examines drivers of political differentiation and affiliation, traces the rise of Hamas in public consciousness, and discusses the behaviour of Palestinian voters in the 2006 election.

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[191] Data used in this paper are based on polls that have been conducted by the Palestinian Centre for Policy and Survey Research (PSR) in Ramallah since 1993. In particular, data on attitudes toward democracy are taken from a PSR Democracy Barometer survey conducted in May 2006 as part of an Arab Barometer project (available at http://www.arabbarometer.org/reports/countryreports/comparisonresutls06.html). These polls were conducted among Palestinians living in the West Bank and the Gaza Strip. Samples in the various polls ranged between 1,200 and 2,500 individuals over 18 years of age; the margin of error was 2-3 percent. For a comprehensive list of polls and surveys, see http://www.pcpsr.org/survey/index.html

Palestinian Attitudes toward Democracy

Survey research findings indicate that there is sufficient Palestinian public understanding of democracy, that there is broad popular support for democracy and its values, and that most Palestinians do not believe that democracy is a Western form of government incompatible with Islam. But findings also indicate that support for democracy does not necessarily mean support for secular democracy. Indeed, opinion is fairly evenly divided on the question of whether Islam should play an important role in political affairs.

A comprehensive survey conducted in May 2006 by the Palestinian Centre for Policy and Survey Research (PSR) as part of the Arab Barometer project examined Palestinian public understanding of the meaning of democracy. Our survey presented respondents with four attributes of democracy—two related to political dimensions (the opportunity to change the government through elections, and the freedom to criticize the rulers) and two related to socioeconomic dimensions (the possibility of reducing the gap between rich and poor, and the provision of basic needs such as food, housing, and clothing to all citizens)—and asked them to choose the most important attribute. The majority (57%) chose the political attributes, with 33% selecting elections and 24 percent the freedom to criticize. The rest went for provision of basic needs (29%), reducing the gap between rich and poor (12%) or other attributes (3%.)

Moreover, in our 2003 comprehensive survey examining Palestinian attitudes regarding democratic values, a clear majority supported the statement that in a democratic system of government one must respect human rights (99%) hold periodic political elections (95 percent), have full freedom to form political parties (72%) and have a free press with no government censorship (62%.)

PSR's May 2006 survey examined the level of political awareness, participation, and respondents' behaviours and beliefs based on their personal experiences and interaction with their government and public institutions. Political awareness is assessed through patterns of

news media exposure. Findings indicate that interest in political matters is high with about 54% showing interest, 23% showing little interest, and another 23% showing no interest. Moreover, 79% of respondents indicated that they follow the news often or very often.

The poll found that 78% of the Palestinians consider television the most trustworthy news source, followed by radio (12%) and newspapers (3%.) A majority (53%) of respondents indicated that al-Jazeera news television was their most trusted media: 69% report watching news almost every day on al-Jazeera or on other satellite channels. Thirty percent reported watching news almost every day on Palestinian television. As for newspapers, 52% reported that they almost never read a daily newspaper, and only 13% reported reading a newspaper almost every day. As to Internet usage, 9% indicated that they use the Internet daily or almost daily. To sum up, Palestinians seem to be highly tuned to news but obtain their current affairs information mainly from television.

To assess the level of press freedom, the Palestinian Centre for Policy and Survey Research uses a sub-index based on nine empirically measured indicators. In the Palestine Democracy Index – 2005 (*Miqias al Dimokratiyya fi filisteen*), our annual report of the status of Palestinian democracy, freedom of press and expression received 739 points out of a maximum of 1,000 points. However, the 2006 report showed a drop of about 10 percent under the Hamas government to 662 points.

Almost three-quarters (73%) of the respondents indicated in May 2006 that they have participated in legislative elections, but participation in other domestic political activities remains weak. 70% of Palestinians said that they have never attended political meetings or gatherings, or signed petitions. 21% reported participating in such activities more than once, while 9% have participated one time only. This weak political participation might be explained by the widespread belief among Palestinians that political matters are complicated, with 79% agreeing that politics is too complicated for an average citizen to comprehend. Moreover, only slightly more than half of the respondents (52%) believe that political leaders

in Palestine care about the needs of citizens. Further, life under occupation tends to force Palestinians to participate in "resistance" to outside threats rather than domestic ones.

Political participation in domestic affairs is influenced by three main factors: education, work sector, and political affiliation. Findings indicate that participation in parliamentary elections is very high among the university educated, reaching 82%, but falls to 68% among those who are illiterate. The level of participation in public meetings and gatherings is also relatively higher among the most educated, reaching 48%, compared to 22% among the poorly educated. Participation increases among those working in the public sector compared with those working the private sector. Moreover, findings show that supporters of Fatah are more likely to participate in elections and attend public gatherings than supporters of Hamas.

Concerning overt political action, Palestinian public opinion is most visible in expressions of active resistance to the Israeli occupation, by peaceful as well as violent means. These expressions epitomize the prevailing norm of defiance and objection to the Israeli occupation and reinforce the dominant nationalist climate of opinion that surrounds the Intifada. Yet mass demonstrations and rallies are usually organized not by citizens but by the ruling party or a strong opposition group—Fatah and Hamas in their turn.

