

**TIPPING POINT? PALESTINIANS AND THE SEARCH
FOR A NEW STRATEGY**

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TIPPING POINT? PALESTINIANS AND THE SEARCH FOR A NEW STRATEGY

EXECUTIVE SUMMARY

To those familiar with the rhythms of Israeli-Palestinian negotiation, this has been a year of surprises. Palestinians, suffering most from the status quo, so most in need of a resolution, balk at resuming talks even as Israel expresses eagerness. In Obama, they have a president more willing to engage and to confront Israel, yet they have denied him the chance to advance talks. Seventeen years after Oslo, the best he can do is get the parties to talk indirectly – and even then, not without overcoming huge Palestinian reluctance. What is going on? The Palestinian approach may seem tactically suspect or politically self-defeating but is not without logic. It is rooted in almost two decades of unsuccessful U.S.-sponsored bilateral negotiations and manifested in embryonic efforts to change the balance of power with Israel. It is premature to speak of a new Palestinian strategy but not to respond and rectify past flaws. After an often perplexing, ineffective start, the U.S. seems poised for a more fundamental policy review involving the presentation of American ideas to resolve the conflict. Done right and at the right time, it would be welcome.

To many, the biggest shock has been President Mahmoud Abbas's resistance to return to the negotiating table. In a striking turnabout for a leader who built his political life around engagement with Israelis, close ties to the U.S. and faith in a negotiated two-state settlement, he has refused to resume direct talks despite American pressure until Israel agrees to both a comprehensive settlement freeze and clear terms of reference. He has obvious, immediate motives. Since late 2008, indignities have been piled upon him: the Gaza war, to which he was a passive spectator; the election of a right-wing Israeli government; the U.S. change of heart on a settlement freeze; and his own ill-inspired decision to postpone a UN vote on the Goldstone Report – condemning both Israel and Hamas for war crimes – which unleashed a wave of Palestinian and Arab criticism. More broadly, the Ramallah-based leadership feels vulnerable, challenged by Hamas, constituencies within Fatah and large segments of public opinion. Those hardly form propitious circumstances for risk-taking. Awaiting somebody else's next move seems the surer bet.

But it would be wrong – and, to Palestinians, profoundly misguided – to see in the leadership's current attitude a matter of mere personal frustration or political apprehension. If the political manifestation of the diplomatic paralysis is of recent vintage, its roots run deep. Abbas is among the last among his people to arrive at the point he has reached; he is the restrained and belated expression of a visceral and deep popular disillusionment with the peace process as they have grown to know it. There is equal disillusion with the U.S., a reflection not so much of the new administration but of a broader historical experience with Washington. That Obama has had to bear the brunt of Palestinian disenchantment is but one of the conflict's many ironies.

Neither the PLO nor its leadership has given up on negotiations. They have invested in them too much for too long, and their power depends too heavily on the process to accommodate a swift and radical shift. Nor have they deeply reflected about, let alone developed, realistic substitute strategies. Still, they have begun to give them some thought. They are focusing on three forms of action to increase their leverage and reduce their dual dependency: on Israel to end the occupation of its own volition and on the U.S. to pressure Israel to do so.

A first idea making headway is to turn to the international arena, where the balance of power tilts more in the Palestinians' favour. The suggestion of a UN Security Council resolution either endorsing the contours of a final settlement or recognising a Palestinian state on the 1967 borders is a prime example. Israelis resent or fear others as well, including Palestinian recourse to international legal bodies or boycott of settlement products. Prime Minister Salam Fayyad wishes to go about the goal of statehood in a different way: painstakingly building institutions from the ground up to prompt both international recognition and pressure on Israel to end the occupation. A newly re-politicised civil society in the West Bank, backed to a degree by the Palestinian Authority (PA), is pushing a range of hostile but largely non-violent initiatives directed at Israel as a path between the two dominant (and so far failed) paradigms of the past – peaceful negotiations and armed resistance.

Something is brewing, though so far there is less of a strategy than meets the eye; instead, one sees tentative steps of a leadership playing catch-up with a population whose faith in negotiations withered long ago. This ad hoc set of approaches also suffers from internal limitations and contradictions. Each of these contemplated roads – whether going to the UN to pressure Israel; building and seeking recognition of a state; intensifying acts of resistance or a combination of the above – involves Palestinians openly challenging Israel even as they need its everyday cooperation in the West Bank; indeed, in the case of state building, success depends directly on Israeli goodwill.

That will be no easy balancing act. Circumventing negotiations to gain statehood would meet only certain Palestinian aspirations and perhaps not the main ones. Most of the West Bank would remain occupied; Jerusalem would not become that state's capital; there would be no satisfactory resolution for the refugees. Fayyad's institution building – should it prove successful – paradoxically could diminish the urgency of international efforts and leave Palestinians with a mini-state in parts of the West Bank. Popular forms of resistance still have far to go before they can become an effective mass movement, and they face the recurrent risk of slipping into violence. Till now, Israel's reaction to steps it sees as defying both the traditional foundations of bilateral relations and the negotiations paradigm that underpinned them has been relatively mild. It could get much harsher.

The backdrop to Palestinian thinking throughout the recent period has been steeply declining faith in Washington's ability to rectify the imbalance of power inherent in negotiations with Israel. Might that be rectified? After over a year of false starts and wrong turns – hurting Abbas even as it tried to help; setting the unrealistic if desirable goal of a full settlement freeze; picking the wrong fight with the Israeli government at the wrong time – the administration appears to be toying with a different approach. There is talk of presenting its vision for how to resolve the conflict – a course Crisis Group first advocated eight years ago – albeit no indication it has been decided or that it might happen soon.

It is a potentially promising approach but also a risky one. Conditions have changed dramatically in the last decade and not in ways that boost the chances of a U.S. plan. Palestinians are divided, Israelis have turned to the right, both sides are far more disbelieving of peace, Washington's Arab allies have lost authority, the region is more fragmented, and the U.S.'s reputation has been in freefall. Rejection by one or both sides is more likely now, an outcome that could leave the administration with nowhere to go and with its credibility badly shattered. That is not sufficient reason to drop the idea but good reason to take the time necessary to implement steps that will maximise odds of success.

Some of these should take place before any proposal is unveiled – repairing strained relations between Washington and Jerusalem without backing down from U.S. core principles; adopting a more flexible policy toward internal Palestinian reconciliation; reaching out to typically ignored constituencies such as refugees, settlers and religious groups; deepening engagement with Damascus and efforts to restart its negotiations with Israel so that the peace proposed is truly comprehensive. A distrustful Israel, split Palestinian entity and divided Arab world hardly provide the ideal context for a successful U.S. initiative. Other steps involve the campaign that would have to follow U.S. articulation of its views: a broad international effort, chiefly involving Arab states, to provide political backing to the Palestinians and the genuine pay-off of regional recognition and normalisation to Israel. Assuming it is done, putting forward an American vision should be neither the beginning nor the end of the process. Instead, it can only be the midpoint: the culmination of one energetic diplomatic effort and the launching pad for another.

**Ramallah/Jerusalem/Washington/Brussels,
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TIPPING POINT? PALESTINIANS AND THE SEARCH FOR A NEW STRATEGY

I. INTRODUCTION

To many observers, the sudden hardening in the PLO's stance toward negotiations is less a matter of why than why now. Popular disenchantment with business-as-usual was nothing recent, but the political leadership¹ had retained if not faith, then at least the habitual reliance on bilateral talks as the only way forward. A former U.S. negotiator put it this way: "We had become so accustomed to the Palestinians' 'no' being the first step toward acquiescence that their sustained objections took us by surprise".² U.S. officials were taken aback by Palestinian resoluteness – newfound insistence on a full settlement freeze, on clear terms of reference and on beginning the negotiations from the point at which they left off – and wondered what had prompted this change.³ By the end of 2009, when Palestinians first rejected even the prospect of indirect, so-called proximity talks – Israelis and Palestinians talking separately to the U.S., a throwback to the pre-Oslo period – one official lamented: "How did we get to the point where Palestinians, who are in desperate need of ending the occupation, are refusing to talk to *us* about it?"⁴

In hindsight, several overlapping developments contributed to this evolution among Abbas and his colleagues: the failure of the Annapolis process that was launched late in the Bush administration, capping a series of missed deadlines; the new, more hardline Israeli government; initial missteps by the Obama administration, in which some Palestinians held such high hopes; deepening divisions and polarisation among the Palestinians, which added to the Ramallah leadership's political constraints; a looming succession struggle, which narrowed that leadership's room for manoeuvre; as well as the Palestinian president's personal setbacks. All these led the leadership to strongly

oppose the resumption of talks under their traditional format. Instead, they have variously demanded a definite timeline, a clear delineation of the endgame and a comprehensive settlement freeze. What all these demands have in common is a desire to redress what is perceived as the inherent, structural inequality between the parties.

In essence, Palestinians argue that leaving the two sides to their own devices leaves it up to Israel to end the occupation of its own volition, as the imbalance of power outside the negotiating room inevitably is reflected within. Palestinians believe they have little leverage in the talks; they are reduced, in the words of a senior official, to making good arguments as to why Israel should cede land.⁵ Echoing the thoughts of many today, a Palestinian newspaper columnist argued: "The bilateral negotiations we have been engaged in for almost two decades are not a strategy for independence. They are a forum in which the victor reaps rewards, and the defeated makes concessions".⁶

That for the first in a long time, some in the leadership are contemplating and even pursuing alternative courses of action to complement or change the nature of bilateral talks is not solely a question of loss of faith; it also reflects the increased political cost entailed by each unsuccessful negotiating process. As the PLO leadership presents it, another failure could seriously undermine its domestic standing while simultaneously boosting Hamas's by demonstrating once and for all that negotiations are futile. A senior PLO official asked: "How many more chances

¹ Throughout and for the purposes of this report, the term "Palestinian leadership" will refer to the PLO and Ramallah-based Palestinian Authority (PA), as opposed to the Hamas government in Gaza. As discussed in previous Crisis Group reports, Hamas and its supporters, as well as many other Palestinians, would challenge this designation given the legitimacy and institutional crisis at the heart of the national movement.

² Crisis Group interview, Washington, August 2009.

³ Crisis Group interview, Washington, September 2009.

⁴ Crisis Group interview, Washington, February 2010.

⁵ Crisis Group interview, Ramallah, November 2009.

⁶ Crisis Group interview, Khalil Shahin, Ramallah, December 2009. A senior official put it thus: "We need to begin to redress the structural deficiency of Oslo, which has left it up to Israel to end the occupation. Responsibility needs to be shifted to the international community rather than leaving it to the occupying power. Think of the current crisis as an opportunity to adjust the process". Crisis Group interview, Ramallah, November 2009. Fatah Central Committee member Naser al-Kidwa listed three central problems with the negotiating process: the lack of prior agreement on the shape of the final settlement; the neutralisation of international law and third parties and consequent absence of clear terms of reference; and the "continuation of the antithesis of a just peace" – that is, Israeli settlement activity and the inevitable damage to Palestinians. Public talk, International Peace Institute, 12 February 2010. Transcript at www.ipacademy.org/images/pdfs/transcript_al-kidwa.pdf.

will there be for those among us who believe in a negotiated, two-state settlement. If we fail again, why should anyone believe we could succeed later?"⁷

If this is a matter of great interest to Palestinians, it also must be an issue of considerable concern to Israelis – for whom many of the alternative mechanisms contemplated generally are viewed as hostile, inconsistent with both negotiations and cooperation on the ground – and also to the international community. In particular, it is directly relevant to efforts undertaken by the U.S. which, under President Obama's leadership, is embarked on what some consider the last credible effort to reach a negotiated two-state settlement.

II. GETTING TO NO: A VERY LONG DISENCHANTMENT

If the political manifestation of the current diplomatic paralysis is of recent vintage, its roots run deep. It reflects the enormous disappointment Palestinians of all stripe and background have felt with the process that began in 1993, when Yasser Arafat and Yitzhak Rabin shook hands on the White House lawn. To many in the West Bank and Gaza – not to mention the majority who live in the diaspora and who from the outset have been more afterthought than central concern – the Oslo Accords have been a losing bet. Their economic situation and social fabric worsened and, in particular, have yet to recover from the damage of the second intifada. Even during the heyday of Oslo, Palestinians charge, negotiations have afforded Israel cover to consolidate its control over the West Bank and, until recently, Gaza. From average Palestinian to political cadre, the verdict is striking in its similarity: the U.S. process of bilateral negotiations at best has been a charade. The remarkable feature, some feel, is not that the disappointment finally has reached the top political levels. It is that it has taken so long.

The discrepancy should not come as a surprise. The Palestinian elite, which benefited both materially and politically from the PA's creation, also grew dependent on the political process with Israel from which that institution sprang. The web of political and economic relations with Israel afforded them significant perquisites; they saw the ongoing diplomatic process, in and of itself, as both validating their strategy and justifying the status quo.⁸ But self-preservation was not all. Many PLO and PA leaders, involved in serious negotiations over the years, held the strong belief that – with a more assertive U.S. posture and more time – a fair peace deal could be achieved.

The crumbling of that faith at the highest levels coupled with the realisation that endlessly restarting the same negotiations was becoming politically untenable is the new feature. President Abbas, one of the earliest and longest advocates of and believers in negotiations with Israel, appeared to have reached a turning point of sorts as he sat at the centre of three concentric circles of failure: seventeen years since the Oslo process began; five years since he was elected president; and one year since Obama took office.

⁷ Crisis Group interview, Washington, May 2009.

⁸ On the new elites that formed during the Oslo years and their impact on the political process, see Nigel Craig Parsons, *The Politics of the Palestinian Authority: From Oslo to Al-Aqsa* (New York, 2005) and Glenn E. Robinson, *Building a Palestinian State: The Incomplete Revolution* (Bloomington, 1997).

A. THE OLMERT-ABBAS NEGOTIATIONS

When Abbas inherited Arafat's mantle atop the PLO and PA in 2005, he hoped to reverse this widespread cynicism. He had campaigned on a platform of internal reform and peace and, once elected, he pushed to renew final status negotiations. To that end, he wrested a ceasefire from Hamas, the militant Islamist organisation, to allow him to do so. But it was not to be. Instead, Prime Minister Ariel Sharon pushed through a unilateral Israeli disengagement from Gaza that was perceived more as punishment than achievement for Abbas. Over ensuing months, Hamas boasted that its military prowess had compelled Israel's withdrawal, won the 2006 legislative elections and, eighteen months later, seized full control of Gaza.⁹

Israeli unilateralism fell out of style with the 2006 war in Lebanon and increasing rockets attacks from Gaza, but the credibility of its inverse – bilateral negotiations – was never restored. In 2007, the Bush administration – having stepped back from the diplomatic process during its first term, largely in an effort to press the Palestinians to change their leadership – sought to jump-start negotiations. Beginning in early 2007, it modestly encouraged the parties to sketch out a “political horizon” and discuss the contours of a final settlement,¹⁰ though discussions soon took on a life of their own.

Following convening of the Annapolis conference in November, Abbas and Olmert engaged in intensive bilateral talks. Despite the fact that the process modified Oslo's step-by-step logic of interim agreements and deferral of final status, most Palestinians were sceptical from the outset¹¹ and struck an I-told-you-so pose when it failed to bring about an agreement by its end-2008 target date. In fact, the conversations were quite rich, even as the political wherewithal necessary for an agreement appears to have been lacking: Olmert, hounded by accusations of corruption, was politically isolated and about to leave office; Bush also was at the end of his presidency and, by most accounts, not particularly invested in the talks managed by Secretary of State Condoleezza Rice.¹²

Although versions of what happened in the final stages of Annapolis (and why) differ, there is remarkably broad consensus on what the Israeli prime minister proposed in September 2008.¹³

- According to various accounts, Olmert proposed that roughly 6.3 per cent of the West Bank be annexed by Israel;¹⁴ in exchange, it would swap the equivalent of 5.8 per cent from Israel proper. The difference was to be made up by a safe-passage corridor under Palestinian control linking the West Bank to Gaza. Although it would remain under its sovereignty, Olmert took the position that, given its high value to Palestinians, it should be exchanged for a disproportionate amount of land.¹⁵ For their part, Palestinians claim they proposed the exchange of 1.9 per cent of the West Bank on a one-to-one ratio.¹⁶
- On Jerusalem, the prime minister suggested that Jewish neighbourhoods of East Jerusalem form part of Israel's capital, while Arab neighbourhoods would constitute the capital of Palestine.¹⁷ What Israel referred to as the “holy basin” (which includes the Old City and several adjoining holy sites)¹⁸ would fall under a special international arrangement, with neither party exercising sovereignty; instead, the area would be “jointly administered by five nations, Saudi Arabia, Jordan, Israel, the Palestinian state and the United States”.¹⁹ Palestinians reportedly “insisted that the status of East Jerusalem should be identical to the rest of the Pales-

opments with the U.S. administration and Israeli Government and Hamas's Continued Coup d'Etat”, December 2009) on file with Crisis Group. The reports of what happened are necessarily tentative, since Olmert's proposals were made only in private meetings with Abbas; moreover, he did not allow the Palestinian leader to take the map but only to look at it during the meeting. Crisis Group interview, former senior U.S. official, Washington, January 2010. Olmert asserts that he told Abbas he could take the map only if they both signed it, signalling acceptance. Interview in *The Australian*, 28 November 2009.

¹⁴The U.S. official provided that number. Crisis Group interviews, former senior U.S. official, Washington, January 2010. The Palestinians claim it was 6.5 per cent. “The Political Situation”, op. cit. Olmert has mentioned the figure of 6.4 per cent, adding “it might be a fraction more, it might be a fraction less, but in total it would be about 6.4 per cent”. Interview in *The Australian*, op. cit. The similarity in these numbers is somewhat misleading, since the two sides measure the total territory of the West Bank differently.

¹⁵Crisis Group interviews, Israeli officials, Jerusalem, April 2008-January 2009. Of the safe-passage corridor, Olmert said, “it would have been a tunnel fully controlled by the Palestinians but not under Palestinian sovereignty; otherwise it would have cut the state of Israel in two”. *The Australian*, op. cit.

¹⁶“The Political Situation”, op. cit.

¹⁷According to Olmert, “I was ready that the city should be shared. Jewish neighbourhoods would be under Jewish sovereignty, Arab neighbourhoods would be under Palestinian sovereignty, so it could be the capital of a Palestinian state”. *The Australian*, op. cit. Palestinians and Americans confirmed this.

¹⁸According to an Israeli politician with close ties to Olmert, the holy basin encompasses an area of roughly 1.5 square kilometres. Crisis Group interview, Jerusalem, November 2009.

¹⁹*The Australian*, op. cit. Again, Palestinians and Americans confirm this version.

⁹ See Crisis Group Middle East Report N°68, *After Gaza*, 2 August 2007.

¹⁰ See Crisis Group Middle East Briefing N°22, *The Israeli-Palestinian Conflict: Annapolis and After*, 20 November 2007.

¹¹ *Ibid.*, p. 9.

¹² Crisis Group interview, Bush administration official, Washington, December 2009.

¹³ These are drawn from interviews with Bush administration officials and from a document released by the PLO Negotiation Affairs Department (“The Political Situation in Light of Devel-

tinian territory in the West Bank and Gaza Strip”, suggesting discomfort with the vague and potentially overly expansive notion of the “holy basin” and implying that any Israeli annexation within East Jerusalem should be compensated with equal territory. There is no indication as to the Palestinian position on the status of the holy sites.²⁰

- Olmert rejected any right of return for Palestinian refugees.²¹ Rather, Israel “would agree on a humanitarian basis to accept a certain number every year for five years, on the basis that this would be the end of conflict and the end of claims. I said to [Abbas] 1,000 per year”.²² Palestinian say they demanded the return of 15,000 refugees per year for ten years, “renewable thereafter at the agreement of both parties”.²³ (Tellingly, the Arabic version of the Palestinian document omitted any mention of numbers).²⁴ Both sides agreed that an international fund should be established to compensate refugees for their losses.
- The prime minister’s security requirements appear vague, though accounts suggest that he reiterated known Israeli positions: a demilitarised Palestinian state; Israeli control over its airspace; and an Israeli presence

in certain areas within Palestine.²⁵ Palestinians say they rejected any such presence, insisted on full sovereignty over the state’s borders, aerial space and territorial waters, accepted a third-party presence for a limited time period and demanded the right to possess “in cooperation with the third party ... the weapons necessary for the full assumption of its [the state’s] responsibilities”.²⁶

Versions differ as to what happened. According to Olmert, Abbas promised to return with an adviser a few days after the offer to pursue discussions but never did. The prime minister characterised the entire episode as a lost opportunity, adding, “to this day, we should ask [Abbas] to respond to this plan. If they (the Palestinians) say ‘no’, there’s no point negotiating”.²⁷ Palestinians contend that any subsequent steps were rendered impossible by Israel’s decision to launch its war on Gaza on 27 December 2008.²⁸ The U.S. narrative portrays neither side as being as forthcoming as needed to reach a deal. Abbas, officials say, posed several legitimate questions, including regarding the exact territorial amount and location of areas Israel wished to annex,²⁹ the management of holy sites, control over Palestine’s borders and Israeli presence in the West Bank.³⁰ Secretary of State Rice purportedly requested that Olmert provide answers and Abbas accept the outlines of the deal so as to lock in both the next U.S. administration and the next Israeli government. The two leaders reportedly declined.³¹ The Gaza war made progress impossible.

For a large number of Israelis, the lesson of Annapolis was that even as pragmatic a leader as Abbas could not bring himself to accept a “generous” offer.³² American officials

²⁰ “The Political Situation”, op. cit.

²¹ Abbas seemed to indicate the opposite in a 29 May 2009 interview with *The Washington Post*, in which he was said to have “confirmed that Olmert ‘accepted the principle’ of the ‘right of return’ of Palestinian refugees – something no previous Israeli prime minister had done – and offered to resettle thousands in Israel”. This account, while unconfirmed and alone in making this claim, has become a touchstone with Israeli political elites who doubt the possibility of concluding a final status agreement with Abbas. As political analyst and former Barak adviser Yossi Alpher wrote, “Abbas looks at an offer of virtually the entire territory of the West Bank, internationalisation of the disputed holy sites in Jerusalem and (according to him) the right of return, turns it down and says ‘the gaps were wide’. Can we Israelis be blamed for suspecting that we really do not have a partner for a two-state deal?” www.bitterlemons.org/previous/bl290609ed25.html.

²² *The Australian*, op. cit. This comports with the Palestinian and U.S. versions as well. At an earlier stage, Olmert reportedly floated significantly larger numbers of refugees, such as 10,000 annually for ten years (Crisis Group interview, former senior Israeli official, Washington, November 2008); or, according to another source, 3,000 annually for ten years. Crisis Group interview, Israeli politician with close ties to Olmert, Jerusalem, November 2009. Crisis Group was unable to confirm such reports.

²³ “The Political Situation”, op. cit.

²⁴ An Arabic version was published in *Al-Quds* on 19 December 2009. A senior Palestinian official quipped that the mistake was not the omission of the numbers from the Arabic version but their inclusion in the English version. Crisis Group interview, Ramallah, March 2010. The number was dropped in order to head off a negative domestic reaction to a discussion of specific concessions on refugees – a tactic that was largely successful, as the Palestinian political elite took little notice of the translation. Crisis Group interview, Ramallah, March 2010.

²⁵ See “The Political Situation”, op. cit. A U.S. official said Olmert also asked for Israeli control over Palestine’s borders to third countries. Crisis Group interview, Washington, January 2010.

²⁶ “The Political Situation”, op. cit.

²⁷ *The Australian*, op. cit.

²⁸ In an interview he gave in December 2009, Abbas nonetheless remarked: “I believe it would have been possible that I go up a little, and he comes down a little. It was possible to find a solution. He said that he would give me 100 per cent [of the territory]”. *Al-Sharq al-Awsat*, 22 December 2009. He added that the Palestinians were prepared to continue talks despite the Gaza war but that the Israelis put an end to them. Ibid.

²⁹ The two sides are said to have used different baselines in calculating the territorial percentages.

³⁰ As one official put it, “Abbas responded with interest and posed questions of clarification that were never answered”. Crisis Group interviews, former and current U.S. officials, January–March 2010.

³¹ Crisis Group interview, former U.S. official, Washington, January 2010.

³² Crisis Group interviews, Israeli officials and analysts, Jerusalem, Tel Aviv, December 2009–January 2010. A confidant of Strategic Affairs Minister Moshe Yaalon said, “given that Abbas did not accept Olmert’s far too generous offer, and knowing that the current government is not going to be that forthcoming,

offer a more nuanced view; although some reached a conclusion similar to Olmert's, most found alternative or additional reasons for the Palestinian non-acceptance. The Israeli ideas, they say, were incomplete, vague and did not rise to the level of a final offer to be endorsed or rebuffed. In addition, the Palestinians were being warned by then Foreign Minister Tzipi Livni not to accept the deal because Olmert was not in a position to deliver;³³ instead, they should wait until she became prime minister and could conclude the talks in which she had been engaged with her Palestinian counterpart, Ahmad Qurei (Abu Ala).

Adding to the difficulties in crossing the finish line, only two individuals are said to have genuinely believed the process could deliver tangible results – Olmert, but he was on his way out, and Rice, but she had only lukewarm backing from her president and outright opposition from others in Washington.³⁴ More than one current U.S. official lamented that the story out of Annapolis – like the one from the 2000 Camp David Summit – only further entrenched the misleading view that Palestinians had rejected an unprecedented and generous offer.³⁵

The ins and outs of the negotiations aside, for average Palestinians and members of its political class – most of

there is no chance Netanyahu and Abbas can reach an agreement". Crisis Group interview, Jerusalem, March 2010. Minister without Portfolio Benny Begin expressed a similar conclusion: "This means that the explanation for the rejection of Israel's far-reaching proposals is a profound one and is to be found in the adherence of the PLO leadership to the traditional, extremist positions of the movement". *Haaretz*, 13 December 2009.

³³ Israeli officials familiar with Livni's thinking accept this version in part. They say that Olmert, on his way out due to a corruption scandal, was desperate to conclude a deal and had not even briefed his foreign minister on its details. Crisis Group interview, former Israeli official, February 2010. The two tracks – Olmert/Abbas; Livni/Qurei – were conducted entirely separately, apparently without coordination, adding to the dysfunctionality of the process.

³⁴ Crisis Group interviews, U.S., Palestinian and Israeli officials, January 2010-March 2010. Some U.S. officials – including the then deputy national security adviser, Elliot Abrams – were sceptical of the process and believed the administration ought to focus on building Palestinian institutions and reforming their security services instead. Crisis Group interview, former U.S. official, Washington, December 2009.

³⁵ Crisis Group interviews, U.S. officials, January-February 2010. Officials were further frustrated by the fact that the Palestinians, by demanding that negotiations resume from where they had been left off at Annapolis, were contributing to this view. "Palestinians are making it sound like what was achieved during the Annapolis process was significant and that Olmert's offer was concrete and detailed. It was not, which is one of the reasons Abbas did not accept it. He did not want to tie Palestinian hands. Ironically, they are the ones recreating the myth of Camp David – that they said 'no' to a forthcoming proposal!" Crisis Group interview, Washington, February 2010.

whom were paying scant attention to the talks to begin with – the entire episode hardened what already was a widely shared view: that bilateral negotiations had run their course and had become a cover behind which Israel consolidated its control. The formation of a right-wing government headed by Prime Minister Netanyahu further deepened the scepticism.

B. 2009: OBAMA AND THE MIRACLE THAT NEVER WAS

For the rare Palestinians who remained optimistic, 2009 was to be the year that reversed their misfortune. Despite disappointment with the Annapolis process, they invested high hopes in the new U.S. administration and especially in the new president, Barack Obama. Even so, the fate of the Abbas-Olmert talks, widespread scepticism about renewed talks and the belief that Obama might be open to new ideas led the Palestinians to demand a change in the way the talks were framed.

The year began inauspiciously. Abbas's nationalist credentials were impugned during Operation Cast Lead (the Gaza war), when some – including many in Fatah – blamed their leadership for sitting on the sidelines and even at times appearing to side with Israel against Hamas.³⁶ This alienated parts of its constituency, which voiced fresh doubts about a PA political strategy that, unable to bring about peace, also was incapable of averting war. The February election, which brought Benjamin Netanyahu and a right-wing coalition to power, was another blow. Foreign Minister Avigdor Lieberman, on his first day in office, declared that Annapolis had "no validity";³⁷ Netanyahu's early refusal to endorse a two-state solution and his emphasis on a so-called economic peace – code for focusing on improving life in the West Bank rather than settling the core political issues – confirmed the Palestinians' worst expectations.³⁸

Still, after this rough start, the Palestinian president's fortunes appeared to rise. In response to these setbacks, he hardened his tone, calling for a halt to all settlement construction and for Netanyahu to commit to a two-state settlement, albeit not explicitly conditioning negotiations on

³⁶ See Crisis Group Middle East Report N°85, *Gaza's Unfinished Business*, 23 April 2009.

³⁷ Reuters, 1 April 2009.

³⁸ Shortly after Netanyahu took office, one of his former advisers explained: "Bibi does not have any faith in the approaches of the past. He recognises that a political track is needed but does not believe it should be the immediate focus. The best way to start is to cooperate on economic matters, improve the lives of Palestinians, deepen security cooperation. If we build that foundation, we can go further, down the line. But right now, a final status agreement is out of reach". Crisis Group interview, March 2009.

either step.³⁹ The U.S. administration adopted a remarkably strong – and uncharacteristically vocal – posture on settlements.⁴⁰ Domestically, Abbas's position improved

³⁹ In February, Abbas said that “unless settlements are brought to a halt, then talks [with Israel] will be meaningless and useless”. *Haaretz*, 17 February 2009. In early March, he said, “Israel must completely halt everything relating to settlements and [home] demolitions, otherwise it will be impossible to consider them a partner in the peace process. ... We respect the choice of the Israeli people and the elections that occurred, but we demand that Israel commit to the Roadmap and the two-state vision”. *Al-Ayyam*, 5 March 2009. By 27 April, Abbas said, “we want to continue political negotiations, but on the basis of the Arab Peace Initiative, the two-state vision, and Roadmap that include the end of settlement activities and the removal of Israeli military checkpoints”. BBC, 27 April 2009.

⁴⁰ On 27 May 2009, at a joint appearance with Egypt's foreign minister, Secretary of State Hillary Clinton said, “the president was very clear when Prime Minister Netanyahu was here during his visit to the White House on May 18.... He wants to see a stop to settlements. Not some settlements, not outposts, not natural growth exceptions.... That is our position. That is what we have communicated very clearly”. *The New York Times*, 27 May 2009; Agence France-Presse, 27 May 2009. After his meeting with Netanyahu, President Obama had said, “settlements have to be stopped in order for us to move forward”. *The New York Times*, 27 May 2009. Israeli officials were taken aback by the U.S. position and insistence on a full freeze. Although the U.S. had long taken issue with settlement construction – variously describing it as unhelpful or an obstacle to peace – recent administrations had not made it a central issue. This led an Israeli security official to comment: “They're trying to change the rules by which we play”. Crisis Group interview, Tel Aviv, June 2009. The demand for a full freeze – and the implication that Israel had been less than true to its word – led to a fierce debate about what understandings had been reached with the Bush administration. Israel claimed it had agreed with the U.S. that it could build within previously built-up areas but not beyond; Secretary of State Clinton argued in a 17 June press conference that, “in looking at the history of the Bush administration, there were no informal or oral enforceable agreements. That has been verified by the official record of the administration and by the personnel in the positions of responsibility”. Former Deputy National Security Adviser Elliott Abrams backed the Israeli position: “Despite fervent denials by Obama administration officials, there were indeed agreements between Israel and the United States regarding the growth of Israeli settlements on the West Bank”. He pointed to a four-part agreement: “no construction beyond the existing construction line, no expropriation of land for construction, no special economic incentives and no construction of new settlements”. *Wall Street Journal*, 26 June 2009. Meanwhile, the U.S. Ambassador to Israel under the Bush administration, Daniel Kurtzer, took a different view: “The idea was to draw a line around the outer perimeter of built-up areas in settlements and to allow building only inside that line. This draft was never codified, and no effort was made then to define the line around the built-up areas of settlements. Nonetheless, Israel began to act largely in accordance with its own reading of these provisions, probably believing that U.S. silence conferred assent”. *The Washington Post*, 14 June 2009. An Israeli settlement expert involved in the process confirmed to Crisis Group that Kurtzer's version was

as a result of his successful management of the Fatah General Conference, the first in twenty years. This strengthened his hand, bolstering his personal legitimacy while empowering institutions that could validate his future policy decisions.⁴¹ He was now positioned to take another run at negotiations, enjoying his movement's support and with an American president who appeared determined to close the deal. U.S. officials also felt buoyed by Abbas's empowerment, though some worried that he would be more consumed by domestic politics – and so more shackled by them – than interested in taking the risks a historic compromise with Israel would entail.⁴²

Before starting negotiations, Abbas was counting on Obama to reframe them in way that he himself never could.⁴³ In the words of a Palestinian presidential adviser, “the problem isn't getting negotiations going. The problem is getting negotiations going that are credible”.⁴⁴ This meant changing their structure from a model in which both parties bring their concerns to the table to one in which the parties work to reach a clear, pre-defined end point within a specified timeframe. Toward that end, Abbas issued three demands in exchange for agreeing to resume talks.⁴⁵

Settlement freeze. As the Palestinians saw it, Israel's practice of making changes on the ground while negotiating over it had to end. In part, this position stems from an evaluation of how best to bring off an agreement. Israel has no incentive to reach a deal so long as it is acquiring more land, many Palestinians believe, and the more entrenched the settlement enterprise, the harder it will be to undo it; but the effect settlement construction has on domestic Palestinian politics also is relevant. A Fatah Central Committee member explained: “We cannot sit and talk while the bulldozers work. The noise they make drowns out the words spoken in the negotiating room. The political damage is enormous. We have already lost popular support, and without popular support, we can't continue”.⁴⁶ Another put it more simply: “You can't ne-

essentially correct. Crisis Group interview, Tel Aviv, June 2009. A U.S. official confirmed this version, adding that the Bush administration was content to let the matter drop since it did not relish the prospect of according settlement construction its de facto blessing. Crisis Group interview, Washington, June 2009.

⁴¹ See Crisis Group Middle East Report N°91, *Salvaging Fatah*, 12 November 2009.

⁴² Crisis Group interview, U.S. official, Washington, September 2009.

⁴³ Crisis Group interviews, PA officials, Ramallah, February-March 2010.

⁴⁴ Crisis Group interview, Ramallah, November 2009.

⁴⁵ Abbas uses the term “demands” whereas Israel and sometimes the U.S. use the term “preconditions”, which raises hackles among Palestinians, who say they are only demanding adherence to previously signed agreements, chiefly the Roadmap, the first phase of which requires an Israeli settlement freeze without exception for Jerusalem or natural growth.

⁴⁶ Crisis Group interview, Ramallah, 18 November 2009. Still another committee member was more blunt: “Negotiating with

gotiate over a pizza when one side is eating it”.⁴⁷ Palestinians admit this position was novel, never having been raised with previous Israeli governments: “You learn from your mistakes. Since the previous processes gave us nothing, we’ll make sure that we don’t end up in the same trap again”.⁴⁸

Palestinian officials pointed to President Obama’s and Secretary’s Clinton’s own repeated demands for a halt to all construction – with no exception – to vindicate their view. During his May 2009 visit to Washington, Abbas was buoyed by the administration’s strong stance. Over ensuing months, his position was not entirely clear, at times asserting a settlement freeze was the international community’s consensus, at others going so far as to describe it as a prerequisite for resuming talks. By August, the Fatah General Conference had formally made cessation of settlement construction – alongside other provisions – a requirement for returning to negotiations.⁴⁹

Israel while Israel builds turns me into a traitor”. Crisis Group interview, Ramallah, 19 November 2009. Some officials made the further point that, with a settlement freeze in place, it would be less critical for the Palestinians to reach an agreement immediately. A senior PA leader commented: “If we need ten years to convince Israel to accept our rights, that’s fine, on the condition that they do not build. We know they will not accept overnight, and if the U.S. needs time to convince them, okay. But the building has to stop”. Crisis Group interview, senior PA official, Ramallah 16 November 2009. The length and official status of the demanded settlement freeze has varied over the course of the year. Initially the request was for an unspecified period; in December, Abbas suggested a six-month unannounced freeze – though how it would have remained secret was unclear, especially if negotiations could only resume on that basis. *Haaretz*, 16 December 2009. In January 2010, he cut the demand to three months (*Guardian*, 31 January 2010), presumably the duration of talks during which an agreement on borders should be reached. Crisis Group interview, Palestinian negotiator, Ramallah, February 2010.

⁴⁷ Crisis Group interview, Ramallah, November 2009.

⁴⁸ Crisis Group interview, Fatah Central Committee member, Ramallah, 26 January 2010. In fact, a U.S. Middle East analyst who met with Abbas and his colleagues roughly a year prior was rebuffed when he argued that the Palestinians ought to insist on a settlement freeze before resuming talks. Crisis Group interview, U.S. analyst, Washington, January 2009. Palestinians have long debated whether they erred at the time of Oslo by not demanding a halt to all construction as part of the accord.

⁴⁹ The political program adopted in August states: “Continuing negotiations without achieving real progress within a limited time constitutes a danger to our rights and turns the talks into a mockery that enables Israel to use them as cover for continuing settlement and deepening the occupation. To avert this danger, we must ensure that the PLO and its delegations to negotiations adhere to the following rules: 1. Linking the negotiating process with real progress on the ground according to clear indicators the most important of which is a complete halt to settlement activity – including in Jerusalem – and completely stopping changes to the city’s features and Judaising it. These are two conditions without the realisation of which negotiations

After the U.S. sought to pressure the Palestinians to resume talks in the absence of a total freeze, President Abbas suggested that Obama was responsible for the inflexibility of the Palestinian demand:

Obama laid down the condition of halting the settlements completely. What could I say to him? Should I say this is too much? Moreover, halting the settlements is the second article of the Roadmap, and it is something I want. At the end they blame me, and they say that the condition of halting the settlements was not on offer during the negotiations with Olmert. Bear in mind that at every meeting with Olmert the issue of the settlements was discussed.⁵⁰

The suggestion that a settlement freeze became a requirement because of the U.S. – technically incorrect and the cause of much American exasperation⁵¹ – nonetheless must be taken seriously, for Washington’s insistence almost certainly played an important part in Abbas’s and his movement’s toughened stance.

Terms of reference. While seen by many in Israel as a major concession from someone who had long resisted the idea,⁵² Netanyahu’s endorsement of a two-state settlement was accompanied with conditions that Palestinians read as emptying the notion of meaning.⁵³ Instead, the

cannot be resumed ...” (p. 17). The entire political program can be found on the Fatah Revolutionary Council’s website <http://fateh-frc.ps/main/?cat=6>. The following month, a Palestinian official explained: “Washington knows very well the position of the Palestinian leadership, which is insisting on implementing the obligations of the Roadmap [which include a full settlement freeze] as a requirement for relaunching the peace process”. *Al-Ayyam*, 18 September 2009.

⁵⁰ Interview in *Al-Sharq al-Awsat*, 22 December 2009.

⁵¹ Crisis Group interview, U.S. official, Washington, December 2009.

⁵² Crisis Group interviews, Israeli officials and analysts, June–September 2009.

⁵³ In his 14 June Bar-Ilan University speech, Netanyahu said, “the truth is that in the area of our homeland, in the heart of our Jewish Homeland, now lives a large population of Palestinians. We do not want to rule over them. We do not want to run their lives. We do not want to force our flag and our culture on them. In my vision of peace, there are two free peoples living side by side in this small land, with good neighbourly relations and mutual respect, each with its flag, anthem and government, with neither one threatening its neighbour’s security and existence”. Among the conditions he listed: first, “the fundamental condition for ending the conflict is the public, binding and sincere Palestinian recognition of Israel as the national homeland of the Jewish People”; secondly, “any area in Palestinian hands has to be demilitarised, with solid security measures. ... [T]o ensure peace we don’t want them to bring in missiles or rockets or have an army, or control of airspace, or make treaties with countries like Iran, or Hizbollah. ... [T]he Palestinian area must be demilitarised. No army, no control of air space. Real effective measures to prevent arms coming in, not what’s going on now in Gaza. The Palestinians cannot make military treaties”; and

Palestinian leadership demanded a clear statement about the nature, borders and prerogatives of the state over which they would be negotiating – though, as U.S. officials complained, the detailed terms they suggested more closely resembled a peace plan than what typically is understood as terms of reference.⁵⁴ Israel viewed such specificity as an ex ante dictation of the outcome of the negotiating process,⁵⁵ a position largely echoed by the U.S.⁵⁶ Washington suggested some language that was deemed unacceptable by the Palestinians.⁵⁷

thirdly, “whenever we discuss a permanent arrangement, Israel needs defensible borders with Jerusalem remaining the united capital of Israel”. *Haaretz*, 14 June 2009. Netanyahu’s advisers later clarified that Israel’s security requires its presence in the Jordan Valley. *The Washington Post*, 2 November 2009.

⁵⁴ Crisis Group interview, Washington, February 2009. In a recent document prepared by Palestinian negotiators, they suggested that the terms specify that the international boundary would be the 4 June 1967 lines, with minor modifications equal in size and value and with a permanent territorial link between the West Bank and Gaza; that East Jerusalem, as defined by the 1967 border, would be the capital of the Palestinian state and West Jerusalem the capital of the State of Israel; that an international mechanism would be established to implement an “agreed solution” on refugees, responsibility for the dispossession of whom Israel would acknowledge; and that the Palestinian state would have “limited arms” and full control over its airspace, territory and territorial waters, possibly with the presence of third-party forces, not to include Israeli troops. Copy of document on file with Crisis Group.

⁵⁵ Prime Minister Netanyahu said, “they present us with extremist preconditions that they did not present to earlier Israeli governments. I don’t know any other government in the world that would enter negotiations under conditions that determine in advance how they should conclude. The critics expect us to accept the Palestinian ... dictates; they describe the acceptance of those dictates as a vision. I don’t see it as a vision”. *Haaretz*, 22 February 2010. Based on conversations with Israeli officials, it seemed at times in late 2009 that a reference to the 1967 border would have been possible had that been the sole outstanding issue, but it was not. Crisis Group interview, senior Israeli officials, Tel Aviv, November 2009.

⁵⁶ “They are not going to get from us a description of the endgame before we even begin”. Crisis Group interview, U.S. official, Washington, February 2010.

⁵⁷ It is unclear what the U.S. suggested, though it almost certainly said that all core issues would be negotiated and that talks would not be indefinite. The administration went further on 8 January, when Secretary Clinton said, “the United States believes that through good faith negotiations, the parties can mutually agree on an outcome which ends the conflict and reconciles the Palestinian goal of an independent and viable state based on the 1967 lines with agreed swaps, and the Israeli goal of a Jewish state with secure and recognised borders that reflect subsequent developments and meet Israeli security requirements”. U.S. officials depicted this as a relatively good indication of the margins of negotiations for the endgame. But others judged this to be a statement of both sides’ respective views, and nothing more. Crisis Group interviews, Palestinian officials, Ramallah, January 2010; U.S. analysts, Washington,

Officially, the leadership insisted on both a freeze and agreed terms of reference as prerequisites for direct negotiations.⁵⁸ Privately, though, some Palestinians suggested that, if offered the latter, Abbas should drop his demand on settlements, which many in any event deemed out of reach.⁵⁹ What is more, they argued that while a freeze would be highly welcome, boycotting talks would not stop the settlements from being built⁶⁰ and that robust terms of reference ultimately would be a stronger guarantor of success:

Recognising principles is important. It would show that Israel is finally treating us as an equal partner and is serious about dealing with us fairly. This Israeli government is tough and will remain so. But it would be an indication that there is a partnership for peace and the readiness to do what is necessary to achieve it. It would show willingness to draw borders and divide the land.⁶¹

As it were, Abbas never had to make the choice. Not only were U.S. officials reluctant to go very far on terms of reference, particularly given strong Israeli resistance, they also were hesitant to make a big push on this matter without a firm assurance it would have gotten Abbas back in the room.⁶²

Restarting talks. The sides also clashed over where the talks should begin – or, as Palestinians would put it, “resume”. In their eyes, negotiations must start “where they left off”, in other words, with the results of the Olmert-Abbas discussions⁶³ as well as a detailed, eleven-page document that Abbas reportedly gave Bush at the conclu-

January 2010. The U.S. subsequently tried to introduce this language into a Quartet statement, but was blocked by the UN and Russian representatives. Crisis Group interviews, UN officials and Russian diplomats, Jerusalem, 7 December 2009.

⁵⁸ Crisis Group interview, presidential adviser, Ramallah, November 2009.

⁵⁹ Crisis Group interviews, Palestinian officials, Ramallah, November 2009.

⁶⁰ Crisis Group interview, senior PA official, Ramallah, November 2009.

⁶¹ Crisis Group interview, former Palestinian negotiator, Ramallah, 22 December 2009.

⁶² According to one version, Special Envoy George Mitchell and his team were negotiating with the Palestinians over possible terms of reference. At one point, a Palestinian negotiator reportedly said that, regardless of the terms of reference, they would continue to insist on a full settlement freeze. At that point, Mitchell purportedly tore the piece of paper over which they were discussing and walked out of the room. Crisis Group interview, Palestinian official, Washington, October 2009. A U.S. official confirmed the gist of the story. Crisis Group interview, U.S. official, Washington, October 2009.

⁶³ The leaked Palestinian document referenced above offers a detailed accounting of what, from the Palestinian position, were Abbas’s and Olmert’s respective positions. “The Political Situation”, op. cit., on file with Crisis Group.

sion of his tenure summing up where negotiations stood.⁶⁴ Again, this reflected a longstanding complaint: in 1996, newly elected Prime Minister Netanyahu renegotiated implementation of the Oslo accords; in 1999, Prime Minister Ehud Barak renegotiated the recently concluded Wye agreements; Prime Minister Sharon had scant regard for either and, now, Netanyahu was ignoring the outcome of over 30 Abbas-Olmert encounters.⁶⁵ In the words of a PA minister, “every time a new [Israeli] prime minister comes in, we have to start over again. We reinvent the wheel over and over. It’s a huge waste of time”.⁶⁶

In response, the Israeli government argued that nothing had been agreed between the two leaders, that the Palestinians simply were seeking to pocket Olmert’s offer without having made any significant compromises of their own and that, in any event, a new, democratically elected government had every right to reflect and convey a different view.⁶⁷ The U.S., while acknowledging that negotiations ought not to start from scratch and should reflect the considerable progress made over the years,⁶⁸ was closer to the Israeli view. Administration officials suggested that it was neither credible nor fair to say that what one prime minister put on the table in the context of an unfinished negotiation must be the starting point when “the Palestinians were less forthcoming, when today there is a different [Israeli] government and when the operating premise was that ‘nothing is agreed until everything is agreed’”.⁶⁹

Meeting in early August 2009, the Fatah General Conference enshrined these three demands in the movement’s program, and the new Fatah Central Committee, Revolutionary Council and PLO Executive Committee each repeatedly endorsed the president’s stand.⁷⁰ How much of a constraint this imposes on Abbas, should he wish to change direction, is a matter of debate. Election of new leadership bodies arguably cut both ways. On the one hand, these bodies are more dependent on Abbas than their predecessors were. On the other, the conference empowered structures that could hold him accountable should he deviate from the official program and his own words. Moreover, as discussed below, the Central Committee includes many with political aspirations of their own, who will be careful not to take positions that might open them to criticism. Overall, given Abbas’s immense influence, it probably is most accurate to say that he so far has used

these bodies to constrain himself. An analyst said, they “bless” the decisions that come from PA headquarters in Ramallah; they do not make decisions themselves.⁷¹

Still, the positions of Fatah’s and the PLO’s governing bodies ought not be taken too lightly. As discussed, they are the delayed reflection of a deep and widely shared popular dissatisfaction; thus the leadership is and will remain reluctant to risk its credibility by backing down after having so firmly staked out its position.⁷²

This became clearer when, in the wake of the conference, Abbas’s fortunes declined steeply and swiftly, reducing his margin of manoeuvre. Having failed to wrest a complete settlement freeze from Israel and unwilling to expend more time and political capital in the attempt, the U.S. became more insistent in urging the immediate resumption of negotiations without preconditions. In September, it pressed Abbas to attend a trilateral meeting with Obama and Netanyahu; when, as expected, the encounter amounted to little more than a photo opportunity, Abbas’s domestic stance was further hurt.⁷³ Obama’s statement at the event that “it is past time to talk about starting negotiations – it is time to move forward” was yet another indication the Palestinians were being told to negotiate regardless of Israel’s position on the freeze.⁷⁴

Far more damaging was the president’s and his advisers’ decision – reportedly under heavy Israeli and, to a lesser extent, U.S. pressure – to recommend postponement of a 2 October vote at the UN Human Rights Council to endorse the Goldstone Report (which accused Israel and Hamas of war crimes and possible crimes against humanity during Operation Cast Lead) and to refer the matter to the UN General Assembly. The ensuing uproar in Palestine and throughout the Arab world dealt him an extremely serious political blow.