The May 2006 findings show that 88% of the Palestinians believe that it would be good to have a democratic political system in Palestine. The overwhelming majority (83%) prefer the democratic system to any other despite the recognition of its problems. Only 17% do not prefer democracy to other systems. It is important to know that the survey was conducted only four months after the electoral victory of Hamas, which means that despite the disappointment of nationalists with the election results, they still supported the system that brought the Islamists, their rival, to power. Even when the survey raised the issue of security as a goal that might compete with the goal of democracy, the majority refused to give preference to security over democracy. Indeed, 55% expressed the belief that security needs do not constitute a basis for violating human rights in Palestine. Interestingly, Palestinians

agree that leaders should be open-minded and receptive to different political ideas, with 97% considering this attribute an important or very important one for leaders to have.

The limited opposition to a democratic system comes from two main sources. First, there are those who have an immediate political agenda, such as supporters of Fatah, who are reluctant to embrace a political system that has allowed Hamas to win parliamentary elections. About 20% of Fatah supporters, but only 13% of Hamas supporters, belong to this group. It is important to highlight the fact that opposition to democracy is greater among youth aged 18–27, reaching 21%, whereas only 12% of respondents over 47 years of age are opposed. The reason for this attitudinal difference between age groups is also political: competition between Fatah and Hamas is most fierce among the youth, with only a 4 percentage point gap in support for Fatah and Hamas (in favour of the Islamists). Among the older group the gap increases to 11 percentage points, also in favour of Hamas.

Second, there is a much deeper opposition to democracy that reflects the ideological belief that Islam and democracy are incompatible and that laws should be enacted based on Islamic Shari'ah only. About 46% of respondents indicated that a political system based on Shari'ah would be appropriate for Palestine, even if this system meant the absence of elections or political parties. 12% believed that such a system would be somewhat appropriate, while 42% said that a system based on Shari'ah would not be appropriate at all. Table 1 shows that the greatest opposition to democracy (34%) comes from those who believe in the incompatibility of democracy and Islam, followed by those who believe that legislation must be based on Shari'ah.

Opposition to a Democratic System based on Selected Attitudes

Attitudes regarding the statement that democracy contradicts Islam			
	Certainly agree	Agree	Disagree	Certainly disagree
Opposed or strongly opposed to a democratic system	34%	21%	15%	11%
	Attitudes regarding the statement that government should enact Shari'ah laws only			
	Certainly agree	Agree	Disagree	Certainly disagree
	24%	20%	13%	9%

Source: *PSR May 2006 Democracy Barometer Survey*

Positive attitudes toward democracy are also weakened by the significant support, reaching 63 percent, for a political system that revolves around a strong leader, even if this system was a mix of democracy and authoritarianism. Support for such a regime is strongest among Fatah adherents, at 72%, but decreases to 58% among supporters of Hamas, and even more (to 48%) among supporters of other factions and political parties. Thirty-seven percent were opposed. Fatah's endorsement of a strong leader is likely self-serving; the party believes that a more authoritarian system would give the Palestinian Authority president, who is the head of Fatah, greater power relative to that of the government, which is controlled by Hamas with its parliamentary majority. Interestingly, in our survey three years earlier, when many Palestinians were critical of president Yasir Arafat's authoritarian tendencies, only 23% agreed that having a strong head of state who does not have to bother with parliament and elections would be good for the country.

It is important to note that attitudes about the compatibility of democracy and Islam are not influenced by the degree of religiosity. The percentages of those who believe that democracy contradicts Islam are almost identical among the religious and the somewhat religious (32% and 34%, respectively). Similarly, support for democracy does not depend on religion: among those who strongly supported democracy, 82% identified themselves as religious, 84% as somewhat religious, and 81% as non-religious. However, it is clear that a majority of those who believe that democracy is not the best political system for Palestine tend also to believe that it contradicts Islam. Similarly, many of those who believe that a system based on

Shari'ah is appropriate for Palestine tend also to believe that democracy and Islam are incompatible.

Findings about the role of religion in public life were mixed. For example, 56% said that the government should enact laws based on Islamic Shari'ah, while 44% were opposed. Similarly, 56% agreed and 44% disagreed that "men of religion" should be able to influence government decisions. On the other hand, three-quarters of the respondents indicated that non-Muslims should have the same political rights in Muslim countries as Muslims. Similarly, two-thirds said that they disagreed with the statement that democracy contradicts Islam. Respondents agreed, however, that religion plays an important role in private life. For example, 63% said that they would be reluctant to marry a partner who does not pray.

On social issues, findings show that public opinion is almost evenly divided. For example, 52% agreed and 48% disagreed that women should dress modestly but that Islam does not require women to wear a *hijab* (which covers all the body except the face.) The same results were found on the issue of whether religious practices should be separate from socioeconomic and political life.

When preference for democracy as a political system is cross-tabulated with beliefs that religion should play an important role in political life, four groups emerge among Palestinians: (a) those who believe in democracy but deny any role for religion in politics (i.e., secular democrats); (b) those who believe in democracy but demand that it should be adjusted to take into account religion (i.e., Islamic democrats); (c) those who reject both democracy and religion (i.e., secular non-democrats); and, finally, (d) those who reject democracy while demanding a religious rule (i.e., Islamic non-democrats). The 2006 survey shows that the first group, the secular democrats, has the support of 41% of the Palestinians (compared with 37% in the 2003 survey. This group gives Fatah and other smaller nationalist groups their largest constituency. The second group, the Islamic democrats, has the support of 42% in 2006 (compared with 45% in 2003.) Islamic democrats represent Hamas's greatest pool of support. The third group, the secular non-democrats, received the support of 7% both

in 2006 and 2003. Many secular non-democrats support leftist third parties. The fourth group, the Islamic non-democrats, received the support of 10% in 2006 and 11% in 2003. This group tends to reject political participation, viewing the political system as illegitimate. However, members who do participate tend to view Hamas as the most preferred faction.