⁶⁴ Crisis Group interview, presidential adviser, Ramallah, February 2009.

⁶⁵ Crisis Group interview, Palestinian official, March 2009.

⁶⁶ Crisis Group interview, Ramallah, December 2009.

⁶⁷ Crisis Group interview, Israeli official, Washington, January 2010.

⁶⁸ CNN, 23 September 2010.

⁶⁹ Crisis Group interview, U.S. official, Washington, February 2010.

⁷⁰ See for instance the multiple interviews with Fatah leaders at www.fatehmedia.net, and *Al-Ayyam*, 15 December 2009 and 1 February 2010.

⁷¹ Crisis Group interview, Hani Masri, Ramallah, December 2010. The Palestinian decision to approve indirect talks shows how limited the influence of the key bodies is. Abbas first took the matter to the Arab League, only afterward to Fatah, and finally to the PLO. At its discussion, the Fatah Central Committee defined a movement stance that was never presented as such by the leadership to the PLO Central Council. Crisis Group interview, Fatah leader, Ramallah, March 2010.

⁷² Should the Palestinian leadership deviate sharply from what the majority considers the “national constants”, official bodies would be the least of its problems. A member of the PLO Executive Committee emphasised the fragility of the leadership’s position by invoking the storm sparked by the PLO’s October decision to withdraw consideration of the Goldstone report, which accused both Israel and Hamas of war crimes during Operation Cast Lead: “If Goldstone could create this much of a protest, can you imagine what would happen if we came with a political settlement that doesn’t satisfy our people?” Crisis Group interview, Ramallah, December 2009.

⁷³ See Crisis Group Report, *Salvaging Fatah*, op. cit., p. 22.

⁷⁴ Bloomberg, 23 September 2009.

Arguably far more than any of the other indignities he has suffered in his long career, the episode left Abbas bitter, angry and with a deep feeling of betrayal. Arab leaders who only shortly before the decision had promised to back him rushed to condemnation “the minute they saw how it was playing on Al Jazeera”.⁷⁵ Worse, some of his family members were harassed and taunted.⁷⁶ Abbas, deeply wounded, refused to take calls from his closest interlocutors, including senior U.S. officials.⁷⁷ The extent of his anger and gloom became clear on 5 November, when he declared that “he had no interest in running” in the next elections and implicitly threatened to resign.⁷⁸

The threat not to run for another term might well have been largely empty; it was already evident that PA presidential and legislative elections would not be held as scheduled on 24 January 2010, due to the enduring Fatah-Hamas split. Indeed, they were officially postponed on 19 November. The substance and tone of his announcement were highly revealing, nonetheless, highlighting the degree to which the Palestinian president – who, before and more than any of his colleagues, had bet on negotiations and U.S. support – had despaired of the former while souring on the latter. To some of his long-time acquaintances, “his demeanour was a real shock. He has lost faith in much that he once believed in – that he could reach a fair deal with Israel, that the U.S. could exert real pressure and that he could count on Arab partners”.⁷⁹

Abbas’s threats were, in no small part, the result of a very personal wound. He felt that within a few months, Obama, his own people and his Arab allies had abandoned or turned on him. A former negotiator said:

He feels unable to affect the destiny of his people. He cannot pull the body politic in any direction and in fact has lost his own. He feels he has no more stones to turn over, no more resources to expend on finding excuses for Israel with his people. We’ve all understood this for a long time, but the leadership wasn’t with us. Now it is. It’s not that Abbas is pessimistic, it’s that he’s become realistic.⁸⁰

Regional allies at least temporarily lost influence over him. An Arab diplomat said:

We can’t pressure Abu Mazen. He’s lost all hope and doesn’t seem to care, which means that everyone has lost their leverage with him. He feels that he has been put in the same situation as Arafat, but whereas Arafat stayed on, was besieged in PA headquarters and died a martyr, Abbas is not Yasser Arafat. He’s not going to stay around and let anyone force him to sign a piece of paper that disgraces him and his family.⁸¹

With diplomacy at an impasse, Abbas no longer felt that he had much to lose. He might not have been able to save Palestine, but he was intent on saving his honour. In the end, Abbas remained as president and has privately confided that he will stay in his position at least through the end of 2010,⁸² with no elections in sight, he could remain in place longer.⁸³ Both internally and externally, pressure on him not to resign was strong; among the arguments made, the most potent perhaps was the negative legacy he would leave were he to step down with the peace process in shambles and the Palestinian national movement gravely divided.⁸⁴ The PLO did not abandon its insistence

⁷⁵ Crisis Group interview, U.S. official, Washington, November 2009. The official singled out the Egyptian government as one that had fully backed Abbas’s decision until it measured the popular backlash. A Palestinian senior official confirmed the account. Crisis Group interview, November 2009.

⁷⁶ Crisis Group interview, PA official, Ramallah, December 2009.

⁷⁷ Crisis Group interviews, Arab diplomats, December 2009.

⁷⁸ His statement provoked an air of panic in both Palestinian and international circles. Some Palestinian leaders offered dire predictions about the PA’s fate. Chief negotiator Saeb Erekat said, “I think [Abbas] is realising that he came all this way with the peace process in order to create a Palestinian state, but he sees no state coming. So he really doesn’t think there is a need to be president or to have an Authority. This is not about who is going to replace him. This is about our leaving our posts. You think anybody will stay after he leaves?” *The New York Times*, 10 November. Other presidential advisers were similarly bleak, predicting that Prime Minister Fayyad and the security chiefs would resign “five minutes before or five minutes after Abbas does”. Crisis Group interview, presidential adviser, Ramallah, November 2009. The din grew loud enough for the Fatah Central Committee to release a statement in mid-November emphasising that the continued functioning of the Authority was in the interest of the Palestinian people. Crisis Group interview, Fatah Central Committee member, Ramallah, November 2009.

⁷⁹ Crisis Group interview, Palestinian analyst, January 2010.

⁸⁰ Crisis Group interview, Ramallah, December 2009.

⁸¹ Crisis Group interview, Egyptian official, Ramallah, 21 December 2009.

⁸² Crisis Group interview, former U.S. official, Washington, December 2009.

⁸³ That said, many in Fatah currently believe that, barring a significant improvement in his political fortunes, Abbas could well depart the political scene by the end of the year. Internal discussions on possible succession scenarios, however nascent, have begun. Crisis Group interviews, Fatah leaders, Ramallah, March-April 2010.

⁸⁴ Fatah, with no consensus candidate to take over should Abbas depart, likely would have been the first and principal victim of his resignation; a Fatah Revolutionary Council member made the point as follows: “He doesn’t get to go home and leave us holding the bag. We’ll string him up in the Manara [Ramallah’s main square] if he tries”. Crisis Group interview, Ramallah, February 2010. International pressure for him to remain as president was strong. American and European diplomats urged him to stay on, stressing that his legacy – a commitment to negotiations, rejection of violence and work toward a two-state solution – otherwise would be jeopardised. Crisis Group interviews, U.S. and European diplomats, Washington, Paris, Brussels, January 2010. So-called moderate Arab states, particularly Egypt and Jordan, added to the pressure. An Egyptian official said, “we told him that he embodies the moderate camp and

on certain conditions being met before it would return to talks, even after Cairo and Amman offered what an Arab diplomat called a “different vision”, seeking to convince the Palestinian movement to dilute its demand for a full settlement freeze.⁸⁵

Things would get worse. In November 2009, Netanyahu announced, after lengthy discussions with the U.S., that Israel would implement a ten-month moratorium on most settlement construction in the West Bank, albeit with significant exceptions. As the prime minister put it, “this is a very difficult step for me and my fellow ministers. ... This is a far-reaching and painful subject”. He added that “we will not halt existing construction and we will continue to build synagogues, schools, kindergartens and public buildings essential for normal life”. He also made clear that “we do not put any restrictions on building in our sovereign capital”.⁸⁶

The U.S., while acknowledging that the announcement fell short of a full freeze, immediately welcomed it as “significant”, and Secretary Clinton commented that it “help[ed] move forward toward resolving the Israeli-Palestinian conflict”.⁸⁷ Earlier, on 1 November, she had

that should he resign, there would have been consequences not only in Palestine but for the entire Arab system. It would have weakened the Arab peace camp”. Crisis Group interview, Egyptian official, Jerusalem, March 2010.

⁸⁵ They saw it as their role to provide an “Arab umbrella” to help him return to talks. In a way the PLO leadership had prepared the ground for the Arabs to provide them with cover by repeatedly affirming that their decision to refuse negotiations was based on the Arab League decision. See Al Jazeera, 11 December 2009. Forcing the Arab states to get out ahead of him was especially important to Abbas after the Goldstone controversy, when he felt that his Arab allies endorsed the decision to postpone the vote at the UN Human Rights Council, only to heap scorn on him when the Palestinians did so. See above.

⁸⁶ See Reuters, 25 November 2009; *Haaretz*, 25 November 2009.

⁸⁷ Reuters, 25 November 2009. Many observers considered the apparent shift in U.S. attitude inevitable because the demand for a full freeze exceeded what any Israeli government would have done. Under this view, the demand contravened basic, consensual principles; many Kadima and Labour representatives, ostensibly more flexible than Netanyahu and especially his coalition, also opposed the inclusion of Jerusalem and prohibition on natural growth. Labour Party head and Defence Minister Ehud Barak gave the example of a family of four that had moved into a two-room house and subsequently has two more children. “Should they be allowed to build another room or not?”, he asked, “95 per cent of people will tell you it cannot be that someone in the world honestly thinks an agreement with the Palestinians will stand or fall over this”. *The New York Times*, 27 May 2009. When asked to comment on a freeze in East Jerusalem, a Kadima member of the Knesset plainly said, “we oppose it. This is a part of Israel”, Crisis Group interview, Jerusalem, 8 April 2010. Kadima Knesset member Otniel Schneller organised a petition calling for “the continued development and construction of these neighbourhoods”, which had ten Kadima and five Labour signers. The full list of signers (in Hebrew) is

hailed Netanyahu’s willingness to restrain settlement growth as “unprecedented” – a view repeated even by several of the prime minister’s more dovish critics⁸⁸ – simultaneously underscoring that a settlement freeze has never been and should not be a precondition for negotiations.⁸⁹ Only a few days later, reacting to strong Palestinian and Arab disapproval, she changed her tune. Speaking in Morocco, she reiterated the U.S. view that “it is time for these settlements to stop” and added that the Israeli “offer falls short of what our preference would be”.⁹⁰ But the damage had been done.⁹¹ The U.S. intensified pressure on Abbas to resume talks, but to no avail.⁹²

Abbas and his advisers reacted harshly to what they saw as a U-turn in U.S. policy. The administration had sought to pursue a two-pronged approach: to extract a settlement freeze from Israel and normalisation gestures from Arab states. Having failed to obtain either, the Palestinians felt, it was now asking them to pay the price by acquiescing to continued construction in parts of the West Bank.⁹³ Palestinians worried about what was not included by Netanyahu and pointed in particular to exceptions: the last-minute approval of several hundred new units, the com-

at www.news1.co.il/Archive/001-D-234289-00.html?tag=13-29-43.

⁸⁸ A former Peace Now secretary general confirmed Clinton’s view. “The freeze is indeed unprecedented. There was never a decision that was so broad”. He explained that Prime Minister Yitzhak Rabin’s settlement freeze applied only to public construction. In addition, Rabin established a committee to approve exceptions that issued “massive construction permits”; as a result it was soon replaced by a committee of ministers, but “that too issued thousands of permits”. Crisis Group interview, Jerusalem, April 2007.

⁸⁹ Standing with Netanyahu in Jerusalem, she said, “what the Prime Minister has offered in specifics of a restraint on the policy of settlements ... no new starts for example, is unprecedented in the context of prior to negotiations. ... I think that where we are right now is to try to get into the negotiations”. *Haaretz*, 1 November 2009.

⁹⁰ *Haaretz*, 2 November 2009. Arab League Secretary General Amr Moussa had said, “I am telling you that all of us, including Saudi Arabia, including Egypt, are deeply disappointed ... with the results, with the fact that Israel can get away with anything without any firm stand that this cannot be done”. Ibid.

⁹¹ A Palestinian official said, “in the best case scenario, it’s an insult to Palestinians’ intelligence”. *Al-Ayyam*, 2 November 2009.

⁹² Clinton met with Abbas in Abu Dhabi on 31 October 2009, but, despite her plea, the president refused to relent. Afterwards, his spokesperson said, “President Abbas reiterated to Clinton that the Palestinians would not resume talks before a total settlement freeze and without setting a clear goal for the negotiations”. Reuters, 31 October 2009.

⁹³ Crisis Group interview, Palestinian official, Washington, October 2000. The U.S. demand for Arab normalisation gestures was abandoned relatively quickly after it was shown to be a non-starter; Arab states took the position that Israel ought not to be rewarded for carrying out its obligations under international law and the Roadmap. Crisis Group interviews, Arab diplomats, Jerusalem, August, December 2009.

pletion of some 3,000 units whose foundations had already been laid, continued construction of public buildings and infrastructure and – most contentiously and politically explosive of all – the blanket exemption of East Jerusalem. In Ramallah, the sense of betrayal was palpable.

It would be wrong – and, to Palestinians, profoundly misguided – to see in this entire episode a mere personal odyssey. Abbas in many ways remains the moderate face of a far more visceral and deep popular frustration. If anything, his public expression of despair brought him more in tune with important elements of his constituency.⁹⁴ Palestinian leaders were at pains to stress that their president's positions were supported by a wide consensus within Fatah and among PLO factions as a whole. One of his advisers cautioned: "Don't treat this as if someone has been insulted and needs to be made to feel better";⁹⁵ another added: "Don't think of Abu Mazen as a person. Think of him as expressing an approach, an attitude, a philosophy".⁹⁶

The hardening of the Palestinian president's and his colleagues' position reflects another factor, which is the increased fragmentation of the domestic political scene coupled with continued polarisation on the regional one. Arafat always had to deal with opponents; indeed, in some instances the confrontations turned violent. Throughout, however, he could count on Fatah's relatively hegemonic position, and so, despite intense criticism that accompanied any significant decision – signing the Oslo accords prime among them – he was able to neutralise or co-opt rivals. His undisputed historical legitimacy also meant that, reservations notwithstanding, his views ultimately were accepted by most Palestinians as reflecting a higher interest. By the same token, he had been able to insulate (to a degree at least) the Palestinian arena from Arab interference, taking pride in what he called "the independence of Palestinian decision".

The era has changed, and so have the circumstances. Politically sensitive decisions have inevitably become hostage to the deep divide with Hamas, which has spared no criticism – whether over the decision to meet with Netanyahu, the handling of Goldstone or any hint of a return to peace talks. Factions within and outside Fatah have at times joined the fray. By adopting a hard line, the leadership feels, it can regain trust and reconnect with the people.⁹⁷ The situation is all the more complicated given that

Abbas has made clear he will not stand again and thus that the contest for his succession might soon move into the open. Fatah leaders who have their eyes on the presidency must walk a fine line, neither openly challenging Abbas nor subscribing to positions they fear could be unpopular. The Ramallah-based leadership is thus more reluctant than ever to enter into talks without a minimum level of confidence in their success. At the same time, decision-making has become increasingly subject to outside interference, a function of the national movement's weakness and fragmentation as well as of persistent divisions within the Arab world.

The diplomatic impasse appeared to be resolved when, faced with unbending Palestinian opposition, the U.S. proposed indirect or proximity talks, during which Washington would hold separate discussions with Israelis and Palestinians. Even then, PLO acceptance was not immediate. In Ramallah, some, including Prime Minister Salam Fayyad, came out in favour of the proposal relatively quickly,⁹⁸ hoping that U.S. involvement would begin to redress the power imbalance.⁹⁹ Moreover, some speculated, indirect negotiations could expose differences between the Israeli and the U.S. positions¹⁰⁰ – one of the reasons why Israel, though it agreed to the format, was far from unanimous or enthusiastic.¹⁰¹ Others, especially

⁹⁴ "It's as if a burden has been lifted from his shoulders", said a Palestinian civil society leader and long-time Abbas critic. "The speech he gave at the [15 December 2009] PLO Central Council meeting was one of the best he's ever given. He was relaxed and in touch with the audience. It was as if he was staying things that he had kept bottled up for a long time". Crisis Group interview, Ramallah, December 2009.

⁹⁵ Crisis Group interview, Ramallah, November 2009.

⁹⁶ Crisis Group interview, Ramallah, November 2009.

⁹⁷ Crisis Group interview, Fatah Revolutionary Council and Central Committee members, April 2010.

⁹⁸ In an interview with *Al-Hayat* on 21 January 2010, Fayyad said: "Negotiations in which the international community, via the United States, participates directly may be more successful than the model we have followed historically". Israeli insistence on violating international resolutions, he maintained, "shouldn't be our problem but the entire world's". He hoped that indirect negotiations would "define the bases that will guide bilateral negotiations. When the Israeli prime minister speaks, as he did a couple days ago, about a continuing Israeli military presence in the West Bank, the essential question becomes: what state is one talking about when one says a Palestinian state? Here, it is in our interest that the Americans will have a direct role, not just as the U.S., but as a principal party in the Quartet, to pose this question and get a response".

⁹⁹ "I have always thought it important that the international community be at the negotiating table, since the process has nothing resembling a balance of power between us and Israel. Israel has cards and is an occupying power. The fundamental thing that hampers the chances of the political process to succeed is that it left, openly or implicitly, the matter of ending the occupation to Israel because it is the occupying power". *Al-Hayat*, 21 January 2010.

¹⁰⁰ Crisis Group interview, PA official, February 2009. A Palestinian negotiator said, "we will use the opportunity to uncover the Israeli lies". Crisis Group interview, Ramallah, February 2010. Fayyad has an additional interest in talks: they buy time for his two-year government plan, which is out of synch with Abbas's diplomatic process. The Arab League-approved window for talks might be only four months, but it could be extended; Fayyad's program by contrast still has some sixteen months remaining.

¹⁰¹ Crisis Group interviews, Israeli analysts, January-February 2010. See also Zalman Shoval, "When Jupiter is angry", *Yisrael HaYom*, 15 October 2010.

around the president, were more sceptical, questioning what the talks would produce, seeing them as the latest recipe for paralysis and as a way to remove pressure from Netanyahu at a time when the Palestinians finally had stuck to a clear, unyielding stance. One dubbed them “negotiations for negotiations’ sake”.¹⁰²

Palestinians delayed their response for weeks, seeking U.S. clarification and assurances regarding the timetable and terms of reference, just as they had for direct talks; in particular, they wanted to know what the U.S. would do if – in their words, “when” – indirect talks failed. Importantly, they also wanted Arab backing for the talks. U.S. officials, increasingly frustrated at the unprecedented situation in which Palestinians were imposing conditions for talking to Washington, opined that Abbas was finding the status quo more comfortable – and less risky – than any initiative that could expose him to domestic criticism and that he preferred to wait for Washington to put its own plan on the table.¹⁰³ They were particularly wary of Palestinian demands for a clear fallback should indirect talks fail, fearing that such knowledge would provide the incentive to sit back and wait for the U.S. to make its move.¹⁰⁴ As one U.S. official put it, “our dilemma is that we want Netanyahu to fear that we might put a plan on the table and the Palestinians to be convinced that we will not”.¹⁰⁵

On 3 March, the Arab League voiced its support, albeit very cautiously and only for a four-month duration.¹⁰⁶

¹⁰² “This is just to have the appearance of a process. It will take us right back to the fruitless circle that we’ve been in for years”. Crisis Group interview, Abbas adviser, Ramallah, February 2010. As for exposing the cracks between the U.S. and Israel, this adviser said, “we are not so naïve as to think that the U.S. will ever step out of line with Israel”.

¹⁰³ Crisis Group interview, U.S. official, Washington, February 2010.

¹⁰⁴ Crisis Group interview, U.S. official, Washington, February 2010. A Palestinian presidential adviser took issue with this logic: “I told the Americans, ‘You know our positions. You know our maximum and our minimum. As Saeb Erekat has been saying, we need decisions not negotiations. The outcome is more or less known. We will agree to the same things in indirect talks that we would ask for in a Security Council resolution. We have no incentive to hold out’”. Crisis Group interview, Ramallah, March 2010.

¹⁰⁵ Crisis Group interview, U.S. official, Washington, February 2010.

¹⁰⁶ In a 3 March 2010 statement, Arab League foreign ministers signed onto the recommendation of the League’s Arab Peace Initiative follow-up committee, concerning approval of indirect talks, “despite the lack of conviction of the seriousness of the Israeli side in achieving a just peace”, in order to give a “last chance” to negotiations. The statement concluded: “Should indirect negotiations fail, the Arab states will call for an emergency meeting of the United Nations Security Council to re-examine the Arab-Israeli conflict in its various dimensions and will request that the United States not use its veto”. *Al-Hayat*, 4 March 2010. Syria voiced deep reservations, saying that this was a Palestinian decision over which the Arab League follow-

The PLO followed suit and – Israel having already given its green light – on 8 March the U.S. announced that both had accepted “indirect talks”,¹⁰⁷ though again Palestinian acquiescence was grudging. An official explained that they were convinced the talks would lead nowhere, but they were going into them “in order to unmask Israeli intentions”¹⁰⁸ and/or to pave the way for eventual appeal to the UN. The Palestinian president was sharply criticised by Fatah Central Committee and PLO Executive Committee members for having sought Arab approval before their own, thereby sacrificing the deeply held principle of the independence of Palestinian decision-making. A Fatah Central Committee member said, “why should anyone speak with us now? Go talk to Sheikh Hamad [of Qatar]. He’ll decide for us”.¹⁰⁹

up committee had no authority. A Syrian official criticised Abbas for wanting Arab support as a means of compensating for the lack of domestic backing: “It makes no sense for Abbas to ask for ‘permission’ from the follow up committee. He is president of the Palestinians, let him decide rather than get protection so that, when the talks fail – as they will – he can say ‘it’s not me, it’s them!’”. The fact is there are divisions about this among Palestinians, and Hamas in particular rejects the talks. Rather than solve that problem, Abbas wanted the Arabs to side with him and give him cover. We don’t think that is our role and we made it clear”. Crisis Group interview, 9 March 2010. Another Syrian official said, “proximity talks only serve Netanyahu’s domestic interests, full stop. They will simply create the impression that he is actually doing something”. Crisis Group interview, Damascus, 3 March 2010. An Egyptian official lamented Abbas’s decision to take the matter to the League, since such opposition was predictable: “Together with the Saudis and Jordanians, we told Abbas that we will give him the cover he needs to start indirect talks. He nevertheless went to the Arab League, which only complicated his situation. Why would you go to Syria, who opposes your line? Who cares if Qatar supports you? It was like getting your wife’s approval to have a girlfriend!” Crisis Group interview, Tel Aviv, 3 March 2010.

¹⁰⁷ See www.state.gov/r/pa/prs/ps/2010/03/137916.htm. Senator Mitchell added: “As we’ve said many times, we hope that these will lead to direct negotiations as soon as possible”.

¹⁰⁸ Crisis Group interview, presidential adviser, Ramallah, February 2010. Abbas’s adviser, Nabil Abu Rudeineh, echoed this view: “Israel does not want to return to the negotiating table. But it wishes to blame the Palestinian side, saying that the Palestinians do not want to enter into negotiations. So we must put a stop to this pretext and reveal Israel’s true position before the international community and the American administration”. *The Guardian*, 3 March 2010.

¹⁰⁹ Crisis Group interview, Ramallah, March 2010. The Fatah Central Committee and the PLO Central Council meetings that approved the indirect talks reportedly were stormy. A dissenter at the latter said, “we’ve heard this exact rationale before: we have to give the Americans a last chance and uncover Israel’s deceit. This was the same line we were fed before Annapolis. But you have to draw the line sometime. This logic will mean endless negotiations”. Crisis Group interview, PLO Executive Committee member, Ramallah, March 2010.