The Rise of Hamas and the Evolving Balance of Power

Until the eruption of the first Intifada in 1987, the nationalist Fatah dominated Palestinian politics. There were a few other nationalist factions, but they were significantly smaller and marginal. The Intifada gave birth to the Islamist Resistance Movement, Hamas, that would challenge the hegemony of Fatah. Two major differences separated Fatah and Hamas. First, the nationalists sought a two-state solution to the Palestinian-Israeli conflict, while the Islamists rejected the existence of the state of Israel and sought its destruction. While Fatah was willing to engage in negotiations with Israel, Hamas believed that only violence could end the Israeli occupation of Palestinian territories. Second, the nationalists sought the creation of an independent state that was secular and democratic, a state where state and religion were separated. The Islamists, on the other hand, sought the creation of an Islamic state and rejected the notion of separation between religion and state. Moreover, Islamists focused more on the nature of the state rather than on its mere creation.

The Oslo peace process transformed the domestic balance of power. Between 1993, when the Oslo process started, and 2000, when the second Intifada erupted, Hamas went into decline, with support decreasing from about 25 to 15%. The peace process created a political environment that rewarded Palestinian nationalists while marginalizing the Islamists. Fatah, who led the Palestinian Liberation Organization (PLO) and signed peace agreements with Israel leading to the creation of the Palestinian National Authority, gained electoral legitimacy once a Palestinian parliament was elected in January 1996. 75% of eligible voters participated in the election despite a call by Hamas and other opposition groups for a boycott. In addition to the nationalists' desire to exclude Hamas, the most important factor

contributing to decline of Hamas during the early days of the peace process was the failure of the Islamist faction to understand and engage the new domestic dynamics unleashed by the peace process. The Palestinian public shifted its attention during this period from fighting the Israeli occupation to state-building. The public punished Hamas, which continued to carry out violent attacks against Israelis and was detached from the daily needs of the people.

The second Intifada, which erupted in 2000, changed the domestic balance of power once again, this time weakening the ruling party, Fatah, and strengthening Hamas and other Islamists, such as Islamic Jihad. Three developments shifted public support in favour of Hamas: (a) increasing concerns about government corruption; (b) the perceived demise of diplomacy after the failure of the Camp David Summit in July 2000 and the declining prospects for progress in the peace process, accompanied by an increased confidence in violence as the most effective means of ending the occupation; and (c) the increased role of traditional values in shaping public behaviour, a development prompted by the mounting lawlessness, poverty, and overall political instability and insecurity.

Determinants of Party Differentiation and Affiliation

Developments in the years and months leading up to the January 2006 parliamentary elections provided the backdrop for clear party differentiation in the minds of the public. These dynamics led more and more people to abandon Fatah and to support Hamas. Support for third parties remained limited and never exceeded 15 percent. Comprehending the process of party differentiation helps us understand the rise of Hamas and the decline of Fatah during the 2000–2004 period, the short-lived rise in support for Fatah and decline in support for Hamas during 2005, and the eventual Hamas electoral victory in January 2006.

In determining public party affiliation and vote, we have found three dynamics at play during the past eight years: a preference for violence versus diplomacy, a focus on traditional values versus secular and liberal ones, and the increasing priority given to fighting corruption and good governance versus gaining independence and building a state.

In the 1990s, when Palestinians believed that diplomacy was viable and could help them attain independence and end the occupation, they supported and voted for Fatah because they expected it to deliver a peace agreement with Israel. When the peace process no longer seemed viable and, more importantly, as people came to believe that violence pays, they turned to Hamas. Supporters of third parties distinguished themselves from those voting for Fatah by taking a harder line on the issue of peace negotiations. In the last six months of 2000, after the Camp David negotiations had failed to deliver a permanent peace agreement, Palestinians became convinced that diplomacy was failing them. In the aftermath of the Israeli unilateral withdrawals from South Lebanon in May 2000 and later from the Gaza Strip in September 2005, and following the Israeli war with Hizballah in the summer of 2006, Palestinians became convinced that violence pays and that Israel understands best the logic of force.

A similar shift has occurred in the public perception of the role of traditional values in politics and society. People who cherish traditional values are inclined to turn to Hamas, while those who hold more liberal and secular views are likely to support Fatah. Voters of third parties tend to seek not only a more secular political system but a more modern social order as well. Fatah represents those Palestinians who hold traditional social values but tend, nonetheless, to seek a modern and westernized political system. Supporters of Hamas, on the other hand, seek to consolidate the conservative nature of society and reduce the impact of secularism and westernization on the political system. When domestic security, political stability, and economic prosperity prevailed, people tended to take risks and look beyond traditionalism; they were more open to liberal, secular values. When increased poverty, violence, and political uncertainty became the norm, people sought refuge in traditional values; they returned to family and religion. In other words, the increased levels of instability and poverty during the second Intifada benefited Hamas and reduced support for Fatah.

The traditional nature of Palestinian society provides Hamas with a highly fertile ground for expansion. As previously mentioned, 45% of respondents supported Hamas (Islamic

democrats) in 2003, when conflict with Israel and the Palestinian perception of threat had reached their highest point, while 37% supported Fatah (secular democrats). The slightly less volatile environment in 2006 has lessened the demand for traditional values, boosting support for Fatah to 41% and reducing support for Hamas to 42%.