To many observers, the outcome represented a huge step backwards after years of direct, face-to-face talks. Indeed, the Obama administration had long rejected the idea on precisely those grounds¹¹⁰ and agreed only after it concluded the alternative was not feasible in light of the differences on the settlements freeze and terms of reference.¹¹¹ Others were less critical, pointing out that the parties had engaged in direct talks for seventeen years without reaching a definitive agreement and that proximity talks put the onus and the responsibility where it belonged: on the U.S. By driving the process, they said, the U.S. could better manage its inevitable crises and make it more difficult for one or both parties to walk out; bilateral talks, in contrast, would be far more likely to run into a quick impasse.¹¹²

Even then, the apparent agreement papered over serious differences. Whereas Israel took the view that the indirect talks would be primarily procedural, aimed at creating conditions for direct discussions, Palestinians believed they should be substantive and deal with core issues, beginning with borders and security.¹¹³ Netanyahu reportedly told Senator Mitchell, the U.S. special envoy, that he could not make substantive concessions to the U.S. and that these would only come as a result of face-to-face talks; in this spirit, the Israelis wanted a secret Israeli-Palestinian back-channel.¹¹⁴ Within the U.S. administration, opinions appeared to be divided between those who doubted much could be achieved during proximity talks and felt these should be treated chiefly as a “corridor” to

direct negotiations and those who held out hope that, with active mediation and bridging proposals, the indirect talks could move quite far.¹¹⁵

Those issues, together with the still significant gap on the question of construction in East Jerusalem, would resurface only days later when U.S. Vice President Joe Biden visited Israel.¹¹⁶

C. CAN PALESTINIANS TRUST THE U.S.?

Hovering over Palestinian decision-making throughout this recent period has been a central question: whether their leadership would still rely on the U.S. to rectify the imbalance of power inherent in negotiations with Israel. For Abbas, but also for Arafat before him, it had been a quasi article of faith. From the late 1980s onwards, the historic leader of the Palestinians had invested heavily, if with questionable success, in cultivating his relationship with the U.S., believing that was a key to persuading or pressuring Israel. Indeed, it was both premise and paradox of the peace process that Palestinians would rely on their foe’s staunchest ally to achieve their goals.

Abbas’s faith has been severely tested over the years but, in a sense, never so severely as during the first year of the Obama administration, precisely because it had begun with such high hopes. To many in Washington and elsewhere, this attitude, and notably the Palestinian president’s insistence over the course of 2009 on his demands seemed puzzling. Palestinians were suffering the most from the status quo and thus were most in need of a resolution, yet they were balking at resuming negotiations even as Israel appeared eager. In Barack Obama they had a president who was more willing to get engaged earlier than any of his predecessors, yet the Palestinians were denying him and his special envoy the opportunity to move forward at the forum where they believed they could be most effective – the negotiating table. Administration officials readily acknowledged the diplomatic shortcomings of the past, while arguing these would be redressed not by setting preconditions but by allowing the U.S. to take a more active role.

We can do far more once talks begin, including introducing bridging proposals. But the reality is that we cannot do this in a vacuum, in the absence of negotiations. In a way, it is a no-lose situation for Abbas: if he resumes talks and Bibi is serious, real progress can be made. If Bibi is not, then the Palestinian president can use the opportunity to clearly state the Palestinian position and expose Israel’s.¹¹⁷

¹¹⁰ Crisis Group interview, U.S. official, Washington, January 2010.

¹¹¹ A former high-level U.S. diplomat and adviser to the Obama campaign, Daniel Kurtzer, was scathing: “The U.S. is about to launch proximity talks. Palestinians and Israelis will apparently not meet face to face. The terms of reference for these talks reportedly are not very detailed. And the U.S. will not be expecting or requiring the parties to pick up where things left off. In all, this appears to be a poor excuse for American diplomacy and a recipe for the slow but ultimate demise of this round of peacemaking. Proximity talks take us back almost twenty years, to a time when the two sides were not talking to each other at all. They basically throw overboard much of the substantive progress achieved during years of face to face negotiations”. http://mideast.foreignpolicy.com/posts/2010/03/09/proximity_talks_prospects_for_success.

¹¹² A former Israeli diplomat said, “a lot can be done in proximity talks if they are in fact substantive, and I don’t understand the Arab view that they should only last four months. In fact, they present many advantages over direct talks: the U.S. can manage the timing and content more easily; it will be harder for the parties to manufacture crises to get out of them; and the parties might be forced to say more than in direct talks”. Crisis Group interview, Washington, March 2010. Some Palestinian and American analysts concurred. Crisis Group interviews, Washington, March 2010.

¹¹³ Crisis Group interviews, Ramallah, Jerusalem, Washington, March 2010.

¹¹⁴ Crisis Group interviews, U.S and Israeli officials, Washington, Jerusalem, March 2010.

¹¹⁵ Crisis Group interviews, U.S. officials, Washington, March 2010.

¹¹⁶ See below.

¹¹⁷ Crisis Group interview, Washington, February 2010.

As seen, they also suspected a Palestinian strategy of waiting for deeper and more assertive U.S. involvement. Palestinian belittling of what Washington had extracted from Netanyahu was equally exasperating, for it was deemed more than what the U.S. had obtained in the past.

The situation looked very different from the Palestinian perspective. The meeting with Netanyahu at the UN attended under U.S. pressure, Washington's apparent backing down on the settlement freeze and, more generally, the sense of an administration adrift, coloured Ramallah's perception of the new administration. The settlements issue stood as a microcosm: Washington had begun on what Palestinians considered a very promising note; it then proved unable to achieve Israeli compliance; and finally it praised a less-than-full freeze and sought resumption of negotiations on that basis.

Because it realised Abbas's perilous political position, particularly in the wake of the Goldstone affair – one U.S. official described the president as having been literally traumatised and thus unwilling to take any risky step – the administration did not turn against the Palestinians or lose patience.¹¹⁸ But frustration was not far below the surface:

The moratorium that Netanyahu offered was not insignificant. In fact, no previous Israeli government has gone that far. The ball is now in the Palestinian court. Where will their attitude take them? They will just sit there? How does this get them closer to their goal? Abbas needs to decide if he wants to make a historic deal. The only way to know for sure whether Netanyahu is ready is to test him.¹¹⁹

In response, Palestinians argued that the settlements policy adopted by Israel and subsequent pressure to have Palestinians accept it amounted to "trivialising" their concerns.¹²⁰

Again in a delayed reflection of more widely held popular views, this reflected Abbas's growing doubts of both America's reliability and its ability to make a difference.¹²¹ After the events described above, he used uncharacteristically harsh language, accusing the U.S. of being "deferential" (*muhaba*) to Israeli positions.¹²² In the – somewhat dramatic – words of one of his advisers:

We believed Obama. In my twenty years doing negotiations, I have learned that U.S. officials do not lie to you. You might not get the whole truth from them, but they don't lie. So we believed them when they told us and everyone else that this conflict comes first. Obama, [National Security Adviser] Jones, Clinton, Mitchell: they all said the same thing, and consistently. We got behind what Obama himself said. We were just repeating what he said about a settlement freeze. So now we feel frustration, anger, a sense of betrayal. The U.S. brought us and the Israelis up a tree then gave Netanyahu a ladder to climb down but told us to jump. The U.S. turned Abu Mazen into a liar. Abu Mazen told his people at the Fatah Conference to lay down armed struggle, because we have a golden opportunity with Obama and negotiations. Today, we ourselves have been disarmed in front of our people.¹²³

For many in Ramallah's top leadership, negotiations need to be more than altered. They need to be fundamentally reframed. A mediator, as well intentioned as Mitchell might be, is not enough. After nearly two decades focusing on details and hoping that incremental progress would culminate in agreement on a complete package, Palestinian officials today want to turn the paradigm on its head: they are seeking to enshrine principles first, and from there, work backward to fill in the details. There is some ambiguity in this, however. Pressed as to what principles they would want the U.S. to put forward, they focus on borders and East Jerusalem; on refugees, by contrast, they say very little, asking merely for a reiteration of the Arab Peace Initiative's vague language (an "agreed, just solu-

¹¹⁸ "The best description of Abu Mazen is that ever since Goldstone he has been living a trauma and prefers not to take what he deems a politically risky step". Crisis Group interview, U.S. official, Washington, February 2010. Subsequent revelations regarding the so-called "Husseini scandal" only deepened his sense that he and his office were being targeted. The scandal erupted in February 2010, when footage was broadcast showing an unclad Rafiq Husseini – Abbas's chief of staff – seemingly attempting to extort sex from a job applicant. The airing of the video on Israeli television aroused suspicions among the Palestinian leadership of Israeli foul play. An investigation cleared Husseini of wrongdoing, but he was dismissed for unspecified "personal mistakes". *Al-Quds*, 6 April 2010. U.S. officials believed the scandal complicated their work, since "Abbas is reliving Goldstone on a smaller scale. He fears that if he gives in on the negotiations now, some people will believe it was a result of Israeli blackmail flowing from that affair". Crisis Group interview, U.S. official, Washington, February 2010.

¹¹⁹ Crisis Group interview, Washington, December 2009.

¹²⁰ Crisis Group interview, senior Palestinian official, Ramallah, 18 November 2009.

¹²¹ A Palestinian political analyst said, "Abbas's problem is that in the past he has always trusted the Americans to deliver what they promised, and when they didn't, he was the one who ended up holding the bag". Crisis Group interview, Ramallah, August 2009.

¹²² Abbas speech, 5 November 2009.

¹²³ Crisis Group interview, Abbas adviser, Ramallah, November 2009. A PA minister went so far as to lament that there isn't "anyone on the [Mitchell] team who really understands what is happening here". Crisis Group interview, Ramallah, February 2009.

tion to the problem of Palestinian refugees in conformity with [UN General Assembly] Resolution 194”).¹²⁴ What they are principally looking for, it appears, is a clear, internationally-endorsed statement that the Palestinian state must be on the 1967 borders with equal land swaps and have its capital in East Jerusalem.¹²⁵

It is important to appreciate the depth of Palestinian mistrust of the U.S., a reflection not so much of the new administration but of a broader historical experience with Washington. That Obama, who promised far greater determination and resolve, bears the brunt of Palestinian disillusionment is just one of this conflict’s many ironic twists.¹²⁶

¹²⁴ The Arab Peace Initiative, endorsed in Beirut at the 2002 Arab League Summit, proposes full normalisation with Israel in exchange for its full withdrawal from all Arab occupied territories. See www.al-bab.com/arab/docs/league/peace02.htm. A PA minister explained that, while the PLO could be flexible on the refugee issue, it could do so only at the end of the process. “If we move too soon, we will lose support”. Crisis Group interview, Ramallah, December 2009. The same point was made by several presidential advisers and Fatah leaders. A senior Fatah leader said, “we can’t talk about numbers at this stage. We are talking about the principle and the principle creates assurances. We could only make concessions if Israel gives us something. If the right of return was the only thing left, we would have confidence to do more. Israel has taken Jerusalem, our water and the Jordan Valley, and now, we are being asked to step back from our commitment to the refugees”. Crisis Group interview, Ramallah, November 2009. In this context, it is instructive to note that, at the end of the November 2007 Annapolis process, when the U.S. floated the idea of issuing a statement of principles, *both* sides reportedly objected, presumably out of fear they would have a hard time defending some its clauses. Crisis Group interviews, U.S., Israeli and Palestinian officials, December 2008.

¹²⁵ Crisis Group interview, Palestinian legal adviser to the PLO, Ramallah, March 2010. On 14 April 2010, Ambassador Riyad Mansour, the Permanent Observer of Palestine to the UN, told the Security Council: “It is essential for the [Security] Council, at the appropriate time, to adopt a resolution framing the parameters of the solution to this conflict – a solution that doesn’t need to be re-invented but rather originates from clear, established principles based on international law, UN resolutions, the Madrid terms of reference, including the land for peace principle, the Arab Peace Initiative, the Road Map, and most recently the EU Council Conclusions on the Middle East Peace Process of 8 December 2009 and the firm position underscored by the Quartet in Moscow on 19 March 2010, including, *inter alia*, the goal of achieving a peaceful settlement within 24 months”. Copy on file with Crisis Group.

¹²⁶ A Fatah Central Committee member went so far as to say “we did not like Bush, but he was better for us than Obama. Bush gave us more. [Secretary] Rice gave us terms of reference that made sense to us”. Crisis Group interview, Ramallah, November 2009. He was referring to Rice’s definition of the territories over which the parties were negotiating in a session with Israeli and Palestinian negotiators in June 2008, as comprising Gaza and the West Bank, including East Jerusalem, the Jordan

Valley, half of no-man’s-land and the Dead Sea. Crisis Group interview, U.S. official, Washington, February 2010. However, Rice had also added that her definition was “without prejudice to the final borders” (*ibid*), an important qualifier that is generally omitted in Palestinian accounts. Nostalgia for Bush is almost certainly hyperbolic (and does not take into account Obama’s recent more forceful intervention). A Fatah Central Committee member commented: “Even after backpedalling, Obama is still better than Bush’s Annapolis project. From some people around here, you would think that Obama is worse. Stating clearly that the settlements are a problem and that they need to be frozen and pushing for final status negotiations including Jerusalem with active third-party involvement are good things that we need to take advantage of”. Crisis Group interview, Ramallah, November 2009.

As the Palestinian leadership sees it, U.S. officials underestimate the difficulties they will encounter once negotiations begin and overestimate their ability to remedy the structural inequality between the two sides simply by pulling up a seat at the table. The U.S. envoy, they point out, is dealing with two sides that have a long history and know each other much better than he knows either.¹²⁷ What is more, the administration’s track record has not given the Palestinians much confidence that it can deliver even if given the chance. Israel had not adhered to the Roadmap, nor had the international community compelled it to do so, leaving Palestinians with little faith that compliance with future agreements would be forthcoming. As a senior PA official explained in November 2009, “the U.S. was unable to secure a settlement freeze and told us to just get on with it and negotiate. But how can I be sure that in six months I will not be confronted with a situation in which the U.S. says, ‘we wish we could have gotten you a better deal, but this is the best we can do, now just get on with it and sign?’”¹²⁸

Valley, half of no-man’s-land and the Dead Sea. Crisis Group interview, U.S. official, Washington, February 2010. However, Rice had also added that her definition was “without prejudice to the final borders” (*ibid*), an important qualifier that is generally omitted in Palestinian accounts. Nostalgia for Bush is almost certainly hyperbolic (and does not take into account Obama’s recent more forceful intervention). A Fatah Central Committee member commented: “Even after backpedalling, Obama is still better than Bush’s Annapolis project. From some people around here, you would think that Obama is worse. Stating clearly that the settlements are a problem and that they need to be frozen and pushing for final status negotiations including Jerusalem with active third-party involvement are good things that we need to take advantage of”. Crisis Group interview, Ramallah, November 2009.

¹²⁷ “This is not Northern Ireland, where he was the first to pull those two sides into a room”. Crisis Group interview, Palestinian negotiator, Ramallah, December 2009.

¹²⁸ Crisis Group interview, Ramallah, 19 November 2009. Palestinian mistrust also expressed itself in misgivings about U.S. guarantees that were offered to make up for the absence of satisfactory Israeli commitments. In September 2009, Washington reportedly proposed side letters to make up for the lack of satisfactory Israeli commitments, but the Palestinians turned them down, citing previous instances in which they believed they had been let down. Crisis Group interview, Abbas adviser, Ramallah, October 2009; Crisis Group interviews, Egyptian diplomat, Jerusalem, December 2009. In the Palestinians’ narrative, the Oslo process amounts to a series of unfulfilled commitments, despite U.S. sponsorship. The Palestinian reading of the history of U.S. involvement led one of Abbas’s advisers to conclude: “U.S. guarantees are like a cheque that we cannot deposit in the bank”. Crisis Group interview, Ramallah, November 2009.

III. THE PALESTINIAN QUEST FOR LEVERAGE

As a consequence of growing disillusionment with U.S.-sponsored, bilateral negotiations, the PLO and PA leaderships have been considering other sources of leverage to strengthen their hand.¹²⁹ This became clear in November 2009, when they loudly broached the possibility of going to the UN, but the question of how to overcome what Palestinians see as the structural deficiency of the Oslo process has been a topic of conversation for considerably longer. Activism in the international sphere, reinvigorated statebuilding and new kinds of popular resistance have all been in the mix. For now, they remain mostly inchoate, far from a well thought-out strategy.

Regardless, these approaches deserve serious discussion. To begin, all currently debated options would of necessity recalibrate the quotient of cooperation and confrontation in Ramallah's relationship with Israel, increasing the latter at the expense of the former. Given the ongoing occupation and the PA's heavy dependence on support from Israel – a decisive feature of the Oslo landscape, best embodied by the fact that it is a creation of the accords, and its very existence is a function of Israeli acquiescence – this is no simple balancing act. Each of these routes – whether going to the UN or other international bodies in an effort to pressure Israel, seeking recognition of statehood by 2011 or intensifying acts of resistance on the ground – involves Palestinians openly challenging Israel even as they seek its cooperation. In some cases, notably the statebuilding endeavour, success is directly dependent on Israeli goodwill. In other words, at least as Israel sees them, they are at odds with both the negotiations paradigm and the history of Israeli-PA relations.

Secondly, and relatedly, even steps focused on redressing the balance of power can have longer-term, unintentional consequences, particularly if the diplomatic vacuum persists. A former Israeli official expressed his worries: "Tactical steps devoid of a strategic context can have strategic implications. You start by wanting to increase pressure on Israel, and you can end up fundamentally altering the relationship".¹³⁰

Thirdly, discussions at the leadership level are a symptom of deeper reflections among civil society members. How influential they are or can be has been a matter of considerable debate, though there is a sense that Palestinian civil

society – after a period of appearing more concerned with capturing donor dollars than mobilising grassroots campaigns¹³¹ – is resurgent. By most accounts, the majority of politically active Palestinians want to see more systemic change and more robust alternative strategies, as opposed to tactical adjustments to return to negotiations on more advantageous terms. With diplomatic failures ever more evident, activists are mobilising to fill the gap, seeking to shift the dominant political paradigm away from accommodation and toward defiance. An important question is whether the next generation of Palestinian leaders might be attracted to such models in the future.

Many Palestinians already have decided the current leadership in Ramallah will succeed neither now nor in the future, regardless of the changes it introduces. Chief among cynics, of course, is Hamas, which is confident of its secular rival's impending failure. To a large degree, Ramallah appears to be counting on going it alone, as each of its three options – appealing to global institutions, state building and popular struggle – would face challenges in the event of a Fatah/Hamas reconciliation. Were Hamas to participate in the official Palestinian leadership, international paths would be obstructed, resources for state building would dry up and popular struggle potentially would become more explosive.

National unity, nevertheless, is the unspoken fourth option for Fatah and the PLO, which might become more appealing if the diplomatic process falters and if Arab pressure for unity grows. That is a scenario both Israel and the U.S. reject – the latter at least so long as Hamas refuses to recognise Israel, renounce violence and adhere to past Israeli-Palestinian agreements. Crisis Group has explored and recommended this option in past reports, so will not discuss it further here.¹³²

A. "INTERNATIONAL LEGITIMACY"

What today seems to be a new Palestinian strategy of investing in the international arena in fact is a retreat. The PLO sought to internationalise the conflict through the 1970s and 1980s, shifting decisively to bilateralism in 1993 with the Oslo agreement. Even so, the mantra of "international legitimacy" (*al-shar'iyah al-duwaliyyah*) – which in the Palestinian lexicon refers to the aggregate of UN reso-

¹²⁹ This report deliberately does not consider two other options – resort to violence to pressure Israel or abandonment of the two-state paradigm in its entirety in favour of a one-state solution. While support for both exists among Palestinians, neither appears to be an option seriously pursued by the PLO or PA leaderships.

¹³⁰ Crisis Group interview, Washington, March 2010.

¹³¹ See Hanafi and Linda Tabar, *The Emergence of a Globalised Elite: Donors, International Organisations, and Local NGOs* (Jerusalem: Institute of Jerusalem Studies, 2005).

¹³² Crisis Group interviews, U.S. and Israeli officials, Washington and Jerusalem, October-December 2009, January-March 2010. As Crisis Group has argued since 2006, a smarter approach would be to seek the Islamist party's agreement to a verifiable, mutual ceasefire, deputation of Abbas to negotiate with Israel and a binding referendum on any agreement he reaches. Middle East Report N°49, *Enter Hamas: The Challenges of Political Integration*, 18 January 2006.

lutions and international law that define a loose global consensus on how the conflict should be resolved – retains enormous credibility among wide swathes of the political spectrum, scepticism notwithstanding.¹³³ The term is ambiguous, encompassing virtually all kinds of activism in the international realm, but within this spectrum the UN holds pride of place. The organisation has been involved in the question of Palestine for over six decades and therefore has a “special responsibility” for the conflict, in the words of a UN official.¹³⁴

As leadership confidence in negotiations – at least as currently structured – has dwindled, its attention has turned toward a forum in which the balance of power tilts in Palestinian favour. The prospect is all the more appealing as the U.S. and especially Europe have become increasingly outspoken in their criticism of Israeli policy. Seeking international support either to bolster the Palestinian negotiating position or to circumvent negotiations thus seems to some a logical step.

Officials privately considered appealing to the UN well before the current impasse.¹³⁵ The then EU foreign policy chief, Javier Solana, declared in July 2009 that should Israelis and Palestinians fail to reach agreement through negotiations within defined parameters and a defined timetable,¹³⁶ the international community, via the UN, should mandate a solution.¹³⁷ Fayyad had suggested an eventual appeal to the Security Council as well, though in his case only following completion of his two-year state-building plan in August 2011.¹³⁸

¹³³ Crisis Group interviews, Fatah activists, factional leaders and political independents, Ramallah, Hebron, Nablus, September 2009–April 2010.

¹³⁴ Crisis Group interview, New York, February 2009.

¹³⁵ Crisis Group interviews, PA officials, Ramallah, March 2009.

¹³⁶ “The point of departure is the 1967 borders. Territorial exchanges can be negotiated between the parties, on the basis of the 1967 line. The various territorial offers fluctuate between 6 per cent and 2 per cent. It should not be impossible to find a figure. The parties can negotiate within this margin, not outside”. www.consilium.europa.eu/uedocs/cms_data/docs/press_data/en/discours/110218.pdf.

¹³⁷ “If the parties are not able to stick to [a fixed timeline], then a solution backed by the international community should be put on the table. After a fixed deadline, a UN Security Council resolution should proclaim the adoption of the two-state solution. This should include all the parameters of borders, refugees, Jerusalem and security arrangements. It would accept the Palestinian state as a full member of the UN, and set a calendar for implementation. It would mandate the resolution of other remaining territorial disputes and legitimise the end of claims”. He later clarified that he had made this statement in his private capacity. *Ibid.*

¹³⁸ “Salam Fayyad Explains His State-Building Project and Replies to Criticism”. Interview in Arabic, *Majallat al-Dirasat al-Filastiniyya*, summer 2009. See below.

The question was pushed to the top of the agenda in November 2009, with diplomacy at a real impasse and Abbas, suggesting he too had lost faith in negotiations, announcing he would not stand for president again. At that point, Fatah and PA officials suggested that if they could not get what they wanted from U.S.-sponsored negotiations, they would get it directly from the UN.¹³⁹ Invoking the precedent of Kosovo’s 2008 declaration of independence, which was followed by recognition from 64 states, including the U.S. and most of Europe, chief Palestinian negotiator Saeb Erekat said, “it is time [for the Security Council] to recognise a Palestinian state on the borders of 4 June 1967 with Jerusalem as its capital”.¹⁴⁰ The 3 March 2010 Arab League decision supporting proximity talks warned that if the negotiations did not yield results within four months, the matter would be referred to the UN.¹⁴¹

The push for a UN resolution got off to a shaky start in November. In the wake of the U.S.’s change of heart on a settlement freeze and the damage caused by the Goldstone affair, certain Palestinian leaders put the idea forward in a fit of pique as opposed to a deliberate strategy. The messages were garbled and contradictory: some spoke of unilaterally declaring a state;¹⁴² others of obtaining UN recognition;¹⁴³ and still others of having the Secu-

¹³⁹ As a former negotiator said, “going to the UN is an admission that we can’t do it ourselves, that we can’t deliver for our own people. The UN needs to step up to its historic role. It can’t replace the U.S., but since the U.S. is not leading now, the UN needs to fill the gap”. Crisis Group interview, Ramallah, 22 December 2009.