The third factor that has motivated people to affiliate themselves with one group against another is the perception of state-building. For those who supported Fatah, what was really at stake was the attainment of independence and sovereignty in a state in the West Bank and Gaza; issues such as clean and good governance could come later. In their minds, therefore, state-building was very much about creating an independent and sovereign state. For those who supported Hamas, the question of establishing a state, while important, was not sufficient. The nature of the state and the pre-state entity, the Palestinian Authority, mattered. Hamas supporters focused on clean governance; they wanted a pre-state authority and a post-independence state free of corruption. Third party supporters shared the passion of Fatah voters for independence and sovereignty and did not disagree with Hamas voters on the critical need for good governance, but they added to that the need to create a liberal democratic political system. To sum up, Fatah supporters sought first and foremost the creation of an independent state, Hamas supporters aimed at fighting corruption, and third party voters tended to focus on building liberal democratic state institutions. It goes without saying that the growing salience of corruption during the second Intifada benefited Hamas and hurt Fatah.

The Road to Hamas's Electoral Victory

The optimistic environment following the death of PNA president Yasir Arafat in November 2004 and the anticipation of the Israeli withdrawal from Gaza in 2005 raised hopes that turned out to be false for Fatah. Without Arafat, the balance of power indeed shifted in favour of Fatah; according to our quarterly surveys, popular support increased from an average of 28% in 2004 to an average of 39% in 2005. Support for the Islamists dropped from 31% in

September 2004 to 24% in December 2004, one month after the death of Arafat, but rebounded to 35% by December 2005.

The death of Arafat affected the Palestinian domestic environment in ways that significantly altered the dynamics unleashed by the Intifada: the political system became more open, optimism about the future increased, economic conditions improved, public willingness to accept compromise in a political settlement with Israel increased, and the order of Palestinian priorities changed. The opening up of the political system allowed the integration of Hamas into the political process and facilitated the holding of local elections beginning in December 2004, followed by presidential elections in January 2005. In March 2005, a nationalist-Islamist agreement brokered by Egypt and known as the Cairo Declaration was reached. In return for the nationalists' agreeing to hold parliamentary elections, in which Hamas would take part, Hamas agreed to a ceasefire with Israel.

The holding of elections in January 2006 should be seen as the culmination of two processes: the gradual weakening of the formal political centre (the Palestinian Authority, Fatah's old guard, and public institutions), and the emergence of informal rival centres of power. These rival centres included both nationalists, such as Fatah's young guards and their al-Aqsa Brigades, and Islamists, such as Hamas and its armed wing, al-Qassam Brigades. These forces took the initiative when the formal centre became paralyzed and thus could not or would not do so. By their suicide attacks against Israelis and their total disregard for law and order in PNA-controlled areas, they not only dictated the agenda for the Palestinians but also for Israel and the United States.

This analysis makes it clear that the holding of elections in January 2006 was not a matter of choice; it was the only possible way to prevent the formal political centre from utterly collapsing. The elections aimed at strengthening the political structure through popular legitimacy, in the hope that such legitimacy would give the PNA the necessary political will to act decisively to restore law and order and reassert its monopoly of force. The required trade-off—in which the nationalist Fatah, headed by the newly elected president, Mahmoud

Abbas, agreed to Hamas's participation in the elections in return for Hamas's cessation of violence against Israelis—was intended to facilitate the holding of Palestinian-Israeli negotiations. Fatah and Abbas hoped that the success of these negotiations would help empower the president and ensure an electoral victory for Fatah.

While highly significant, the positive changes that followed Arafat's death remained fragile, dependent on the performance of Fatah and Abbas and on short-term progress in the peace process. But by the end of 2005, Fatah's fragmentation had worsened. Abbas was much weaker than Arafat in dealing with the frictions and rivalries between Fatah's old guard and young guard. Fatah's young guard remained leaderless, with their most senior leader, Marwan Barghouti, in prison in Israel. Despite tremendous public demand for the enforcement of law and order and for fighting corruption in the Palestinian Authority, Abbas was unable to take the initiative in any significant way, leading to further anarchy and to a growing public perception that the PNA under Fatah had become incurably corrupt.

Capitalizing on the perceived corruption and the lack of law and order, Hamas sought to control the political system from within by replacing Fatah as the ruling party. Widespread public belief that the Israeli 2005 unilateral disengagement from the Gaza Strip had constituted a victory for violence served Hamas's interests well, as the public gave it credit for forcing the Israelis out of Gaza "under fire."

To sum up, Hamas's rise did not result from some sudden shift in Palestinian political opinion but was, rather, the culmination of a decade-long process of alienation, both from Israel and from a Fatah leadership that had failed to deliver results in every sphere. Yet, Hamas's ability to win more support than Fatah was also influenced by developments that took place in the last few months before the elections. These included the failure of the Palestinian Authority to "control the narrative" regarding Israel's unilateral disengagement and to ensure voters that it could transform Gaza into a prosperous entity rather than, in effect, a big jail. Within twelve months, between December 2004 and December 2005, Hamas's popularity increased by 45 percent.

Hamas boycotted the January 2005 presidential elections, but about two-thirds of the eligible voters participated, and seven candidates representing the full national spectrum competed. Mahmoud Abbas won the elections with 63% of the vote. Nineteen percent voted for Mustafa Barghouti, who represented independent and leftist forces such as the Popular Front for the Liberation of Palestine. Local elections took place via four rounds between December 2004 and December 2005. The combined results demonstrated Hamas's growing power: the party won 34% of the popular vote compared with 37% for Fatah. 28% went to other candidates, mostly family and independent candidates. In the January 2006 parliamentary elections, Hamas won 44% and Fatah 42% of the popular vote.

The fact that Fatah had decisively won the presidential elections and the popular vote in all rounds of local elections except the last one encouraged negligence and sloppiness in Fatah's performance throughout 2005. Fatah failed to take serious steps to deal with its own fragmentation and the lack of discipline among its rank and file. The postponement of the Fatah Sixth Convention until after the parliamentary elections indicated that Fatah did not view the prevailing divisions and fragmentation within the movement as posing a serious impediment to its ability to win future elections.

Most fatally, Fatah failed to heed the public demand to deal with corruption within its ranks. The growing public perception of corruption seems to have been the nationalists' and PNA's Achilles heel, with the overwhelming majority of voters in the rounds of local elections in December 2004, January 2005, and May 2005 indicating that the integrity of candidates was their foremost consideration; candidates' political affiliation came fifth after education, religiosity, and position on the peace process. But throughout 2005, Fatah believed that with Mahmoud Abbas heading the PNA, the peace process would soon resume and that such a step would restore public confidence in diplomacy; therefore, the public would continue to look for Fatah to lead the process of peacemaking and would drop its anticorruption demands. The fact that, until December, Fatah was doing well in these elections made leaders complacent; they believed that they would do even better in the parliamentary elections.

While the death of Yasir Arafat in November 2004 temporarily changed the public perception of the future of Palestinian-Israeli diplomacy and Palestinian state-building, this optimism, while significant, was short-lived. The unfolding events of 2005 brought significant public disillusionment as the focus shifted to state-building failures, such as corruption and lawlessness, and to Israeli policy in the Gaza Strip and the West Bank, such as the unilateral disengagement from Gaza and the building of the separation barrier in the West Bank.

Table 2 shows how all of these considerations affected the vote in the January 2006 legislative elections. As the table indicates, the behaviour of voters was significantly affected by their own priorities, expectations, and perceptions of personal safety and security. For example, 71% of those who identified corruption as their top priority voted for Hamas, while Fatah received only 19% of their vote. By contrast, 69% of those who identified the ability to reach a peace agreement with Israel as the most important factor voted for Fatah, while Hamas received only 19% of their vote. The more unsafe and insecure voters felt, the more they voted for Hamas, and the more safe and secure they felt, the more they voted for Fatah. Among those least safe and secure, 56% voted for Hamas and 31% for Fatah; by contrast, among those most safe and secure, 35% voted for Hamas and 53% for Fatah.

Factors Influencing Selection of Electoral Lists

Voters' priorities, expectations, and perceptions of safety			
Electoral list chosen by voters on day of elections:	*Hamas*	*Fatah*	*Third Parties*
Fighting corruption was top priority	71%	19%	11%
Expected continued violence, no return to negotiations	64%	25%	11%
Felt no safety or security	56%	31%	13%
Between optimism and pessimism	47%	38%	16%
Felt full safety and security	35%	53%	12%
Optimistic about the future	26%	59%	15%
Reaching a peace agreement was top priority	19%	69%	12%

Source: *PSR Exit poll results, 25 January 2006*

Conclusions

Three major conclusions emerge from our analysis of the 2006 elections. First, the outcome was influenced by public perceptions of corruption and demands for good governance. The demand for policy changes in governance made Hamas more attractive to voters, while public distrust of diplomacy neutralized Fatah's greatest asset. Hamas understood this desire for government integrity very well, long before the elections took place; Fatah did not or chose to ignore it, hoping to meet public needs in other areas such as the peace process. Fatah lost the elections because voters believed Hamas could deliver better governance in the critical area of fighting corruption. Our polls during the preceding five years had shown that 80 percent of Palestinians believed the PNA was corrupt. Hamas's success in elevating the issue of corruption to top priority for voters constituted a magnificent achievement, ensuring its victory in the elections.

Second, the behaviour of voters was influenced by their pessimism about the future of Palestinian-Israeli relations. The stagnation of the peace process destroyed Fatah's chances by removing the issue from voters' cost-benefit calculations. In other words, the lack of confidence in diplomacy rendered Fatah's greatest asset irrelevant to voting behaviour. As PSR's exit poll indicated, only 9% of the voters placed the peace process at the top of their agenda.

Third, given the role of corruption and peace in voters' calculations, the vote for Hamas cannot be interpreted primarily as an embrace of its value system or ideological and political views. Religion was a factor, but in no way can the vote for Hamas be interpreted as a vote for Islam. Based on the exit poll, it is evident that Hamas's voters tended to be more religious than Fatah's: Hamas received the support of 52% of voters who identified themselves as "more religious," while Fatah and the other eleven lists combined received 48%. Yet 38% of the "somewhat religious" and 19% of the "not religious" voted for Hamas. Only a minority identified with Hamas's views on the peace process; the majority aligned themselves with

Fatah's. In PSR's exit poll, a 60% of voters saw themselves as supporters of the peace process, while 23% were ambivalent. Only 17% self-defined as opposed to the peace process.