¹⁴⁰ Ma’an News Agency, 18 November 2009.

¹⁴¹ *Al-Hayat*, 4 March 2010. Arab and Palestinian officials acknowledged that this timeline could be extended, since such an appeal would need to be made in the right environment. Crisis Group interviews, presidential adviser and Egyptian official, Ramallah and Jerusalem, March 2010.

¹⁴² Muhammad Dahlan, head of Fatah’s Media Bureau, said that the PA was considering “unilaterally” (*min taraf wahid*) declaring a state and approaching the UN Security Council to define the state’s borders as the 1967 lines and its capital as East Jerusalem. *Al-Ayyam*, 11 November 2009. It is worth noting that in 1988 the PLO declared the State of Palestine, which gained the recognition of some 130 states by 2009. Francis A. Boyle, *Palestine, Palestinians and International Law* (Atlanta, 2009). Saeb Erekat and others accordingly emphasise that the issue is recognition of that declaration, not a second one. Ma’an News Agency, 5 April 2010.

¹⁴³ Saeb Erekat called for UN recognition in order to delegitimise Israeli settlement activity. *Al-Ayyam*, 14 November 2009. Fatah Central Committee member Nabil Shaath said that a Palestinian delegation to Latin America headed by President Abbas planned an “intensive tour aimed at throwing support behind endorsing recognition”. Ma’an News Agency, 21 November 2009. On 13 November, the Arab League’s Arab Peace Initiative Follow-Up Committee recommended that the League hold an emergency meeting, on the foreign ministerial level, to demand that the Security Council recognise a Palestinian state.

rity Council draw the state's borders.¹⁴⁴ Much of it was phrased in a confrontational tone: "This will put the U.S. before a true choice", said the head of Fatah's media bureau, Muhammad Dahlan, "whether to support [the resolution] and not veto it, which would mean it wants peace and a two-state solution, or whether its words about a Palestinian state are nothing but slogans".¹⁴⁵ Neither potential backers nor even, apparently, the PLO's UN delegation were consulted.¹⁴⁶ A senior PA official commented: "In desperation, it seems that some are trying to jump stages. We should go to the UN with our friends and the entire world, not try to drag them there".¹⁴⁷

The U.S., hardly enamoured of the UN option to begin with owing to both Israeli opposition and its own desire to maintain control over the negotiation process, was all the more put off by the adversarial promotion of the idea – and the implication that a solution to the conflict would come not via negotiations between the parties but rather through UN fiat.¹⁴⁸ The international response was immediate and resounding: all Security Council members bluntly told the Palestinian leadership that declaring a state was impractical, or at least premature, and counselled more realistic courses.¹⁴⁹

Today, virtually everyone in Ramallah and beyond agrees that the matter was mishandled in November. Palestinian officials since have worked to unify their message, even as they put forward various approaches. These have included having the Security Council affirm that settle-

ments are illegal,¹⁵⁰ endorse the parameters of a two-state settlement or recognise a Palestinian state on the 1967 borders (possibly subject to future Israeli-Palestinian negotiations on territorial exchanges).¹⁵¹ Should the UN body refuse – as a result of a U.S. veto, for example – the EU and other international bodies might act. Speaking

¹⁵⁰ Crisis Group interview, PA minister, Ramallah, December 2009. A Fatah Central Committee member promoted this idea, on the grounds that it could justify returning to direct negotiations even in the absence of a settlement freeze. He explained: "A resolution would reverse the creeping legitimisation of settlements, which Israel is building even though they are illegal, on the assumption that they will be retroactively legitimised. There are many UN resolutions on the books about this, but they are old and have been eroded. The U.S. is in large part responsible for this because of how it changed how it talked about settlements, although the Palestinian leadership is responsible too because it ignored the issue for so long. A Security Council resolution would reverse the legitimisation dynamic and change the whole meaning of negotiations". Crisis Group interview, Fatah Central Committee member, Ramallah, December 2009.

¹⁵¹ The appeal of international forums has been manifest in other ways. Fayyad has taken the lead in several respects, endeavouring to show – as he said after the Council of the European Union resolved in December 2009 that "a way must be found through negotiations to resolve the status of Jerusalem as the future capital of two states" and called for the reopening of Palestinian institutions there – that "Israel is not alone in the international arena". Crisis Group interview, PA official, Ramallah, December 2009. Fayyad actively courted European foreign ministers, phoning 22, some more than once, in the 48 hours before the Council's vote on the resolution. He also worked to delay the upgrade of Israel's relations with the EU as well as its OECD membership. Along with Abbas, Fayyad has called for boycotting settlement products. With Fatah leaders and others, the prime minister has spoken about state obligations under international humanitarian law and the International Court of Justice opinion on the Separation Barrier. Crisis Group interview, prime ministerial adviser, Ramallah, March 2010. Some Palestinians have advocated resorting to the International Criminal Court, which has jurisdiction if a crime is referred to the prosecutor by a state party or the Security Council, or if the prosecutor initiates his own investigation in certain circumstances. The PA has applied for standing to file a petition at the Court over Operation Cast Lead, though its chances for success appear limited. If Palestine were to be recognised as a state and became a party to the Court's statute, and the acts in question were committed on Palestinian soil, its standing argument would be bolstered. In a report issued in February, Israel's Reut Institute said, "in the past few years, Israel has been subjected to increasingly harsh criticism around the world, resulting in an erosion of its international image, and exacting a tangible strategic price". It concluded, that: "Strategic implications are already apparent: increased international interference in Israel's domestic affairs; greater limitations on Israel's ability to use its military force; economic boycotts and sanctions; and travel restrictions on officers, officials, and politicians due to application of universal legal jurisdiction (known as lawfare)". "The Delegitimation Challenge: Creating a Political Firewall", 14 February 2010, <http://reut-institute.org/en/Publication.aspx?PublicationId=3769>.

¹⁴⁴ Crisis Group interviews, Fatah Central Committee and Revolutionary Council members, Ramallah, November 2009.

¹⁴⁵ *Al-Ayyam*, 11 November 2009.

¹⁴⁶ Crisis Group interview, Palestinian official, New York, January 2009.

¹⁴⁷ Crisis Group interview, Ramallah, November 2009.

¹⁴⁸ Fearful that the Palestinians would simply wait for the UN Security Council to act, the U.S. sought to dissuade its European and other allies from keeping this possibility alive. In February 2010, a U.S. official said, "we are urging those who talk to the Palestinians to make clear there will be no UNSC option". Crisis Group interview, Washington, February 2010. A French official confirmed that Senator Mitchell had "poured very cold water" on any suggestion of going to the UN. Crisis Group interview, Paris, January 2010.

¹⁴⁹ Commenting on a report that the Palestinian leadership had asked the EU to back a plan for a unilateral declaration of statehood, Swedish Foreign Minister Carl Bildt, whose country held the rotating EU presidency at the time, said, "we have said previously that we would be ready to recognise a Palestinian State, but the conditions are not there yet". Benita Ferrero-Waldner, then the EU's external relations commissioner, echoed the view: "The most important thing until now is to really help the Americans bring both sides to the table". The U.S. State Department released a statement: "It is our strong belief and conviction that the best means to achieve the common goal of a contiguous and viable Palestine is through negotiations between the parties". See EUobserver.com, 17 November 2009, at <http://euobserver.com/9/29006>. Also Crisis Group interviews, UN officials, New York, February 2009.

of a resolution that would describe the internationally-sanctioned outlines of a settlement to the conflict, a presidential adviser said:

A Security Council resolution would change the equation. It would be the first time the U.S., Quartet and the UN offer details on the shape of a final settlement and draw the map of what it would look like. It would be an international reference that nobody could defy. The contours of a settlement are like a well-known secret: everyone knows it but can't say it. If they did, the resolution would take on a life of its own and generate a snowball effect, creating political and legal momentum. If the U.S. adopts a position, it won't keep the resolution on the shelf; it will work to implement it. The Europeans would be freed to do more too.¹⁵²

Perhaps the most popular proposal is that of international recognition of a state on the 1967 borders, an option most clearly identified with the Palestinian prime minister. Fayyad is pursuing several tracks simultaneously: while he works to build a state on the ground, he is intensifying international contacts so as to gradually develop a consensus around recognition. He rejects any precipitous move, arguing that recognition should not be sought before the statehood project is substantially advanced; as discussed below, the idea is for Palestinians to move as far as possible toward statehood under conditions of occupation before appealing to the world to help remove the final impediment to independence. Already, a Fayyad adviser noted, one can see greater "international responsiveness": Secretary-General Ban Ki-moon described settlements as "illegal";¹⁵³ the U.S. accepted a two-year timeline on negotiations, subsequently endorsed by the Quartet, which corresponds to the length of Fayyad's program; and the EU adopted a foreign policy statement referring to the 1967 lines and East Jerusalem as the Palestinian capital.

When we are ready and if negotiations do not produce a state, the international community will need to take up its responsibilities by recognising the Palestinian state. The international community has always helped the Palestinians on the ground with aid, but now that assistance needs to be framed within a political context.¹⁵⁴

Recognition coming at the point when Palestinians have done as much as they can under existing conditions to

build a state, its proponents hold, would transform the conflict from one in which a people is under occupation to one in which a state is under occupation, and move the debate from negotiations over final status issues to "arrangements" for implementing a globally-mandated settlement.¹⁵⁵ There are indications that at least some governments might be convinced to go along: while virtually all in Europe reject going to the Security Council today, representatives of several key states hold out the possibility that their perspective might change come 2011, should the situation remain deadlocked.¹⁵⁶

Still, a number of basic questions remain unanswered. This option would be a fundamental challenge to the current paradigm and thus to both its principal sponsor, the U.S. (which would be very likely to veto any resolution entailing recognition of statehood)¹⁵⁷ and the Palestinians' negotiating partner, Israel (which could be expected to take retaliatory steps and, at a minimum, reduce cooperation on the statebuilding agenda. Already, suspicion of what it describes as Palestinian unilateralism is fuelling a debate in Israel as to possible responses. A former adviser to Netanyahu said, "the Palestinians cannot fully achieve their goals by following a confrontational strategy. They need to shift back to cooperation – from a legalistic strategy seeking external judgment to a mediation and negotiation strategy that aims at resolution via an agreement".¹⁵⁸

¹⁵⁵ Crisis Group interview, Fayyad adviser, Ramallah, March 2010.

¹⁵⁶ "Russia will not cooperate with such a move in the UN Security Council nor will it cooperate with a unilateral declaration of statehood. Having said that, our position may change if in the next year or two the impasse continues". Crisis Group interview, Russian diplomat, Tel Aviv, February 2010. "The UK is not at all supportive of going to the Security Council now. The UK is fully behind U.S. efforts to restart negotiations; that's clearly plan A. Going to the UNSC could become part of an eventual plan B, but working on that track now would undermine the chances of plan A". Crisis Group interview, British diplomat, February 2010.

¹⁵⁷ Some Palestinians hope Washington will alter its views and forgo a veto in the event of continued diplomatic paralysis and rising global criticism of Israel. Crisis Group interview, Palestinian legal adviser, Ramallah, March 2010. A senior PA official said, "as the situation stands today, it's hard to imagine the U.S. going along. But the setting is dynamic. People have a tendency to see the situation in a static way, but today's givens aren't natural constants". Crisis Group interview, senior PA official, Ramallah, March 2010.

¹⁵⁸ Crisis Group interview, Jerusalem, 8 April 2010. Foreign Minister Avigdor Lieberman asserted that "a large part of the delegitimation done to Israel in the world is made by the Palestinian Authority. ... I do not believe in their sincerity in light of the boycotts they initiate on Israeli products and their lawsuits. ... We have to examine as a society if we are willing to accept such game conditions, in which on the one hand they hold diplomatic negotiations with us and on the other hand dedicate a significant part of their resources against us". Testimony to Knesset Foreign Affairs and Defence Committee, 15 February 2010. *Haaretz*, 16 February 2010.

¹⁵² Crisis Group interview, presidential adviser, Ramallah, March 2010. An international description of a final settlement could pose political problems for the Palestinian leadership, however. Alongside elements it would welcome inevitably would be some with which it would be far more uncomfortable – notably regarding the refugees. For this reason, as seen, Palestinians were lukewarm – if not opposed – to the U.S. putting its ideas on the table at the end of the Bush administration.

¹⁵³ UN Secretary-General statement, 10 March 2010.

¹⁵⁴ Crisis Group interview, Fayyad adviser, Ramallah, March 2010.

Given the PA's enormous dependency on Israel – for trade, access, movement and tax revenues to name but a few items – Palestinians need to reflect on how an international strategy, by definition confrontational, could coexist alongside the current cooperative model or whether, at some more basic level, a choice needs to be made. Some Israeli officials have been explicit, Foreign Minister Lieberman among them: “Any unilateral decision [to declare statehood] will release us from all of our commitments and will allow us also to make unilateral decisions, for example, imposing Israeli sovereignty on certain areas, cutting off all kinds of ties and transfers of money and a string of benefits and agreements put into place since the Oslo accords”.¹⁵⁹ For now, PA officials claim to be unfazed by such threats.¹⁶⁰

Even should the international community – or large segments within it – recognise a state, it is not clear how, symbolism aside, that would contribute to achievement of Palestinian aspirations. Proponents of this option concede it would not immediately change reality on the ground but argue it would shift the political equation in the Palestinians' favour.¹⁶¹ The Israeli government seems to believe so as well, since it worries that such a resolution would be an element of an “imposed settlement” on Israel.¹⁶²

¹⁵⁹ *Haaretz*, 6 April 2010.

¹⁶⁰ They emphasise that the current level of Israeli cooperation should not be exaggerated: “We have been on a razor's edge for a long time. It's not as if Israel gave us a honeymoon and now is threatening to withdraw it”. Crisis Group interview, Hasan Abu Libdeh, PA national economy minister, Ramallah, March 2010. A Fayyad confidant made the same point: “We are getting precious little help from Israel as it is. It's not like it is cheering us on. Look at what it is doing in Gaza, the continued obstacles in the West Bank, the difficulties we have in [the West Bank's] Area C. If Israel goes any further in limiting us than it is already is, it will find itself alone and isolated. We are giving the world a positive agenda. That's the secret of our power”. Crisis Group interview, Ramallah, March 2010.

¹⁶¹ PLO legal advisers and international legal scholars outline several possible advantages of statehood. Whereas occupation is treated in many quarters as an internal state matter – albeit ultimately under the aegis of international humanitarian law – the capture of a neighbouring state is far more akin to state-to-state aggression. In this sense, statehood may change the terms of debate at the international level, conceivably shifting the focus from the details of international humanitarian law to acts of war against a neighbouring state. Because states tend to regard other states more respectfully than non-state actors, they might be more likely to act on behalf of an occupied state than an occupied people. Moreover, statehood could allow Palestinians to conclude treaties or perhaps resort to the International Criminal Court, strengthening their hand vis-à-vis Israel.

¹⁶² “Fayyad's plan is dangerous for political dialogue. On his current path, he will eventually push things to the edge. Instead of working on the ground to complement dialogue, he can be a vehicle for forcing a solution from above”. Crisis Group interview, Jerusalem, March 2010. See below for discussion of Israeli reactions.

That said, Palestinian critics point out that recognition in and of itself would not rid the West Bank of the occupation, lead to a capital in East Jerusalem or resolve the refugee question.¹⁶³ As one Palestinian analyst asked, “tell me how the situation will be different the day after we are recognised as a state? In what way would we be any closer to realisation of our goals?”¹⁶⁴ Others fear that recognition as a state while still under occupation would risk lulling world opinion into thinking that the conflict has been resolved or been reduced to a border dispute. A PLO Executive Committee member said, “calling a Palestinian state a state would turn out to be no less of a fiction than calling the Palestinian Authority an authority”.¹⁶⁵

B. STATE BUILDING

In a time of relentless pessimism, Salam Fayyad evinces boundless optimism. While many Palestinians see the two-state solution as already out of reach or are casting about for an alternative to negotiations, the prime minister and his cabinet have found theirs. Many ministers speak in decidedly sceptical terms about bilateral talks; as one said, “The U.S. will never force anything on Israel and will never be more Palestinian than the Palestinians. So a bet on negotiations is a losing one”.¹⁶⁶ As many in the government see it, the current deadlock has a hidden benefit, in that it removes the illusion that negotiations in and of themselves constitute progress and refocuses attention on what they consider the real struggle: creating facts on the ground and garnering the support of the international community. A minister said:

Israel has been using negotiations as cover for sixteen years, but now we have called their bluff. Netanyahu says he wants negotiations. Well, we don't want his

¹⁶³ Crisis Group interview, PLO official, March 2010.

¹⁶⁴ Crisis Group interview, Palestinian analyst, April 2010. Others emphasise that there is no shortage of international law on the Israeli-Palestinian conflict and that the real task lies in finding ways to use the tools that already exist.

¹⁶⁵ Crisis Group interview, PLO Executive Committee member, Ramallah, March 2010.

¹⁶⁶ Crisis Group interview, Ramallah, November 2009. Given the lack of a credible framework for talks, another minister added: “The only reason I'm comfortable sitting in this chair” – he rapped his armrest – “is because Abu Mazen is refusing to negotiate. Negotiations are not the essential factor here. What is essential is what is underneath the negotiations, what undergirds them, the facts on the ground”. Crisis Group interview, Ramallah, December 2009. A former Israeli official, surveying what he called the “wrestling match” between the two pillars of the Ramallah establishment – the presidency and the government – cast the difference in terms familiar on his side of the border: Abbas, he said, is akin to the “political Zionists” who believed a Jewish state would be born through the patronage of the great powers, whereas Fayyad bears a closer resemblance to the “pragmatic Zionists”, who built the state from the ground up. Crisis Group interview, former defence official, February 2009.

kind of negotiations. Now he has to answer to the whole world why there is no progress on peace, and meanwhile we are building our state.¹⁶⁷

Fayyad has adopted a three-pronged strategy. With Palestinians, he aims to arrest what he sees as serial naysaying and self-victimisation, to build institutions and increase development even under Israeli occupation. With Israelis, he seeks to show that they have an active, capable and reliable partner in peace. With the international community, he tries to demonstrate that he plays by its rules – and signal that when the moment comes, it will be asked to do its part. When his two-year plan concludes in August 2011 – a mere sixteen months from now – the PA will be poised, he hopes, to press its case more strongly on the global level. A Fayyad adviser commented: “The hand of the international community will be forced, since occupation will be the only impediment preventing statehood”.¹⁶⁸

Fayyad’s strategy is enjoying more success than many predicted. He has gained respect – of a grudging sort among Palestinians who had underestimated his political savvy,¹⁶⁹ and of a wary sort among Israelis dismayed by the realisation that his cooperation has limits and comes with a clear political agenda.¹⁷⁰ His international interlocutors, while they indicate that today the “timing is not right” for strong intervention, hold out the possibility that their position may change by mid-2011.¹⁷¹ As long as the negotiations are deadlocked, Fayyad’s train likely will be the only one moving.

Tellingly, the government is not shying away from activities in Area C (the approximately 60 per cent of the West Bank in which Israel, per the Oslo Accords, has exclusive

civil and military authority),¹⁷² where it aims to extend the PA’s geographic – and thus political – reach even in the absence of an agreement. Its priority, it says, is to help people remain on their land and enhance their ability to stay steadfast in the face of Israeli attempts to dispossess them.¹⁷³ Sometimes with permission but also without, the PA has ramped up work in that area and on the western (Israeli) side of the Separation Barrier. Says a senior PA official of Fayyad’s agenda: “This is the focus of his life now. If Israel undoes what we do, we do it over”.¹⁷⁴ Or as a Jordan Valley agricultural activist – who praised the attention the PA has given his region – said, “I heard Fayyad say that for him there is no such thing as [Areas] A, B or C, that they are all territories of the state that we are building. I heard him say he can’t read the letter C”.¹⁷⁵

Despite often onerous Israeli restrictions,¹⁷⁶ a significant number of small development projects already completed are in Area C.¹⁷⁷ Donors, who formerly often avoided the area for fear of running afoul of Israeli concerns – “it had for all intents and purposes become disputed as opposed to occupied territory”, said a senior PA official – now are volunteering to fund projects there and helping the PA pressure Israel to obtain necessary permissions.¹⁷⁸

¹⁷² According a 1995 Israeli-Palestinian agreement, West Bank land was classified in three groups: Area A, in which Palestinians were assigned security and civil control; Area B, in which Palestinians had civil but not security control; and Area C, in which Israel retained full control. By 2000, about 36 per cent of the West Bank was designated as Area A or B, with an additional 3 per cent defined as a nature reserve under Palestinian control. The remainder of the West Bank was considered Area C. “Restricting Space: The Planning Regime Applied by Israel in Area C of the West Bank”, Office for the Coordination of Humanitarian Affairs, December 2009. During the second intifada and especially with Israel’s occupation of West Bank cities, the distinction between these areas was eroded; the PA has not regained full security control in Area A.

¹⁷³ As Fayyad planted a tree in the village of Iraq Burin, he declared: “We are in solidarity with you here and in every place in the homeland that is damaged by the settlement project. ... We are a people determined to remain on this land and carry out its right to remain on this land”. *Al-Ayyam*, 26 February 2010. A PA minister commented: “The most important thing is to defend the land. We give development priority to areas that are targeted by settlements and the wall”. Crisis Group interview, Ramallah, April 2010.

¹⁷⁴ Crisis Group interview, Ramallah, November 2009. He cited the example of a road and a kindergarten that had been built, demolished, and rebuilt.

¹⁷⁵ *Haaretz*, 11 March 2010.

¹⁷⁶ “Restricting Space: The Planning Regime Applied by Israel in Area C of the West Bank”, op. cit.

¹⁷⁷ The PA does not categorise its projects according to the A, B, C classification. A Fayyad adviser estimated that the number of projects completed in Area C “is probably in the hundreds”. Crisis Group interview, Ramallah, March 2010.

¹⁷⁸ Crisis Group interview, senior PA official, Ramallah, March 2010.

¹⁶⁷ Crisis Group interview, Ramallah, December 2009.

¹⁶⁸ Crisis Group interview, Fayyad adviser, Ramallah, November 2010. In a 2 April 2010 interview with *Haaretz*, Fayyad asserted: The time for this baby to be born will come, and we estimate it will come around 2011. ... If for one reason or another, by August 2011 [the plan for statehood] will have failed ... I believe we will have amassed such credit, in the form of positive facts on the ground, that the reality is bound to force itself on the political process”.

¹⁶⁹ Crisis Group interviews indicate that Fayyad enjoys more support in villages and small towns – where his small development projects have focused – than in major urban areas. It is easier to see the tangible results of these projects (for example, a paved road, a room added to a school or a well attached to the electricity grid) than it is to see the results of institution-building in large and impersonal bureaucracies. In a Jordan Valley village, a woman said that what the PA has done for the community “is more than Fatah ever did for us”. Listening to the story, a bystander added, “or Abu Mazen”. Crisis Group interview, Bani Hassan, March 2010.

¹⁷⁰ Crisis Group interview, Israeli foreign ministry official, Jerusalem, March 2010.

¹⁷¹ Crisis Group interviews, UK, French, Russian diplomats, Jerusalem, February 2010.

The PA also is aiming to increase daily government services in Area C, beginning with security.¹⁷⁹ Fayyad is looking to deploy his security forces to population centres there. Israel is unlikely to formally redefine the territory to allow this, but – in the words of an international aid official – it could show “flexibility and pragmatism” to facilitate the PA’s work; it also could issue military orders that grant certain powers to the PA in those areas.¹⁸⁰ These moves already to some extent are underway: in an unprecedented development that suggests both a large (some say unparalleled) degree of Israeli-Palestinian cooperation and significant trust between Fayyad and Defence Minister Ehud Barak,¹⁸¹ Palestinian security forces in Hebron are slated to enlarge their zone of activity by some 1,000 per cent, including territory in Area B in which they previously had only been permitted to operate with Israeli army (IDF) coordination.¹⁸²

His successes notwithstanding, the prime minister’s agenda faces several important obstacles. The first is Palestinian.

¹⁷⁹ Crisis Group interview, PA official, Ramallah, December 2009. While the U.S. has suggested a series of confidence building measures, including converting Area C to Area A or B, it is highly unlikely that Israel will cease incursions altogether in any part of the West Bank. A former official with Israel’s National Security Council said, “it doesn’t matter if you are talking about withdrawing from 2 per cent or 90 per cent of the territory. If we don’t have a way to guarantee security, we won’t do it. Right now, we don’t have the model”. Crisis Group interview, Jerusalem, November 2010.