These results will pose a challenge to Hamas as it seeks to maintain public support. There is a clear attitudinal gap between the Hamas constituency and political elite regarding the peace process: the constituency is relatively moderate, but the elite is not. As long as the public continues to view the peace process as deadlocked due to Israeli intransigence, Hamas has little to fear. This dynamic explains why in the post-election period the public increased its support for Hamas while simultaneously becoming even more moderate.

PSR's post-election survey found support for the peace process increasing, with 72% wanting full cessation of violence, 75% wanting Hamas to negotiate with Israel, and 53% the Road Map implemented. Two-thirds of respondents supported a two-state solution even when the formula presented was one in which Palestinians recognized Israel as the state for the Jewish people and Palestine as the state for the Palestinian people, once all disputed issues have been settled. The fact that 58% of respondents believe that a majority of Palestinians support this formula for a two-state solution is the clearest indication yet that despite the Hamas victory, the public does not think Palestinians have embraced hardline attitudes toward the peace process. If, and, when the public believes that progress in the peace process is possible, Hamas will find it difficult to maintain its current peace policies and still remain in power.

Appendix IV: Organizations Dedicated to the Development of Free Institutions and Democratic Processes within Historic Palestine

Adaleh Centre for Human Rights Studies   www.adaleh-center.org
The first Arab-run non-profit legal centre in Israel, the Adaleh Centre was established in 1996 with the goal of achieving equal rights and minority rights protection for Arab citizens of Israel. On the 10th anniversary of its founding, Adaleh published a proposed "Democratic Constitution" for the State of Israel, based on the concept of a democratic, bilingual, multicultural state.

Al Haq   www.alhaq.org
One of the first human rights organizations in the Arab world, Al Haq was established in 1979 by a group of Palestinian lawyers to address the lack of infrastructure to protect human rights in the occupied Palestinian Territories. It has special consultative status with the UN Economic and Social Council and is affiliated with the International Commission of Jurists in Geneva. According to its website, in March 2002 "Israeli forces broke into Al Haq's office and destroyed much of its equipment." The organization has been "increasingly active" in lobbying the Palestinian Legislative Council to include human rights issues in its legislation.

Alternative Information Centre (AIC)   www.alternatives.org
A joint Palestinian-Israeli activist organization, AIC is engaged in dissemination of information, political advocacy, grassroots activism, and critical analysis of Palestinian and Israeli societies as well as the Palestinian-Israeli conflict. The AIC strives to promote freedom and democracy, and full individual and collective social, economic, political, and gender equality.

AMAN, the National Coalition for Transparency and Accountability
Established in February 2000, this coalition has a national plan aimed at combating corruption and strengthening integrity and accountability in Palestine. Core components of its program are being implemented by MIFTAH (the Palestinian Initiative for the Promotion of Global Dialogue and Democracy; see below).

Arab Association for Human Rights   www.arabhra.org
This association serves the Palestinian minority in Israel. It seeks to produce independent and accurate reports about human rights violations against Arab citizens of Israel.

Arab Thought Forum – Al Multaqa   www.multaqa.org
This Palestinian organization specializes in economic development and in the development of local government programs. It participated in the National Democratic Institution's monitoring of the last Moroccan general election.

Association for Civil Rights in Israel (ACRI)   www.acri.org.il

Established in 1972, ACRI is a non-partisan, independent organization that works for the entire spectrum of human rights and civil liberties issues in Israel and the Occupied Territories. Its work encompasses litigation and legal advocacy, education, and public outreach "as the most effective way in which to build toward our long-term vision of a just and democratic society that respects the equal rights of all its members."

BBC World Service Trust
The BBC World Service Trust has been considering media training projects within the Palestinian community, but progress was halted by the election results.

Bethlehem University of the Holy Land   www.bethlehem.edu
Bethlehem University is a Catholic institution open to students of all faiths. Despite having been closed 12 times by the Israeli military—the longest was for three years —classes have never ceased, either on or off campus. The university's Institute for Community Participation runs a six-month training program on Palestinian Local Government Leadership Building. The university is also participating in a three-year research initiative with the universities of Birzeit, An-Najah, Siena, and Pavia on creating a Sustainable Palestinian Business Environment. The initiative is funded by the Italian Ministry of Higher Education and Research.

Birzeit University   www.birzeit.edu/news
Birzeit University has been highly active in the Palestinian electoral processes. The university's Ibrahim Abu Lughud Institute for International Studies offers a program called Reinforcing the Democratic Process in Palestine, in cooperation with the Canadian International Development Agency. The program seeks to enrich the democratic process by "reinforcing the basis of pluralism, dialogue and honourable competition" through public education. Public lectures have focused on the issues of increasing voter registration, supporting the role of women, and decreasing the effects of tribalism. The The Institute also conducted the first public evaluation of the election results at a conference entitled The Palestinian Political Reality Post the Second Legislative Elections: Challenges and Future Visions, which involved the participation of all parties and members of the new Palestinian parliament. The Development Studies Department at Birzeit conducted pre-election opinion polls and exit polls.

B'Tselem   www.btselem.org
The Israeli Information Centre for Human Rights was established in 1989 by a group of prominent academics, lawyers, journalists, and parliamentarians. According to its website, it "endeavours to document and educate the Israeli public and policy-makers about human rights violations in the Occupied Territories, combat the phenomenon of denial prevalent among the Israeli public and help create a human rights culture in Israel." B'Tselem seeks to change Israeli policy in the Occupied Territories and ensure that its government, which rules the Occupied Territories, protects the human rights of residents and complies with its obligations under international law.

Centre Against Racism and Defamation www.nif.org/about/grantees/center-against-racism-and.html
The Centre Against Racism and Defamation was established in 2001 by a group of young social activists "to engage Palestinian society in Israel in the struggle against racism." It aims to campaign against all manifestations of racism and to empower the Palestinian population in Israel to fight against racism. Its website states that "due to the Israeli-Palestinian conflict, Israeli society has experienced increased manifestations of racism against Arabs in public opinion and by the authorities, including the security forces."

Challenge
Challenge is a "leftist magazine focusing on the Israeli-Palestinian conflict within a global context." Published in Tel Aviv, it is one of the very few sources in English focusing on the problems of the Arabs in Israel. The editorial staff include Jews and Arabs. *Challenge* is part of a network including *Al Sabar* (in Arabic) and *Etgar* (in Hebrew).

Ford Israel Fund www.nif.org/programs-and-partners/ford-israel-fund
The Ford Israel Fund is a grant-making partnership between the Ford Foundation and the New Israel Fund to promote peace and social justice in Israel. It focuses on three areas:
- civil rights and human rights in Israel – expanding the scope and extent of legal protection of basic rights, while also strengthening constituencies working to advance these protections;
- equity and equal opportunities for the Palestinian minority within Israel – strengthening the ability of the minority community to organize, advocate, and press for changes in public policy and law to improve its status; and
- peaceful resolution of the Israeli-Palestinian conflict – supporting activities designed to get the peace process back on track, promote broad public discussion and constituencies within Israel to resolve outstanding issues, and enhance Israeli's knowledge of Palestinian society.

Gisha – The Centre for the Legal Protection of Freedom of Movement www.gisha.org
According to its website, Gisha is "an Israeli not-for-profit organization that seeks to protect the fundamental rights of Palestinians living in the Occupied Territories by imposing human rights law as a limitation on the behaviour of Israel's military."

Gush Shalom www.gushshalom.org
Gush Shalom (in Hebrew "the Peace Bloc") was founded in 1993 by former Knesset member and journalist, Uri Avnery, because he was disappointed by other peace movements. Its activists regularly confront Israeli Security Forces in the settlement areas and along the security fence.

HaMoked – Centre for the Defence of the Rights of the Individual www.gushshalom.org
This Israeli human rights organization seeks "to assist Palestinians of the Occupied Territories whose rights are violated by Israel's policies."

Health, Development, Information and Policy Institute   www.hdip.org
The institute surveys the primary health care and related infrastructure in Palestine with the aim of improving "the level of coordination and cooperation between civil society and governmental and international policy institutions through information and policy dialogue."

International Solidarity Movement (ISM)   www.palsolidarity.org

This Palestinian-led movement, founded in 2001, is "committed to resisting the Israeli occupation of Palestinian land using non-violent, direct-action methods and principles…. ISM aims to support and strengthen the Palestinian popular resistance with two resources: international protection and a voice with which to non-violently resist an overwhelming military occupation force."

Jerusalem Media and Communication Centre (JMCC)   www.jmcc.org
JMCC was established in 1988 by a group of Palestinian journalists to provide information on events in the West Bank, East Jerusalem, and the Gaza Strip. Its Jerusalem and Ramelleh offices provide a wide range of services to journalists, researchers, international agencies, individuals, and organizations wishing to obtain reliable information on the Palestinian Territories. Its subscription-based Daily Press Summary provides translations of news and analyses from Palestinian Territory dailies, Voice of Palestine Radio, and other media outlets in the Arab World. JMCC also conducts opinion polls and market research in the Palestinian Territories, and publishes an extensive range of research papers.

MIFTA, the Palestinian Initiative for the Promotion of Global Dialogue and Democracy
www.mifta.org
Founded in 1998, MIFTA describes itself as "a non-governmental non-partisan Jerusalem-based institution dedicated to fostering democracy and good governance within Palestinian society through promoting public accountability, transparency, the free flow of information and ideas, and the challenging of stereotyping at home and abroad." It is headed by Secretary-General Dr Hanan Ashrawi. MIFTA networks with diplomats, institutions of civil society, and grassroots organizations locally, regionally, and internationally in pursuit of dialogue and democracy. It seeks to increase global awareness of Palestinian realities by providing accurate and comprehensive information, policy analysis, strategic briefings, and position papers. MIFTA's Good Governance and Democracy Program aims to strengthen governance and the rule of law, establish efficient and transparent systems of accountability, promote political pluralism and participatory governance, and support leadership among women and youth. Strengthening the role of the media is seen as a vital function. To this effect, MIFTA has established a media monitoring service and news agency that can be accessed on its website.

Muwatin: The Palestinian Institute for the Study of Democracy   www.muwatin.org
Muwatin uses its website to develop global contacts and disseminate information. Its *Parliamentary Horizons* newsletter is posted in full.

Near East Foundation   www.nearest.org

The Near East Foundation, a US internaional NGO, builds and supports civil society organizations in African and Middle Eastern communities experiencing deep poverty, along with conflict, migration and climate change. NEF's 100-plus field staff mobilize these "communities in peril" to find home-grown solutions in agriculture, education, health care and job creation. On an annual budget of approximately $7 million, NEF maintains offices and programs in Palestine, Morocco, Egypt, Jordan, Mali and Sudan. NEF's New York staff of six professionals supports these activities with aministration, development and program management.