¹⁸⁰ Crisis Group interview, international aid official, Jerusalem, March 2010.

¹⁸¹ A U.S. official marvelled at the degree to which the two men were cooperating, especially given the reigning mistrust. “Barak has told us that he will do almost anything Fayyad asks him, even if he disagrees, because he trusts him”. Crisis Group interview, Washington, February 2010. “It is the only channel that is currently functioning”. Crisis Group interview, U.S. official, Washington, March 2010.

¹⁸² This arrangement remains somewhat controversial for the PA: although its area of operation will grow substantially, key areas of H1 – the part of Hebron that Palestinian security forces controlled until 2002, akin to Area A in the rest of the West Bank – are not included in the expansion. Palestinian officials in Hebron worry that the Israeli army’s move constitutes a unilateral redrawing of the areas that the Israeli government considers “Palestinian”. Crisis Group interviews, Hebron security official, Hebron, March 2010. The expansion of Palestinian security activity does not mean an end to Israeli military and intelligence operations, much to the PA’s chagrin. A senior army official expressed the Israeli security consensus: “The IDF cannot withdraw now from territories if you don’t want to be attacked now. ... We need absolute security. We have no threat of rockets in Herzliya and Tel Aviv because of the IDF and – this is very surprising – the Palestinian Security Forces. ... This is very encouraging – at least I couldn’t expect it. It is encouraging for the perception of bottom-up. I am not talking about 1,000 years, but we must be sure before we leave the territories”. General Amos Gilad, Head of the Political-Security Branch of the Defence Ministry, Herzliya Conference, 2 February 2010.

Many within Fatah – arguably a majority, if grudgingly so – support his statebuilding project, if only since the movement currently lacks a well-defined strategy of its own.¹⁸³ But others are mobilising against him, some for political and others for personal reasons. There is little doubt that Fayyad’s growing visibility and the fact that “he is by far the most active political leader in the West Bank, making visits throughout the area”,¹⁸⁴ threaten his rivals; likewise, some simply seek the movement’s return to a position of authority out of a sense of national mission or of entitlement.¹⁸⁵

Others offer more substantive criticism – though at times the line between personal ambition and policy differences can blur. They warn about his becoming a Palestinian partner for Netanyahu’s proposed “economic peace” that would result in something far short of an independent state. Building institutions under occupation is impossible, they argue, and replacing the unqualified insistence on rights with talk of good governance is a recipe for beautifying the occupation. Some worry that, wittingly or not, Fayyad will wind up facilitating a long-term interim arrangement or a state with only provisional borders, which is favoured by some Israelis but opposed by virtually all Palestinians, who fear it would deprive the cause of its urgency in international eyes.¹⁸⁶

¹⁸³ Crisis Group Report, *Salvaging Fatah*, op. cit.

¹⁸⁴ Crisis Group interview, Palestinian analyst, February 2010.

¹⁸⁵ A Fatah Central Committee member used harsh words: “Fayyad doesn’t serve the Palestinian cause. What he has accomplished is only a fraction of what Fatah accomplished in the 1990s. His development projects are NGO projects: they are not based on a development strategy but rather a public relations strategy. They are vote-buying. Development does not require that journalists document your every step. Arafat lived the bitterness of the Palestinian experience and because of that, he had a sense of a humility, he lived on olives and za’atar. That made him one with the people. Fayyad is a different animal completely”. Crisis Group interview, Ramallah, September 2009. Hamas leaders clearly are banking on such rivalries and suggest Fayyad is fast becoming the most powerful non-Islamist politician in the West Bank (other than Marwan Barghouti, detained by Israel). A senior official said, “Salam Fayyad is building up his career with an eye to becoming the next PA president”. Crisis Group interview, Damascus, February 2010. Another added: “Fayyad is gaining at Abbas’s expense, which is generating considerable hostility within Fatah, especially right below the top ranks. For now they are not doing anything about it. But at some point they could well decide it is going too far, and they need to stop it”. Crisis Group interview, Damascus, February 2010.

¹⁸⁶ Already under fire from many quarters for his governance agenda, he is even more vulnerable when he ventures into final status issues, insofar as national strategy is the PLO’s preserve. Fayyad was strongly criticised when he said that after independence, “Palestinians would have the right to reside within the State of Palestine”, which was interpreted as an abandonment of the right of return to Israel. *Haaretz*, 2 April 2010. As a general rule, Fayyad has sought to avoid treading on such mat-

A Fatah leader said, “Fayyad wants to ride the train to independence but will end up disembarking at autonomy”;¹⁸⁷ an analyst commented that he will find himself “Lord Mayor of the West Bank”;¹⁸⁸ another that he will end up the “head of the City Leagues”,¹⁸⁹ a play on the Village Leagues, set up by Israel in the late 1970s and early 1980s to marginalise Palestinian nationalists.¹⁹⁰ An influential columnist was harsh, describing the prime minister’s plan as falling for the illusion that “building state institutions and proving our ability to run a state under occupation can lead to the end of the occupation”.¹⁹¹ Tensions within the movement came to the fore at the January 2010 Fatah Revolutionary Council meeting. Some participants suggested positive language regarding the prime minister in the final statement, but the motion was voted down by those unwilling to award the government any plaudits for its work. The two sides compromised on the formation of a committee to evaluate the government’s performance.¹⁹²

It would be disingenuous to claim that there is no overlap between Fayyad’s and Netanyahu’s agendas, even if their visions of the endgame differ markedly. As opposed to traditional Palestinian approaches to liberation, the Palestinian prime minister aspires to create an entity that looks and behaves like a state before the occupation ends. Perhaps for this very reason, the government is doing everything possible to head off the impression that the PA and Netanyahu are partners and doing much to stress the more confrontational aspects of the endeavour, such as boycott-

ters; while his advisers speak openly about recognition of Palestinian statehood, the prime minister himself invokes the subject only infrequently in public and instead emphasises that such decisions belong to the PLO. See for instance *Al-Ayyam*, 10 March 2010.

¹⁸⁷ Crisis Group interview, Fatah leader, Ramallah, February 2010.

¹⁸⁸ Crisis Group interview, Palestinian analyst, Ramallah, March 2010.

¹⁸⁹ Crisis Group interview, Palestinian analyst, Ramallah, April 2009.

¹⁹⁰ His advisers vigorously reject the accusations. One said, “Fayyad is not going to stick around to be a *mukhtar* [village chief]. His project is a national one, and he has set out a two-year plan to get there. This is not an open-ended strategy. If it doesn’t work, Fayyad will go home, and the question of Palestine will continue”. Crisis Group interview, Fayyad adviser, Ramallah, March 2010.

¹⁹¹ Hani al-Masri, *Al-Ayyam*, 7 April 2010. He added: “Building state institutions while cohabiting with the occupation and creating normal relations and security cooperation with it will only make Israel cling to the occupation further. The most it can offer as a solution would be to agree to the establishment of a state over what remains. If Israel achieves all the benefits of peace already while its occupation is in place, why would it need to withdraw and establish peace?”

¹⁹² The committee has yet to begin work. In addition the Fatah Central Committee created the “Building the Homeland” (*bina’ al-watan*) Bureau, whose remit includes evaluating the government. Crisis Group interviews, Revolutionary Council members, January 2010.

ing or burning settlement products, leading an effort to discourage Palestinians from working in settlements, building in Area C and, as seen below, participating in demonstrations. The PA also has refused to negotiate confidence building measures with Israel,¹⁹³ fearing not only an impasse but also because, in the words of an official:

It will look like Palestinian cooperation with an Israeli imposition. We are not asking much: just let the PA work without Israeli interference. We are not asking Israel to evacuate territory, but rather to not move into Palestinian areas so that the PA can expand its role and fulfil its responsibilities toward its people.¹⁹⁴

In other words, any changes on the ground should be the fruit of a unilateral Palestinian strategy rather than an Israeli gesture that demands reciprocity.

In this vein, the government has begun to link up with grassroots activists. Each ministry and agency has a consultative body that includes members of civil society; meets regularly with, funds, and provides other support to popular committees; has increased activism on women’s issues; and funds more than 100 organisations in Jerusalem.¹⁹⁵ Many activists – even as they appreciate the prime minister’s encouragement and support – believe that these activities are “window dressing” and that he is riding what is fundamentally their wave.¹⁹⁶ Activists nonetheless express willingness to work with the government, presumably in the belief they can co-opt it – just as the government is convinced it can co-opt them.

But Fayyad has another, competing problem, which has to do with Israel. Much of what the PA is doing to enhance its credentials among Palestinians has the opposite effect with Israelis, who are of two minds regarding the prime minister’s undertaking. They have an interest in empowering a partner but not a foe; Fayyad could turn out to be either or both. The more he ventures into what some Israelis consider confrontational, political waters – and his suggestions regarding international recognition of a Palestin-

¹⁹³ According to a presidential adviser, Israel had signalled that it was prepared to implement confidence building measures around the West Bank unilaterally as gesture to the U.S., but shortly before Mitchell’s January visit, it changed its position and insisted on negotiating the proposed measures with the Palestinians, who flatly refused. The adviser asked: “What do we have to negotiate with them about? Movement? We have submitted untold memoranda about movement and access. There’s nothing left to say. Prisoners? They won’t listen to us anyway. They will release prisoners sentenced for minor issues at the end of their sentences, and it will look like we cooperated in this”. Crisis Group interview, Ramallah, February 2010.

¹⁹⁴ Crisis Group interview, PA official, Ramallah, December 2009.

¹⁹⁵ Crisis Group interview, senior PA official, Ramallah, March 2010.

¹⁹⁶ Crisis Group interview, civil society activist, Ramallah, March 2010.

ian state; efforts to delay the upgrade of Israel's relations with the EU and its membership in the Organisation for Economic Cooperation and Development (OECD);¹⁹⁷ or actions to delegitimise settlements certainly qualify – the less Israel will be inclined to cooperate. Some, most prominently Defence Minister Barak, still view Fayyad as an important opportunity;¹⁹⁸ others have concluded that his wings need to be clipped and have likened his policies to incitement against Israel.¹⁹⁹

The more confrontational the Palestinian approach, a former official added, the quicker Fayyad will come to seem like “a threat, or even enemy”.²⁰⁰ As noted above, Israel has many tools with which to foil his agenda, since his plan cannot be implemented without its cooperation. A Palestinian critic remarked: “Fayyad's policy of self-reliance is entirely reliant on Israeli goodwill and on U.S. pressure to produce that goodwill”.²⁰¹ An Israeli defence official commented that “it would be easy to make it fail”,²⁰² for example by increasing checkpoints, conducting military activities or blocking the transfer of clearance revenues, which Israel collects on behalf of the PA per the 1994 Paris Protocol.²⁰³

For some Palestinian politicians, “resolving the schizophrenia” of a PA torn between “coordinating with” and “non-violently confronting Israel” decisively in favour of

the latter would be a plus.²⁰⁴ Not so for Fayyad, whose agenda, at least in the short run, is more nuanced, involving incrementally expanding the area of Palestinian independence and assertiveness in a way that does not give Israel a reason – or pretext – to clamp down. Over time, the cost to Israel of seeking to block the PA's efforts will rise. In the words of a senior PA official, “Israel will be increasingly alone and isolated. We are giving the world a positive agenda; that's the power of our position”.²⁰⁵ One of the prime minister's confidants added: “He doesn't believe in sharp turns but rather in pursuing multiple tracks at once”.²⁰⁶

C. POPULAR RESISTANCE

Of late, the notion of popular resistance has been resurgent. The term has many meanings, which has added to its political usefulness. At Fatah's August 2009 General Conference, the movement saw it as a way to embrace resistance, which is central to its history, while distancing itself from armed struggle, which has been a periodic feature of its practice and longstanding component of its doctrine. What exactly it embraced was not entirely clear. The new political program emphasised the right to pursue “resistance in all its forms” – code for armed struggle – even as it deferred the imperative of doing so.²⁰⁷ Abbas himself continues to stand strongly against violence, backing the sort of “legitimate, peaceful resistance that is embodied in ‘negotiations, negotiations, negotiations’”.²⁰⁸

Viewed from the ground, by contrast, popular struggle includes non-violent means but is not limited to them; while many hold them out as an ideal, popular protests often end with clashes and particularly Palestinian stone-throwing and Israeli tear gas, rubber bullets and other potentially

¹⁹⁷ Fayyad wrote letters to the EU and OECD in early 2008 laying out his concerns about the upgrade and Israel's accession. According to *Haaretz*, “Fayyad accused Israel of violating international law by continuing to build settlements, ignoring the International Court of Justice's ruling about the separation fence and infringing on the human rights of tens of thousands of Palestinian laborers”. Israel reportedly delayed the transfer of clearance revenues in retaliation. The newspaper quoted a senior Israeli official: “We go toward [Fayyad] and try to comply with every request he makes, and he goes and acts in such a contemptible way”. *Haaretz*, 10 June 2008. A European diplomat commented: “The Israelis feel they are under attack from someone they see themselves as helping. They are not getting the gratitude they think they deserve”. Crisis Group interview, Jerusalem, March 2010.

¹⁹⁸ Crisis Group interview, former Barak adviser, Tel Aviv, 11 February 2010.

¹⁹⁹ Foreign Minister Lieberman and Strategic Affairs Minister Moshe Yaalon fall into this camp. See Lieberman's quote at fn. 158 above. A Yaalon adviser said, “Netanyahu doesn't realise Fayyad is turning into a threat. Instead, he follows the advice of his friend Tony Blair, whom he is trying to impress. If Fayyad continues with such confrontational moves, then he should be seen as our enemy, and we should behave accordingly”. Crisis Group interview, Jerusalem, 25 March 2010.

²⁰⁰ Crisis Group interview, Israeli official, Tel Aviv, February 2010.

²⁰¹ Crisis Group interview, Ramallah, November 2009.

²⁰² Crisis Group interview, Israeli official, Tel Aviv, February 2010.

²⁰³ Israel delayed remittance once, in 2008, to register its displeasure over a letter Fayyad sent opposing Israeli acceptance into the OECD. See fn. 197 above.

²⁰⁴ Crisis Group interview, National Initiative head Mustafa Barghouti, Ramallah, November 2010.

²⁰⁵ Crisis Group interview, senior PA official, Ramallah, March 2010.

²⁰⁶ Crisis Group interview, Ramallah, December 2009.

²⁰⁷ The phrase appears in the five points of clarification appended to the program's text. The text itself reads: “The right of the Palestinian people to exercise armed struggle against the armed occupation of its land remains an immutable right that legitimacy and international law confer. Choosing the kind, time and place of struggle depends on individual and collective abilities, the internal and external circumstances, the balance of power, the necessity of preserving the movement, and the people's ability to revolt, preserve and maintain the struggle ...” Crisis Group Report, *Salvaging Fatah*, op. cit., p. 19.

²⁰⁸ Crisis Group Report, *Salvaging Fatah*, op. cit., p. 19. Other leaders had different ideas about Fatah's political program. A newly elected Central Committee member said, “We did not talk specifically about armed struggle in Bethlehem, because the term ‘resistance’ is elastic enough. We will use all kinds of resistance to achieve our goal”. Crisis Group interview, Ramallah, September 2009.

injurious crowd-control techniques.²⁰⁹ Local organisers claim that soldiers provoke the confrontations; the IDF claims that the stones often fly first.²¹⁰

In the public eye, the term has come to refer chiefly to demonstrations around the West Bank where Palestinians, often with the cooperation of Israeli and international activists, mount periodic, in some places weekly, protests against the Separation Barrier and settlements. The best known site is Bil'in, not far from Ramallah, though over the past year, such demonstrations have spread more rapidly than in the past around the West Bank.²¹¹ The protests – referred to as “direct action” by their organisers – started in 2002 at the initiative of local popular committees, which were formed in response to the barrier’s construction in order to regain lost land and protect what re-

²⁰⁹The question of what constitutes violence itself is a sticky issue. Some Palestinians contend that stones are largely symbolic and, especially in comparison the weapons used by both Israel and Palestinian militant groups, should not be called “violent”. But Palestinians pelted with stones by settlers in Hebron have a distinctly different appraisal of whether stone-throwing constitutes violence. Crisis Group interviews, Bil'in, Ramallah, Nablus, Hebron, January-February 2010. A leader in Bil'in insisted: “Violence or non-violence is the wrong way to think about it. Popular resistance is about steadfastness on the land and belief in our rights. Don't reduce what we do and stand for to any one kind of activity”. Crisis Group interview, Bil'in, 19 April 2010.

²¹⁰Crisis Group interviews, Bil'in, Ramallah and Jerusalem. Crisis Group research suggests that neither side is blameless when protests devolve into clashes, though the number of Palestinian casualties leaves little doubt as to the balance of power. Organisers invest considerable efforts to prevent stone-throwing, in particular by speaking with youths beforehand and policing the crowds. The PA, while lending moral and limited financial support to the protests, is aware of their incendiary potential and stays in touch with local popular committees to try to ensure that “things do not get out of hand”. Crisis Group interview, PA official, Ramallah, March 2010. The PA is concerned that confrontations between the IDF and protesters could escalate; it also seems to fear that protests could turn against the PA. A local organiser reported that after nearly every demonstration, he and his colleagues receive phone calls from the PA's General Intelligence agency asking who was there, what they chanted, etc. Crisis Group interview, Ramallah, March 2010. The risk for the PA was illustrated by the December 2009 funeral of three al-Aqsa Brigades members in Nablus, where many thousands of mourners denounced its security coordination with Israel. At the same time, local organisers feel constrained by protest culture norms: “We want people to come, and if we enforce too many rules, they won't”. Crisis Group interview, local organiser, Bil'in, February 2010. By the same token, the PA acknowledges it cannot control every demonstrator. Crisis Group interview, PA minister, Ramallah, March 2010.

²¹¹Demonstrations take place weekly at Bil'in, Na'alim, Ma'asara, Nabi Salih and in the Sheikh Jarrah neighbourhood of East Jerusalem. At fifteen other locations around the West Bank tracked by Crisis Group, the frequency is less predictable.

mained.²¹² Locally conceived and organised, they are held weekly so as to be sustainable both in time and human cost; are designed to avoid militarisation; and tend to favour cooperation with outside activists, who provide significant moral and financial support. Over time, in some villages, demonstrations have become theatrically themed, with a playful style that contrasts with the traditional sternness of Palestinian political activism.

The protests have scored some limited successes, as in Jayyus and Bil'in, where the barrier's route has been altered by court orders that activists attribute, in part, to pressure generated by their demonstrations. They also have given a new generation of activists an agenda to plug into; a civil society activist describes them as “a way to remain constructively engaged in anti-occupation politics”.²¹³ But whether the mass, “substantially nonviolent”²¹⁴ model can be generalised is open to question. Even if the notion of popular resistance enjoys mass popularity, it is not yet a mass movement and faces considerable obstacles in becoming one.

Direct action cannot not be disentangled from companion forms of popular activism that have emerged in the past couple of years. After a long period of quiescence, pockets of Palestinian civil society are being repoliticised, as activists have grown disillusioned with party politics and the two dominant political models they represent – peaceful negotiations and armed resistance – which seem to have run their course. There is no single umbrella that collects them all; instead, various campaigns are linked by the belief that mass, popular action represents a third way. These include popular agricultural and health committees – born as local initiatives to respond to the neglect of Area C by Israel and in former times the PA; the Stop the Wall campaign; the BDS (Boycott, Divestment and Sanctions) movement;²¹⁵ and human rights groups. So far,

²¹²Crisis Group interview, PA minister, Ramallah, March 2010. The minister said it is impossible to estimate the number of popular committees around the West Bank. Any group, however small or fleeting, can adopt the name, and in some locales there are multiple committees coordinated by an umbrella organisation.

²¹³Crisis Group interview, civil society activist, Ramallah, March 2010.

²¹⁴Joel Beinin, “Building a Different Middle East”, *The Nation*, 15 January 2010.

²¹⁵Mustafa Barghouti's National Initiative (NI) is the only movement to formally adopt “Boycott, Divestment, and Sanctions” as part of its platform, though the PLO Central Council has discussed the idea. The PLO, PA and Fatah have gone only so far as boycotting settlement products. The Fayyad government has established customs control on the edges of West Bank cities to interdict settlement products and inspects stores to ensure compliance; shop owners display signs declaring their participation in the campaign; and billboards promoting the boycott as a matter of conscience have sprouted up around the West Bank. Crisis Group observations, West Bank, January-February 2009. Efforts to implement the boycott have proven difficult, how-

the PA has ridden the wave, supporting some and co-opting others.

Bil'in and other sites were on the political map long before Fatah embraced them in 2009,²¹⁶ but the impact of the endorsement was felt quickly. Local activists reported that already in September, one month after the General Conference, factional participation increased.²¹⁷ By January 2010, organisers in Bil'in and Na'alín became – in the words of a local commentator – “tour guides” for factional leaders seeking to shore up their credibility.²¹⁸ The PA began providing funding, though foreign solidarity activists have contributed more.²¹⁹ Protests multiplied around the West Bank²²⁰ as direct action became something of a cause célèbre. Core organisers express satisfaction at the new participants; more Israelis are attending as well.²²¹

The demonstrations have led to Israeli counter-measures, which of late have grown in severity. The Israeli security apparatus ramped up arrests; in the past year, “hundreds” involved in popular activities have been arrested and at last count, 103 activists were in jail.²²² In March, Israel

further increased pressure, declaring Bil'in and Na'alín “closed military zones” on Fridays until August, rendering protests illegal and using greater force to suppress them.²²³ The army has also set up new roadblocks on Fridays to prevent Palestinians (as well as Israelis and internationals) from reaching the villages.²²⁴

Israel sees regular, planned protests as part and parcel of a broader battle heating up in the West Bank. After the Netanyahu 21 February 2010 announcement that the Tomb of the Patriarchs (revered by Muslims as the Haram al-Ibrahimi) and Rachel's Tomb (Bilal Bin Rabah Mosque) would be added to the list of Israel's national heritage sites, protests erupted in Nablus, Hebron and Jerusalem; the 15 March 2010 rededication of the Hurva Synagogue, which had been destroyed in the 1948 war, provoked a similar response. For many Israelis, these flare-ups indicate that Palestinians are treading on a slippery slope. A former Israeli National Security Council official explained:

There is continuum between “light” [popular] resistance and “heavy” [armed] resistance. There is a false assumption of control with the former. Neither Israelis nor Palestinians can control it. Once one is on the re-

ever; settlement products are not labelled as such, so it is difficult to determine the provenance of many Israeli goods. Abbas called on European countries to boycott settlement goods as well in February 2010. *Al-Ayyam*, 24 February 2010.

²¹⁶ In a 2005 interview, Bil'in organiser Muhammad Khatib said, “the name Bil'in is well-known. Once someone, a Palestinian, asked a friend of mine, ‘Which is bigger, Nablus [population 187,000] or Bil'in [population 1,700]?’” Robert Blecher, “‘The Only Place Where There's Hope’: An Interview with Muhammad Khatib, Jonathan Pollak and Elad Orian”, *Middle East Report* 240 (Fall 2006).

²¹⁷ Some, such as Barghouti's NI, have a longer history.

²¹⁸ Crisis Group interview, Bil'in, January 2010.

²¹⁹ Crisis Group interview, popular resistance organiser, Ramallah, April 2010. He estimated that the PA had contributed hundreds of thousands of shekels (100,000 NIS = \$26,889). The Israeli government is looking to block this money flow. *The Jerusalem Post*, 19 April 2010.

²²⁰ Demonstrations have occurred in the Hebron, Bethlehem, Ramallah, Qalqiliya, Salfit, Tulkarem and Jenin regions. Two villages in the Nablus region are preparing to launch regular protests. Crisis Group interview, local activists, Nablus, April 2010.