New Israel Fund (NIF)   www.nif.org

The New Israel Fund describes itself as "the leading organization committed to democratic change within Israel. For twenty-eight years, NIF has fought for social justice and equality for all Israelis. We believe that Israel can live up to its founders' vision of a state that ensures complete equality of social and political rights to all its inhabitants, without regard to religion, race or gender."

Palestinian Academic Society for the Study of International Affairs   www.passia.org

The Society encourages discussion and interfaith dialogue on issues concerning the status of Jerusalem. It has an extensive publication and seminar program.

Palestinian Centre for Human Rights (PCHR)   www.pchr.org

An independent legal body based in Gaza City, this centre is "dedicated to protecting human rights, promoting the rule of law and upholding democratic principles in the Occupied Palestinian Territory." It holds special consultative status with the Economic and Social Council of the United Nations and is an affiliate of the International Commission of Jurists. PCHR was a recipient of the 1996 French Republic Award for Human Rights. It receives funding from the European Union. PCHR monitors human rights violations, such as assassinations and collective punishments, by the Israelis in the West Bank and Gaza; however, the organization is also highly critical of the government of the Palestinian entity—especially of the State Security Courts, which it regards as institutionally corrupt—and its failure to impose a policing framework that can deal with such flagrant abuses as the kidnapping of foreign journalists. The organization campaigns against the death penalty.

Palestinian Human Rights Monitoring Group (PHRMG)   www.phrmg.org

This group was founded in 1996 "in response to the deteriorating state of democracy and human rights under the newly established Palestinian Authority." A non-partisan organization, its founding members were well-established Palestinians from diverse organizations and institutions, including Palestinian Legislative Council members, newspaper editors, journalists, a union leader, veteran human rights activists, and religious leaders. The group monitors human rights abuses against Palestinians "regardless of who is responsible." PHRMG has instituted a monitoring unit, a freedom of expression and democracy centre, a

settlers watch hotline, and a legal unit. A principal strategy has been "to appeal to Palestinian public opinion and to international opinion in order to bring about positive change in the human rights situation." The executive director, Bassem Eid, was the senior fieldworker for B'Tselem for seven years, where he earned international recognition for his documentation of a wide range of human rights issues. He has received numerous awards for his human rights advocacy and for his work as a journalist.

Peace Now – Shalom Achav   www.peacenow.org.il
Peace Now is the largest extra-parliamentary movement in Israel, the country's oldest peace movement, and the only peace group to have a broad public base. It operates through public campaigns, advertisements, petitions, distribution of educational materials, conferences and lectures, surveys, dialogue groups, street activities, vigils, and demonstrations. An important ongoing project is Settlement Watch, which monitors—and protests—the building of settlements and studies settlers' attitudes in the West Bank and East Jerusalem. One of the objectives of Peace Now is to convey a sense the harm incurred to Israel not only by the economic and political aspects of occupation but also by the moral damage done to the values and fabric of Israeli society. While Peace Now is an Israeli movement, it has been engaged over the years in dialogue and joint activities with Palestinians. Shortly after the beginning of the al-Aksa Intifada, the movement was instrumental in the creation of the Israeli Peace Coalition, which evolved into the Israeli-Palestinian Peace Coalition, composed of political and public figures as well as grassroots activists from both the Israeli and Palestinian mainstream. Peace Now also conducts joint activities and issues joint statements with the Palestinian Peoples Campaign.

Public Committee against Torture in Israel (PCATI)   www.stoptorture.org
PCATI is an independent human rights organization founded in 1990. In 1999 it successfully petitioned the High Court to prohibit the use of torture during interrogation. The organization monitors the implementation of this ruling in detention centres and continues the struggle against the use of torture in interrogation in Israel and in the Palestinian Authority through legal means, support of relevant legislation, and through an information campaign aimed at raising public awareness.

Rabbis for Human Rights   www.rhr.israel.net
This group describes itself as "the rabbinic voice of conscience in Israel, giving voice to the Jewish tradition of human rights." Its membership includes Reform, Orthodox, Conservative, and Reconstructionist rabbis and students. It organizes protection for Palestinian farmers during the olive harvest and takes legal action to prevent house demolitions and to ensure that farmers have access to their land.

Sindyanna of Galilee   www.sindyanna.com
This organization aims to "develop Arab agriculture, secure Arab land from confiscation and gain a fair return for the farmers." It specializes in the preparation and distribution of organic

food products and handicrafts from olive trees. It is a member of IFAT, the global network of fair trade organizations.

Ta'ayush   www.taayush.org
This organization was founded in 2000 by a group of Arab and Israeli citizens of Israel (the name is Arabic for coexistence) who "work against the occupation and against the discrimination done by the State to Palestinian Israelis, and fight against all kinds of separation and segregation between Arabs and Jews."

Workers Advice Centre – Ma'an   www.workersadvicecenter.org
This initiative for building an independent labour association "aspires to create a culture of worker solidarity and a consciousness for union organization" in Israel among all workers, regardless of religion, nationality, or gender. "It aims to provide an address for unorganized workers, with a strong emphasis on Arabs who are segregated in the Israeli job market." Hundreds of workers have joined the union.

Zaytoun   www.zaytoun.org
This not-for-profit company was established to support farming communities in Palestine—"home of the olive tree, supporting half the population and dominating the agricultural landscape." It promotes the welfare of farming communities and seeks to open up the fair trade markets to Palestinian produce. Zaytoun's slogan is "Resisting the Occupation by Insisting on Life."