²²¹ “Some Israelis are deterred because they do not want the IDF taking their ID numbers or harassing them at the checkpoints. They especially fear that being involved will somehow be considered a stain on them in other circumstances. However, on the whole, more and more Israelis are joining”. Crisis Group interview, Israeli activist, 7 April 2010, Jerusalem. He claimed that the presence of consular representatives at the trials of those arrested at popular demonstrations has given the movement “energy and momentum”. *Ibid.*

²²² Crisis Group interview, Bil'in organiser, Bil'in, April 2010; Quarterly Update on Palestinian Prisoners. Addameer Prisoner Support and Human Rights Association. April 2010. A leading organiser, who has been detained multiple times, claimed that the uptick in arrests corresponds to the entry of Israel's General

Intelligence Service (Shin Bet) into the fray; previously the Israel army alone had dealt with demonstrations. Crisis Group interview, Bil'in organiser, Bil'in, April 2010

²²³ Demonstrators point to the four people killed in the Nablus area by the IDF on 20-21 March 2010. On 20 March, two Palestinian youth were killed in the village of Iraq Burin, where Palestinians hold regular protests in response to attacks from the neighbouring settlement of Har Bracha. The IDF opened an investigation into the deaths after Palestinians and human rights groups alleged that troops opened fire with live ammunition without warning. The next day, two Palestinian teenagers were shot as they crossed farmland. Palestinian sources claim they were shot “in cold blood”, while Israel claims they attacked soldiers. *Haaretz*, 31 March 2010; Al-Haq press release, 31 March 2010, at www.alhaq.org/etemplate.php?id=517. Demonstrators also assert that there is an increase in injuries at demonstrations and that protesters now have “security blocks” in their files, meaning they do not receive permits to work in Israel or settlements or to travel. Crisis Group interview, Bil'in organiser, Bil'in, April 2010. Israelis – who often head joint demonstrations since the IDF tends to treat them less violently – have been subjected to harsher treatment as well. A leader of Anarchists Against the Wall, the most visible Israeli group coordinating joint actions with Palestinians, claimed: “In the last few months the level of aggressiveness has increased. It used to be that you could sometimes talk to the soldiers, depending on who the local commander was. Now there is less dialogue. The same actions on our side as before are met with more arrests, more tear gas, etc”. Crisis Group interview, Jerusalem, 7 April 2010.

²²⁴ There are new roadblocks on the road from Ramallah to Bil'in, which a Fatah Revolutionary Council member interpreted as an attempt to prevent the leadership from reaching the protest. Crisis Group interview, Ramallah, February 2010. But other new roadblocks have sprung up on Fridays around the West Bank as well.

sistance continuum, it is very easy to shift toward the heavy, violent, side. It is dangerous that Palestinians think it is possible to contain resistance and prevent such an escalation towards violence.²²⁵

After more than five years during which they claim to have sought to prevent escalation,²²⁶ Palestinians view such assertions as disingenuous. A civil society activist said, “for years people have asked why we don’t demonstrate non-violently, but when we do, Israel forbids it”.²²⁷ Increased arrests and harassment of demonstration organisers have convinced activists that the goal is to stamp out “any kind of protest that threatens to exact a cost for occupation”.²²⁸ They have also increased the cachet of these activities among Palestinians. George Giacaman, a Palestinian analyst, commented: “Four years ago they were protesting in Bil’in, and hardly anyone cared. It’s the Israeli reaction that has elevated their profile”.²²⁹

Israelis are not the only ones who see risk in the current protests. The PA appears anxious not to allow them to escape its control, fearing among other things that protests could turn violent – threatening its agenda and providing an opportunity for its Islamist opponents. A PA minister said, “if a march confronts Israel, we could easily be dragged into confrontation. How will our people react if Israel kills someone or wounds twenty or 30? Will Hamas or Jihad take advantage and start shooting at settlements?”²³⁰ This explains why PA security commanders say they will continue to ensure demonstrations are confined to the barrier and settlements.²³¹ Palestinian forces have systematically prevented demonstrations in areas they control and stopped protesters from reaching flashpoints. This has earned them Israeli plaudits,²³² but typically – at least until recently – Palestinians have refused to police demon-

strations in Areas B and C (under partial or total Israeli security control), even when requested to do so by Israel.²³³

More fundamentally, “there is no consensus in [Fatah] on whether [a broad-based] popular struggle at this stage is desirable”.²³⁴ Fatah leaders claim to have “clarified” the importance of the protests to the security agencies, but they have not complained publicly about the crackdown and in fact emphasise the need to preserve order.²³⁵ Without a top-level political decision to expand the scope of activity, activists say, their protests will remain isolated.²³⁶

Security forces – be they Israeli or Palestinian – are not the sole obstacles to larger-scale mobilisation. Internal Palestinian divisions arguably are more important, especially since current forms of popular struggle exclude the considerable part of the population that identifies with Hamas. Although officially there is no ban on either Hamas assemblies or the participation of its members, on an individual basis, in West Bank protest activities, security officials admit privately they will not give the movement any venue for organising.²³⁷ Hamas representatives claim that when Islamists participated, they were detained.²³⁸

²²⁵ Crisis Group interview, Tel Aviv, March 2010.

²²⁶ Since 2002, 27 Palestinians have been killed in popular resistance activities; in the past two years, five have been killed. Crisis Group interview, Muhammad Khatib, head of the Coordinating Committee, Bil’in, April 2010. Israeli official and security personnel interviewed by Crisis Group could not recall the death of a security force member at a demonstration – although, insofar as “popular resistance” is hard to define and is not a category according to which the army or human rights organisations keep statistics, a number could not be confirmed.

²²⁷ Crisis Group interview, civil society activist, Ramallah, March 2010.

²²⁸ Crisis Group interview, civil society activist, Ramallah, March 2010.

²²⁹ Crisis Group interview, Ramallah, March 2010.

²³⁰ Crisis Group interview, PA minister, Ramallah, November 2009.

²³¹ Crisis Group interviews, Nablus and Ramallah, January-February 2010.

²³² An Israel security official praised the Palestinian security forces for keeping demonstrators away from flashpoints during the mid-March clashes in Jerusalem, Hebron and Nablus after the dedication of the Hurva Synagogue in Jerusalem. Crisis Group interview, IDF general, Tel Aviv, March 2010.

²³³ When they did deploy, they did so in plain clothes and less to control the demonstrations than to identify anyone raising a Hamas banner. Since mid-March this appears to have changed. Palestinian forces have increased their official, uniformed activity in Israeli-controlled zones; in an unprecedented case, Israel facilitated entry of an armed Palestinian unit to quash a demonstration adjacent to an Israeli settlement in Hebron’s Old City. Crisis Group interview, Palestinian security official, Hebron, March 2010. On 5 April, Palestinian forces arrested a popular resistance activist in the village of Bayt Ummar in Area C (which required coordination with Israel). The security forces later released him. Publicly they claimed that the activist had been mistaken for a thief. Ma’an News Agency, 5 April 2010. Privately, security officials attributed his detention to an altercation with a Palestinian police officer trying to contain a demonstration. Crisis Group interview, Palestinian security official, Ramallah, April 2010. PA officials suggest they are facing increased Israeli pressure to act; they also calculate that Israel’s willingness to extend their area of operations may depend on the extent of their cooperation. Crisis Group interviews, Palestinian security officials, Hebron, April 2010.

²³⁴ Crisis Group interview, Central Committee member, Ramallah, September 2009. This despite calls – as yet unheeded – from Fatah leaders to intensify popular struggle after Central Committee member Abbas Zaki was arrested at a demonstration on 28 March 2010. Ma’an News Agency, 1 April 2010.

²³⁵ Crisis Group interview, Fatah Central Committee members, Ramallah, April 2010.

²³⁶ Crisis Group interview, Central Committee member, Ramallah, September 2009.

²³⁷ “We don’t allow Hamas to mobilise in any way”. Crisis Group interview, PA official, Ramallah, April 2010.

²³⁸ “If you show up, you are taken in for questioning the next day by the security services”. Crisis Group interview, Hamas member of the Palestinian Legislative Council (PLC), Ramallah, March 2010. Jamal Juma of the Stop the Wall Campaign recalled that after the 2006 election, Hamas leaders and mem-

Hamas also has its doubts about these forms of resistance. One of its parliamentary members said:

Popular resistance cannot impose a high enough cost to force a change. Maybe it could be effective when used against one's own government; for instance, if we used it against human rights abuses here, since we would be confronting our families, cousins, friends. But not against Israel. Look at where Israel has been forced to withdraw: from Lebanon by Hizbollah and from Gaza by Hamas. Israel only withdraws when occupation becomes too costly, and popular resistance cannot impose this kind of cost. We need to continue to talk about resistance in all its forms, and if we can't, that will be the end of the Palestinian cause.²³⁹

Even among participating groups, there is no unity. Three bodies coordinate activities in the West Bank: the Stop

bers started to show up at events, but as soon as the Islamists' relations with Fatah deteriorated, they stopped coming. Crisis Group interview, Ramallah, March 2010. The director of a human rights organisation commented that while the reduction of torture in PA jails is an important improvement, "all the other violations continue and are being obscured by the positive media coverage about torture". A Hamas member of the Palestinian Legislative Council concurred: "People have come to accept political detainees as long as they are not tortured. Even the families are not protesting as much as they used to. It's becoming a standard part of life here, so long as they don't have to worry about severe injury and their children ending up in the hospital". Crisis Group interview, Ramallah, March 2010. As for the reduction in torture, the measures taken against accused violators are often unclear. The security services claim to discipline violators, but the number accused remains hazy; moreover, those charged with crimes are referred to military courts, the proceedings of which are not transparent and the verdicts of which usually go unreported. Arbitrary arrests continue in waves, making it difficult to assess trends or estimate how many people are in jail for political reasons at any one time. Crisis Group interview, director of human rights organisation, Ramallah, March 2010.

²³⁹ Crisis Group interview, Hamas PLC member, Ramallah, March 2010. Small popular protests have taken place in Gaza. Activists affiliated with the PLO factions – mainly the leftist ones – formed the "Popular Movement to Resist the Security Zone" to protest the 300-metre wide buffer zone Israel enforces on its northern and eastern borders with Gaza. Most of the demonstrations take place to the east of Bayt Hanoun and in the Farahin area of Khan Yunis. In mid-March, four demonstrations took place in a single week, leading Walid Awad, a People's Party leader, to proclaim: "We can say we have succeeded in opening a popular resistance front in Gaza". Hamas and Palestinian Islamic Jihad do not participate in the protests. Gaza police forcibly prevented a demonstration in eastern Khan Yunis from getting close to the border. Hamas claimed that it feared for the safety of protesters, though the movement likely is also trying to prevent a situation in which it would feel compelled to retaliate should someone be killed. On 18 March, Israel fired warning shots toward protesters who approached the Nahal Oz crossing. Crisis Group interview, Walid Awad, Gaza City, March 2010.

the Wall Campaign (the leftist stream), the National Committee (Fatah) and the Coordinating Committee (Fayyad government).²⁴⁰ The PA has dedicated substantial funds to its newly created committee, provoking resentment among others and leading to charges the government is "fragmenting the already fragmented" by channelling money toward its preferred allies.²⁴¹ There also are differences in priorities. Whereas the Stop the Wall campaign has a broad agenda that encompasses the occupied territories and Israel proper,²⁴² the Coordinating Committee focuses on specific West Bank cases. Its targets are discrete, mainly the barrier and settlements for which Palestinian land was expropriated.²⁴³

Nor is there consensus within the villages themselves.²⁴⁴ Sharp intra-communal tussles have occurred over whether to launch and continue protests, since the costs can be high, including nightly Israeli raids, imprisonment, even more restrictions on agricultural lands and greater constraint on movement. Neighbouring villages, in which people suffer the costs of the demonstrations but stand to reap fewer benefits, sometimes are opposed. In one West Bank location, a large landowner at first encouraged demonstrations and reimbursed villagers who suffered dam-

²⁴⁰ The first movement to promote popular resistance was the Stop the Wall campaign, established in 2002 and led by Jamal Juma, which attracts independents and leftists of various stripes, including Barghouti's National Initiative, the Democratic Front for the Liberation of Palestine, the Popular Front for the Liberation of Palestine and the People's Party. The National Committee was created in 2005 and led by Qaddura Fares as a national umbrella for all popular resistance activities. It quickly became a Fatah redoubt, while Stop the Wall continued to operate separately. The Coordinating Committee, set up under Fayyad's government, links together the heads of popular committees around the West Bank.

²⁴¹ Crisis Group interview, Jamal Juma, Ramallah, March 2010. "Pouring money into a specific committee decentralises the movement and creates a dynamic in which the main task becomes spending the money". A leading Bil'in activist – whose group benefits from PA support – agreed that competition among activists has risen: "The enormous media attention and the money that has poured in have created tension. Everyone wants a share". Crisis Group interview, Muhammad Khatib, Bil'in, April 2010.

²⁴² Stop the Wall links the Occupied Territories with Israel, describing them as a single "colonial apartheid system", and embraces the Boycott, Divestment and Sanctions (BDS) Movement. Crisis Group interview, Jamal Juma, Ramallah, March 2010.

²⁴³ Coordinating Committee activists differ on their goals. Some say that if expropriated land were returned and the Separation Barrier moved to the 1967 border, they would cease their protests. Others say that the barrier (and the settlements) would have to be dismantled completely. Crisis Group interviews, Bil'in, January 2010.

²⁴⁴ The information in this paragraph was gathered through interviews with Palestinian and international activists around the West Bank in January and February 2010. They requested that the villages in question not be identified.

ages, but, after a court decision to return of much of his land, has grown reluctant to mobilise protests. Parents with children in jail in Israel, who fear losing permission to visit, often demur.

Moreover, the nature of the protests has changed gradually and not to everyone's satisfaction. Over time they have attracted more internationals and Israelis, who are widely recognised as crucial pillars of support, but as the foreign quotient has increased, Palestinians sometimes have come to feel marginalised. Villagers at times resent that certain activists become gatekeepers for international involvement and as a result wield disproportionate influence, just as some villages left to fend for themselves resent their "celebrity" neighbours and in particular Bil'in.²⁴⁵ Some of these complaints may be sour grapes or reflect little more than personal vendettas. But they also highlight the complexity of constructing a large movement without an overarching organising authority.

Yet another impediment is that popular struggle does not resonate with many segments of the public. Especially in West Bank cities – where the second intifada was based and where people tend to see themselves as more politically sophisticated than their rural compatriots – many look askance on the notion. While those inhaling tear gas and sitting in Israeli prisons may differ, many urbanites deride the protest as a "comfortable intifada"²⁴⁶ and a "Western import".²⁴⁷ Some have taken to referring to Bil'in as the Palestinian "Hyde Park",²⁴⁸ where one heads for an afternoon outing then returns home to life as usual under occupation.²⁴⁹ A political analyst commented that regardless of the reasons behind the condescension, "it doesn't move the street. People can't absorb the idea of doing it this way".²⁵⁰

Many local activists are undeterred. Just as isolated pockets of resistance ultimately coalesced into the civil unrest of the first intifada, so too they hope that the current initiatives will crystallise into a broader movement.²⁵¹ But the political and social structures that existed around the

West Bank and Gaza Strip in the late 1980s have largely disappeared; their absorption into the PA sharply inhibits civil society's ability to mobilise independently. Nor, given popular disillusionment with the leadership, would a top-level call to mobilise necessarily yield a better result. A political commentator in Hebron laughed off the idea of any mass struggle: "There is no popular struggle anymore, period. Those in Fatah who call for it will not be followed by anyone, and those who could carry it out [ie, Hamas] are in jail".²⁵²

There also is the risk that what is known as popular resistance might turn more violent. Indeed, some Fatah leaders continue to emphasise that "all forms of resistance remain on the table";²⁵³ others could try to undermine Fayyad by seeking to militarise the largely non-violent demonstrations. That said, Palestinians virtually unanimously agree that conditions for a new armed uprising currently do not exist. As important as any political calculation²⁵⁴ is the human one. West Bankers today appear exhausted, still living with the consequences of the last intifada. Even local Hamas leaders express scepticism. In response to the calls by some outside and Gaza leaders for a "day of rage" or renewed uprising, a Hamas Palestinian Legislative Council member commented:

The calls arise from the sense that the issues are of such severity that they deserve an intifada. We have risen up before for lesser issues than Jerusalem confronts today – look at the Tunnel Intifada.²⁵⁵ But those who call for it now do not know what the situation looks like on the ground in the West Bank, how tough the Palestinian security forces have become and how closely they coordinate with Israel. These are the calls of individuals. There has been no movement decision to pursue this direction.²⁵⁶

Even Hamas's exiled leadership – which continues to believe that the West Bank will see renewed confrontation that will precipitate the PA's demise – views the prospect as more distant than it did a year ago. A senior official said:

²⁴⁵ An Israeli activist reported that in a village near Bil'in, she was asked: "Why do Israelis always go to Bil'in? Why don't they come here to help us? We've lost just as much land". Crisis Group interview, Jerusalem, March 2010. Other activists – typically further from the Ramallah region – are more forgiving. Crisis Group interview, Hebron, March 2010.

²⁴⁶ Crisis Group interview, Fatah activist, Ramallah, February 2010.

²⁴⁷ Crisis Group interview, Fatah activist, Ramallah, February 2010.

²⁴⁸ Crisis Group interview, Fatah activist, Ramallah, February 2010.

²⁴⁹ A Palestinian analyst received a printed invitation to a demonstration at Ma'asara, followed by a lunch. "A lunch!" she guffawed. "They are going to defeat the occupation by eating lunch!" Crisis Group interview, Ramallah, March 2010.

²⁵⁰ Crisis Group interview, Ramallah, February 2009.

²⁵¹ Crisis Group interview, Ma'asara, February 2009.

²⁵² Crisis Group interview, Palestinian journalist, Hebron, January 2010.

²⁵³ Crisis Group interviews, Fatah leaders, Ramallah and Nablus, December-March 2010.

²⁵⁴ A senior PA official said, "those who predict a third intifada are predicting the past. That's not what people want today". Crisis Group interview, Ramallah, March 2010.

²⁵⁵ In 1996, 62 Palestinians and fourteen Israeli soldiers were killed in armed clashes, as Palestinians protested the opening of a tunnel abutting the Western Wall under the al-Aqsa Mosque compound.

²⁵⁶ Crisis Group interview, Hamas PLC member, Ramallah, March 2010.

With the situation as it is, you cannot expect stability. You can expect an explosion. In the West Bank, people are taking Fayyad's money, but they are waiting for the moment to act. They are moving closer to Hamas – not in the sense of joining the organisation but in terms of their mood. I don't think Israel can delay an explosion for several more years.²⁵⁷

With a firm commitment of those atop the PA to refrain from armed attacks, unprecedented security coordination with Israel and Fatah's desire to keep the lid on Hamas, a sharp surge in violence in the heart of the West Bank appears unlikely, though flare-ups – as occurred in Hebron and Nablus in early 2010 – are almost inevitable. Indeed, the Israeli security establishment today appears more worried about Jerusalem residents and Palestinian citizens of Israel than West Bankers.²⁵⁸

²⁵⁷ He added: "Abu Ammar [Yasser Arafat] held all the threads. This is not true of Abu Mazen. This is not a Palestinian leadership that can protect the PA in the event of an explosion. If something happened at the al-Aqsa Mosque, for example, no one could protect Israel from the Palestinians' rage. The situation reminds me of 1998-1999 when negotiations were ongoing, there was economic progress, Arafat in full control. Suddenly everything exploded because the peace process had reached a dead end". Crisis Group interview, Damascus, February 2010. In January 2009, an official had predicted that it would take roughly a year for disturbances in the West Bank to escalate. Crisis Group interview, Damascus.

²⁵⁸ A Palestinian civil society activist commented on the recent demonstrations in Jerusalem: "The capacity of Raed Salah [the head of the northern Islamic movement in Israel] to bring large numbers of demonstrators – possibly hundreds of thousands – to Jerusalem should not be underestimated. His movement resembles Hamas and coordinates with it". The northern Islamic movement coordinated with the southern movement during the recent clashes and paid for Bedouin transportation. The Israeli police stopped many of the buses coming from the north and turned them around before they arrived in Jerusalem. Crisis Group interview, Jerusalem, March 2010. A retired Israeli officer pointed to the particular "challenge" of policing Palestinians who are citizens of Israel: "They enjoy legal protections that differ from the situation of West Bank Palestinians". Crisis Group interview, IDF brigadier general (ret.), Tel Aviv, March 2010.

IV. ISRAEL'S QUANDARY

With the PA and PLO pursuing new options, Israel finds itself on unfamiliar terrain. Its Palestinian interlocutors are highly esteemed in the international arena and speak a language that resonates with Israel's closest allies. This presents Israel with an opportunity and a challenge. On the one hand, Palestinians are focused on building a strong and reliable security apparatus and improving governance, goals long purportedly shared by Israel. On the other, the Palestinian domestic and international campaigns to redress the power asymmetry risks dragging Israel into a process whose terms it would not control.

The discomfort is all the more acute for coming at a time of rare U.S.-Israeli tensions. While from Washington this might be viewed as a by-product of Israeli government policies – notably regarding settlements – that cast doubt on its commitment to a two-state solution, seen from Jerusalem the picture is different. People who have spoken to Netanyahu describe him as increasingly "embittered" by the U.S. administration:

He feels he has taken important steps, indeed far more than Abbas. He agreed to a two-state solution. He ordered a settlements moratorium that exceeds what any of his predecessors did. He is facilitating Fayyad's plans in the West Bank, allowing greater freedom of movement and access. He is ready for peace talks on permanent status. Yet, whatever he does he feels the Americans dismiss and ask for more – and more than he can offer. At this rate, at some point he might conclude it is just not worth it to placate Washington, that they will not be satisfied until they force him to make compromises with the Palestinians he does not want to or cannot do.²⁵⁹

With regard to the Palestinians, Israelis express two principal concerns. First, they fear Palestinian steps are intended to lead the international community to seek to impose a solution on Israel. A foreign ministry official said, "Fayyad's plan is dangerous for political dialogue. On his current path, he will eventually push things to the edge. Instead of working on the ground to complement dialogue, he can be a vehicle for forcing a solution from above".²⁶⁰ One senses budding apprehension even among Israelis more receptive to Fayyad's agenda:

²⁵⁹ Crisis Group interview, Israeli analyst, April 2010.

²⁶⁰ Crisis Group interview, Jerusalem, March 2010. "The recent shift in Palestinian strategy is serious and while the Israeli government realises this it does not fully comprehend its implications. The Palestinians have been moving since the end of Annapolis and the election of Israel's government towards strategies that appeal for external support and seek outer decisive intervention". Crisis Group interview, former Netanyahu adviser, Jerusalem, 8 April 2010.

The Fayyad plan was an original idea that was conceived as part of a genuine effort to establish the State of Palestine and allay Israeli doubts and uncertainty. However, the political context evolved, and now there is no political process. In such a situation the plan can be hijacked as a tool of imposition on Israel. It can increase international support for the incremental Palestinian accumulation of political assets, such as the EU's position on Jerusalem. In such a context, the Fayyad plan starts to appear to be a threat.²⁶¹

As discussed above, Israeli officials are quick to add that they have means to counter the Palestinians' efforts. One of Netanyahu's former advisers said:

The Palestinians' Kosovo strategy of unilaterally declaring statehood with what they hope will be the support of the international community may succeed, but only on paper. We can close the tap with no problem, and you will see what happens as a result. The Palestinians cannot fully achieve their goals that way. They will need to shift from confrontation back to cooperation, from a legalistic strategy seeking external judgment to mediation and negotiation strategy which aims at resolution by agreement.²⁶²

Israelis are virtually unanimous in judging that as long as the Palestinians see hope in an externally-oriented strategy, the diplomatic process will be stuck.²⁶³ As a result, they see disabusing Palestinians of the notion that they have any alternative to negotiations as a precondition for progress.

A second, related challenge is what Israelis refer to as a campaign aimed at their gradual international delegitimation. This covers the gamut from NGO activism in Europe calling for divestment or boycott, to Fayyad's interventions in the matter of Israel's application for OECD membership and upgrade of relations with the EU and his call to boycott settlement products. For some Israeli officials – principally on the right-wing end of the spectrum – responsibility rests above all with the PA, though in making their case they include several wholly unsubstantiated,

²⁶¹ Crisis Group interview, Israeli official, Tel Aviv, February 2010.

²⁶² Crisis Group interview, Jerusalem, 8 April 2010. A member of the Knesset from the opposition Kadima party added: "If the Palestinians really go all the way, then Israel can do many things and prevent any Palestinian move on the ground: closure, cancelling common currency market, preventing commodities from entering, etc". Crisis Group interview, Jerusalem, 7 April 2010.

²⁶³ "The conduct of the PA in the last year teaches that it has no interest in reaching an agreement with Israel. Both Abu Mazen and Salam Fayyad do not want a peace agreement. They have adopted a strategy which rules out the path of terror on one hand and sets impossible conditions for negotiations on the other hand. This is a strategy whose entire purpose is to exert indirect political pressures and isolate Israel in the international arena". Education Minister Gideon Saar, quoted in *Maariv*, 10 April 2010.

exaggerated claims.²⁶⁴ Yet even some more sympathetic to Fayyad's plans offer words of caution:

I'd start by saying he is the best thing that exists right now. He is the opposite of Arafat – he believes in the idea that Palestinians can and should take initiatives for themselves. He can make a big difference. But he needs to be careful, because one senses the beginning of a backlash in Israel. They are mad, because they see him playing the card of international delegitimation, and they are worried, because they see him speaking to the U.S. more than to Israel and, as he becomes Washington's darling, he can get whatever he desires. Don't be surprised if Israel tries to get U.S. members of Congress to focus on the first part – delegitimation – in order to halt the second, his love affair with the U.S.²⁶⁵

Although some officials and analysts advocate a harsh reaction to head off these twin threats, most take a more measured view of both the danger and advisable responses. Israel, they argue, ought still to take advantage of and support Fayyad's bottom-up, institution-building approach, show it can help improve Palestinian lives and thus convince both the international community and Palestinians themselves that further progress along these lines remains possible.²⁶⁶ Members of the security establishment in particular are of this opinion, chiefly because they value deepening cooperation with Palestinian security forces.²⁶⁷

Beyond that, there is broad scepticism as to the feasibility of a comprehensive agreement with the Palestinians in the foreseeable future – a reflection of deep gaps between the two sides, enduring Palestinian fragmentation and the challenges posed by Israel's own political divisions.²⁶⁸

²⁶⁴ See Foreign Minister Lieberman's testimony before the Knesset's Foreign Affairs and Defence Committee, at fn. 158 above. Allegations that the PA is behind a worldwide delegitimation campaign are refuted by most officials. A foreign ministry official commented: "The people arguing that Fayyad and the PA are threats to Israel's legitimacy only do so for internal consumption". Crisis Group interview, Jerusalem, 9 March 2010. That said, there is broad agreement in Israel that many among the global activists would not be satisfied with ending the occupation. The Reut Institute, a prominent Israeli think tank, argued: "Israel's delegitimisers leverage the Palestinian condition to advance their cause, yet they do not seek its resolution or accept ideas such as 'co-existence' or 'peace' that embody an acceptance of Israel's existence. Their objectives dictate that any compromise with Israel should be temporary, and even borders that are based on the June 4, 1967 lines would only be provisional". <http://reut-institute.org/en/Publication.aspx?PublicationId=3769>.

²⁶⁵ Crisis Group interview, former official, March 2010.

²⁶⁶ Crisis Group interview, senior defence official, Jerusalem, 16 November 2009.

²⁶⁷ Crisis Group interview, former senior defence official, Tel Aviv, 11 April 2010.

²⁶⁸ A Labour party activist said, "even [Defence Minister] Barak – let alone the other ministers – does not believe that reaching a

As a result, and while some still hold to the view that a final accord covering all final status issues is both preferable and doable (with the current government or a revamped coalition including Kadima),²⁶⁹ other options are being considered, such as managing the conflict by focusing on West Bank improvements, an agreement on borders and security first or an interim deal including creation of a Palestinian state with provisional borders.²⁷⁰ Whether

and how Palestinians – who so far have been adamant in their rejection of anything short of a comprehensive deal – can be brought on board is another and still unanswered question.²⁷¹

final status agreement with the PLO is currently possible”. Crisis Group interview, Tel Aviv, 28 March 2010. A Likud minister added: “Why is it that Abbas never answered Olmert’s unprecedented offer?” Crisis Group interview, Jerusalem, 17 November 2009. See also Minister without Portfolio Benny Begin, “What else can we concede?”, *Haaretz*, 25 December 2009.

²⁶⁹ A Labour minister said, “take it from me as a guy who sits in innermost cabinet meetings with all the Likud people – they would go for a far reaching deal if there is a serious opportunity. ... There is currently a relatively moderate Likud leader. The division of the land is the only option. Agreement on this ranges from Likud to Kadima, both of which have accepted Labour’s agenda”. Welfare and Social Services Minister Isaac Herzog at a public event, Jerusalem, 27 January 2010. The idea of shifting coalitions to include Kadima at the expense of more right-wing parties has many advocates, including within Labour. That said, there are no indications either Netanyahu or Tzipi Livni, Kadima’s leader, have any interest. “Netanyahu’s political survival depends on his base, his constituency, which is to the right. He sees little to gain by alienating them and seeing his political fortunes become hostage to Livni”. Crisis Group interview, former Israeli official, March 2010. Livni is said by confidants to doubt Netanyahu’s seriousness about reaching an agreement. “She has an image in her mind, based on the negotiations at Annapolis, of what the agreement should look like. Her conversations with Bibi confirmed to her that he is not on the same page”. Crisis Group interview, Kadima member of the Knesset, Jerusalem, 6 April 2010.

²⁷⁰ Netanyahu was reported to have embraced the idea of a Palestinian state with provisional borders in his most recent talks with Mitchell. *Haaretz*, 25 April 2010. The territory and borders first approach (in which Jerusalem and refugees would be set aside) has won some converts but also has many sceptics. A former senior official noted: “The current government cannot agree with the PLO on the Old City and the refugees. Nevertheless, we cannot accept the borders-first proposal. The reason is that on borders we give, whereas on the Old City of Jerusalem and the refugees they give. These need to happen simultaneously”. Crisis Group interview, Tel Aviv, 11 February 2010. Minister for Intelligence Dan Meridor took the same view: “On borders we give; if we finish up giving and then reach refugees what is the exchange? ... I believe that on refugees there is Israeli-US agreement, on borders a U.S.-Palestinian agreement. [We] need to discuss [them] together”. Herzliya Conference Speech, 2 February 2010. The idea of a state with provisional borders is supported most publicly by former chief of staff and Kadima member of the Knesset Shaul Mofaz. He presented his plan at the Israeli Policy Forum. www.israelpolicyforum.org/blog/mofaz-plan-permanent-palestinian-state-temporary-borders-advance-final-status-talks. The full plan in Hebrew is at my.ynet.co.il/pic/news/08112009/1.pdf. At various times, Minister of Defence Barak and President Shimon Peres also are said to have backed similar schemes. An adviser to the president spoke of Palestinian sovereignty within roughly a year and “visible

actions on the ground, including shifting nearly all territory with Palestinian inhabitants to the PA coupled with significant prisoner releases”. Crisis Group interview, Jerusalem, 16 November 2010. See also “Partial Agreements with the Palestinians”, Strategic Assessment, Institute for National Security Studies, vol. 12, no. 3, November 2009.

²⁷¹ A Fatah Central Committee member said of a state with provisional borders: “It would be neither provisional nor a state”. Crisis Group interview, Ramallah, March 2010. Several Palestinian officials suggested that they might be persuaded to put off certain final status issues should they be awarded international guarantees that the 1967 line would be the final border of their state and that “virtually all” of the West Bank and Gaza – including a territorial link – would be turned over to their full control in the first stage. Crisis Group interviews, PA officials, Ramallah, March 2010. Abbas renewed his objection to a state within interim borders, after it was reported that Netanyahu embraced it, in a speech before the Fatah Revolutionary Council on 24 April 2010. *Al-Hayat*, 25 April 2010.

V. THE LATEST U.S.-ISRAELI DISPUTE

The meandering road back to negotiations took yet another unexpected turn when, two days after the Palestinians finally agreed to participate in proximity talks – and Mitchell “encouraged both sides to refrain from any statements or actions that could inflame tensions or prejudice the outcome of the talks”²⁷² – the Jerusalem District Planning Committee, jointly run by the interior ministry and the Jerusalem municipality, authorised a plan to build 1,600 units and a new road in Ramat Shlomo,²⁷³ an ultra-Orthodox settlement in East Jerusalem.²⁷⁴ The announcement, which occurred as Vice President Biden was visiting Israel, caused huge embarrassment. Netanyahu, who most observers believe was unaware of the decision, apologised for its timing though not for the decision itself, which, he said, was wholly consistent with both the moratorium policy and the decades-old practice of every Israeli government in East Jerusalem.²⁷⁵

The U.S. administration “condemned” the decision, an unusually strong choice of words.²⁷⁶ Palestinians and Arabs were in an uproar and threatened to withdraw approval of proximity talks.²⁷⁷ The U.S.-Israeli aspect of the crisis at first appeared to be contained after further exchanges be-

tween Biden and his entourage on the one hand and the prime minister and his advisers on the other.²⁷⁸

By all accounts, however, President Obama was not satisfied.²⁷⁹ Secretary of State Clinton called Netanyahu on 12 March,²⁸⁰ demanding that Israel take steps to show its commitment to the process.²⁸¹ When an acceptable response was not forthcoming, Mitchell postponed his trip to the Middle East and went instead to Moscow, where he signed onto a Quartet statement that, again, included uncharacteristically strong language.²⁸² At Washington’s urging, the Palestinian leadership was fairly restrained in its response to the Israeli decisions and has been remarkably quiet since then, letting the U.S. take the lead.²⁸³ A

²⁷² Crisis Group interview, U.S. official, Washington, April 2010.

²⁷⁹ Crisis Group interview, U.S. official, Washington, April 2010.

²⁸⁰ State Department Spokesman P.J. Crowley said that “Secretary Clinton also spoke this morning with Prime Minister Bibi Netanyahu to reiterate the United States’s strong objections to Tuesday’s announcement, not just in terms of timing, but also in its substance; to make clear that the United States considers the announcement a deeply negative signal about Israel’s approach to the bilateral relationship – and counter to the spirit of the Vice President’s trip; and to reinforce that this action had undermined trust and confidence in the peace process, and in America’s interests. The Secretary said she could not understand how this happened, particularly in light of the United States’s strong commitment to Israel’s security. And she made clear that the Israeli Government needed to demonstrate not just through words but through specific actions that they are committed to this relationship and to the peace process”. Daily Press Briefing, U.S. Department of State, 12 March 2010.

²⁸¹ The precise demands have not been released. Having learned the lesson of the earlier settlement freeze mishap, the administration deliberately – and wisely – refrained from publicising its requests, so as not to be accused of falling short, though reports suggest these fell into three broad baskets: commitments on Israeli policy in East Jerusalem; confidence building steps in the West Bank and Gaza; and an agreement that proximity talks would be substantive rather than purely procedural. In addition to some clear demands, the administration reportedly left some of the burden on Netanyahu to come up with his own gestures. Crisis Group interview, U.S. official, Washington, April 2010. Another official said, “we did not provide an exhaustive list. We want to see what Bibi comes up with to test his sincerity and commitment to the process. We’ll know it when we see it”. Crisis Group interview, Washington, April 2010.

²⁸² Several aspects of the statement – which reportedly was principally drafted by the U.S. (Crisis Group interviews, Washington, Paris, officials from Quartet members, April 2010) – were striking. Besides calling for a resolution of the conflict within 24 months, it “[r]ecall[ed] that the annexation of East Jerusalem is not recognised by the international community and again “condemn[ed] the decision by the Government of Israel to advance planning for new housing units in East Jerusalem”. It called “on Israel and the Palestinians to act on the basis of international law” – a rare mention of such a legal basis by the U.S. Statement by Middle East Quartet, 19 March 2010, at www.un.org/News/Press/docs/2010/sg2158.doc.htm.

²⁸³ The U.S. is said to have conveyed a message to the Palestinian leadership stressing that this was not an Israeli-Palestinian

²⁷² CNN, 8 March 2010.

²⁷³ The district commission approved the Ramat Shlomo plan (which previously had been approved by a local planning committee) “for deposition” (*lehafkada*), meaning for public comment. According to a spokesperson for Ir Amim, an organisation that tracks political developments in East Jerusalem, the plan has not yet been opened for public comment on account of the dispute with the U.S., though it is not uncommon for public comment on development projects to be substantially delayed – for years even – for purely domestic considerations. Crisis Group interview, Jerusalem, April 2010.

²⁷⁴ Jewish Telegraphic Authority, 9 March 2010. Many Israelis take issue with referring to East Jerusalem settlements as such, instead calling them “neighbourhoods”. A day earlier, the defence ministry had announced approval for 112 new units in the settlement of Beitar Illit. *Jerusalem Post*, 8 March 2010.

²⁷⁵ *Haaretz*, 12 March 2010.

²⁷⁶ Biden said in a statement: “I condemn the decision by the government of Israel to advance planning for new housing units in East Jerusalem. The substance and timing of the announcement, particularly with the launching of proximity talks, is precisely the kind of step that undermines the trust we need right now and runs counter to the constructive discussions that I’ve had here in Israel”. He subsequently condemned the announcement again in a speech at Tel Aviv University. *The Washington Post*, 12 March 2010.

²⁷⁷ Nabil Abu Rudeineh announced the decision to participate in talks had been “suspended”. *Al-Ayyam*, 25 March 2010. An Egyptian diplomat explained that the Arab states were no less insulted than the Palestinians, since the Arab League had given its imprimatur to the talks, and refused to intercede with Abbas. Crisis Group interview, Jerusalem, March 2010.

subsequent White House meeting between Obama and Netanyahu gave rise to numerous reports of rising tensions and a frayed personal relationship, though U.S. officials cautioned the media had exaggerated both.²⁸⁴

The U.S.-Israeli crisis has not been resolved, and proximity talks have yet to commence. A U.S. official anticipated accord would be reached on Israeli steps that would “substantially improve the climate for proximity talks”, notably Israel’s agreement that those talks would deal with substantive core issues as opposed to procedural ones.²⁸⁵ Although Washington does not expect all its demands to be met, it would convey Israel’s and its own commitments to the Palestinians and request the start of proximity talks.²⁸⁶ Should Palestinians still balk, Abbas would then come under strong American pressure. A U.S. official said, “talking to us on final status issues is not a

dispute but rather one between the U.S. and Israel and thus that it would be best to stay out of it. Crisis Group interview, U.S. official, Washington, April 2010. Palestinian leaders demanded the rescinding of the Ramat Shlomo decision as well as a subsequent decision to allow twenty new units at another East Jerusalem settlement. *Al-Ayyam*, 11 March 2010. Tellingly, however, when Crisis Group asked a senior Palestinian official what Ramallah needed to agree to proximity talks, he answered: “What the Americans are asking for”. Crisis Group interview, senior Palestinian official, Ramallah, March 2010.

²⁸⁴ Journalists were not allowed to take pictures of the meeting, and the two leaders did not talk to the press afterwards. That, along with other circumstances surrounding the encounter, were read by the Israeli press as attempts to humiliate their prime minister. The Israeli daily *Maariv* wrote: “There is no humiliation exercise that the Americans did not try on the prime minister and his entourage. Bibi received in the White House the treatment reserved for the president of Equatorial Guinea”. Cited at www.commentarymagazine.com/blogs/index.php/tobin/266671. A U.S. official denied that was the intent, though he acknowledged unmistakable annoyance at the tone of Netanyahu’s AIPAC speech on the day of the meeting, when he admonished that “Jerusalem is not a settlement. It is our capital”. See <http://edition.cnn.com/2010/POLITICS/03/22/us.israel/index.html>.

²⁸⁵ Prior to Biden’s visit, the Israeli position was that substantive discussions of final status issues would have to await direct talks. Crisis Group interviews, Israeli and Palestinian officials, Jerusalem and Ramallah, February 2010.

²⁸⁶ This reportedly is what happened during Mitchell’s most recent visit to Israel. Following Netanyahu’s rejection of a settlement freeze in Jerusalem (“I am saying one thing: there will be no freeze in Jerusalem”; BBC, 23 April 2010), the U.S. acknowledged that it had been unable to obtain all it had asked from Israel. State Department briefing by Philip J. Crowley, 22 April 2010. The U.S. then sought to convince the Palestinians to enter indirect talks on the basis of additional, American commitments regarding what it would do in the event of provocative Israeli actions. Crisis Group interviews, U.S. officials, Washington, April 2010; *Haaretz*, 25 April 2010. Abbas is expected to request Arab League support before announcing his decision; in this context, he might also meet with President Obama in May. *Haaretz*, 25 April 2010; *Al-Ayyam*, 25 April 2010.

concession to Israel. The Palestinians should understand that or we could lose patience”.²⁸⁷ While it is too early to predict the outcome, certain lessons already are emerging:

The crisis offers a window on possible future U.S. policy. However it ends up, it will have offered both a window on the U.S.’s – and, in particular, Obama’s – assessment of Netanyahu over the past year and a preview of how Washington is likely to proceed over time.

From the Israeli government’s perspective, the escalation was almost entirely manufactured and out of proportion with what triggered it.²⁸⁸ Netanyahu had made clear when he declared his moratorium that it excluded Jerusalem, and it is that declaration the secretary of state not long ago welcomed as “unprecedented”. Officials also point out that Ramat Shlomo is an area that, under virtually all existing peace plans, including President Clinton’s, would ultimately be under Israeli sovereignty.²⁸⁹ Israelis readily concede the timing was hugely embarrassing and apologised for that; but should awkward timing on its own, they ask, justify such a public dressing down?

By the same token, it is hard to understand that Washington would have sparked a dispute over an issue that enjoys strong political backing in Israel (construction in East Jerusalem) at a time when the U.S. was seeking to reassert the closeness of bilateral ties (during the vice president’s visit) and on the eve of the annual Washington gathering of the largest pro-Israeli lobby, AIPAC, unless its reaction had deeper roots and broader motivations.

Specifics of this case notwithstanding, the administration likely seized the opportunity presented by Israel’s egregious misstep to express months of accumulated mistrust and grievances and try to redefine certain rules of the game. In this sense, the strength of the U.S. reaction likely reflected scepticism about Netanyahu’s intentions and specifically his vision of a two-state settlement;²⁹⁰ frustration

²⁸⁷ The official noted that, ultimately, the conditions surrounding the proximity talks would be better for Palestinians than they were when the PLO first accepted them. Should the Palestinians still insist on further steps, in particular on East Jerusalem, they should expect a strong US reaction. Crisis Group interview, U.S. official, Washington, April 2010.

²⁸⁸ Crisis Group interviews, Israeli officials, Jerusalem, March-April 2010.

²⁸⁹ In a speech delivered to AIPAC on 23 March, Netanyahu said, “everyone – Americans, Europeans, Israelis, certainly Palestinians – everyone knows that these neighborhoods will be part of Israel in any peace settlement. Therefore, building them in no way precludes the possibility of a two-state solution”. <http://edition.cnn.com/2010/POLITICS/03/22/us.israel/index.html>.

²⁹⁰ As one observer put it, “if the administration were confident that the prime minister were sincerely moving toward a two-state solution, it would be far less concerned about continued settlement building”. Crisis Group interview, Washington, April 2010.

over how he had succeeded in escaping the previous demand for a freeze; and a desire to rebuild American credibility among Palestinians and the wider Arab world, seriously damaged by the administration's handling of the peace process in its early months.²⁹¹

There was an implicit warning, too: first, that the U.S. would not countenance future provocations that might derail negotiations at any time and secondly, that the only way to avoid such periodic flare-ups would be for Israelis and Palestinians to finally draw up their borders. That Ramat Shlomo almost certainly would come under Israeli sovereignty only further underscores this point: Israel will face controversy and criticism for building anywhere until it reaches an agreement that settles borders everywhere.²⁹²

As many Americans and Israelis saw it, the administration's sharp tone also prefigured a more basic confrontation on the content, speed and final destination of Israeli-Palestinian negotiations – on the issue of East Jerusalem most obviously and prominently, but almost certainly on others as well.²⁹³ To that extent, and regardless of whether or when Washington and Jerusalem overcome the current impasse, it will be a crisis postponed rather than resolved.

The crisis is still awaiting a clear and cogent U.S. strategy. Even if the U.S. seized an opportunity over the Israeli announcement, its longer-term approach remains uncertain. In a sense, the dispute – which, as noted, came at an imperfect time and over an imperfect issue – was premature, having erupted before the administration had had occasion to fully rethink its strategy and learn the lessons of the past. If negotiations on how to end the crisis are merely used to kick-start proximity talks, the U.S. could quickly run into the problems that have bedevilled it throughout 2009: considerable Israeli-Palestinian mistrust; a large gap on substantive issues; and a weak, fragmented and disillusioned Palestinian polity that makes its leadership unlikely to take risks and prone to sit back and wait.

²⁹¹ A U.S. official said, “much of our credibility with the Arab world depends on our ability to persuade Israel to take certain actions. If we can't do that, we lose a lot”. Crisis Group interview, Washington, April 2010. Another argued that the dispute already had positive impact, weakening the Israeli consensus on building in East Jerusalem by showing that it carries a cost. Crisis Group interview, Washington, April 2010.

²⁹² In her speech to AIPAC, Secretary Clinton made clear that the dispute with Israel does not constitute “a judgment on the final status of Jerusalem, which is an issue to be settled at the negotiating table”. 22 March 2010, at www.state.gov/secretary/rm/2010/03/138722.htm.

²⁹³ In several statements, including recently to the Knesset's Foreign Affairs and Defence Committee, Netanyahu has said Israel would insist on a continued military presence in the Jordan Valley, which the U.S. likely would oppose. *Haaretz*, 2 March 2010. There is doubt as well over the Israeli government's readiness to accept the principle of the 1967 lines with equal land swaps.

The U.S. administration itself appears to be divided between those who have given up on Netanyahu and others who believe he can be brought to take historic decisions under proper circumstances; some who are banking on a new, enlarged Israeli government and others who believe that is pure folly and that they need to work with the prime minister and his coalition; some who wish to see the U.S. introduce its own peace plan or at least parameters and others who believe the parties need to seriously negotiate first – directly – before Washington considers presenting bridging proposals.²⁹⁴

President Obama appears increasingly intent on delving into the Israeli-Palestinian conflict. By virtually all accounts, the tone and pace of the current dispute with Israel bears Obama's direct fingerprints; likewise, various sources suggest he is dissatisfied with his administration's performance to date on this issue.²⁹⁵ This could be an indication of a more hands-on presidential approach in the coming weeks and months; foreign dignitaries who have met with him recently have come away with that impression, together with the notion that National Security Adviser Jim Jones also would be playing a more direct role.²⁹⁶ Among his central themes is the conviction that resolving the conflict is a core U.S. interest.²⁹⁷

The administration is considering presenting – at some stage – its ideas or vision on how to end the conflict. The notion has long been in the air, though it has been viewed as quite premature until now on several counts: in the absence of negotiations, U.S. ideas could appear detached from reality, smack of outside imposition, lack the necessary buy-in from the parties and most likely be rejected out of hand; preliminary steps are needed to create the right context and rebuild trust between Israelis and Palestinians; and a precipitous move would leave the administration with little room to manoeuvre should it be turned down by one or both parties. It also could trigger strong opposition from the U.S. Congress.

Senior officials have emphasised that it is a matter of timing, and the timing has not been right.²⁹⁸ As the effort to achieve a settlement freeze, early Arab normalisation steps and a resumption of direct talks faltered, curiosity about a proposal grew. Even then, officials preferred to think in terms of bridging proposals offered if and when the par-

²⁹⁴ Crisis Group interviews, U.S. officials and analysts, Washington, March-April 2010.

²⁹⁵ Crisis Group interviews, U.S. officials, Washington, April 2010.

²⁹⁶ Crisis Group interviews, European officials, April 2010.

²⁹⁷ “The president is deeply convinced that the Israeli-Palestinian conflict taints much of what we do in the Arab and Muslim worlds. That's why it is not enough to manage it. It needs to be solved”. Crisis Group interview, U.S. official, Washington, April 2010.

²⁹⁸ Crisis Group interview, U.S. official, Washington, June 2009.

ties hit an obstacle in their negotiations.²⁹⁹ The latest impasse clearly has revived interest, although hesitation remains. As revealed in press reports, Obama dropped into a 24 March meeting between General Jones and six of his predecessors as national security advisers, and the discussion quickly focused on the merits of a U.S. plan. The president reportedly was non-committal; one issue he raised was what would happen if the proposal was rejected.³⁰⁰ Participants advanced some potential benefits of having the U.S. present its ideas or vision on resolving the conflict: it would clarify U.S. objectives to the parties and beyond and trigger debate among Israelis and Palestinians about the final outcome and core issues rather than settlements.

No decision appears to have been made, and debate within the administration likely is ongoing; even should the president opt for this course, there is reason to believe it will not be in the immediate future. In this sense, press leaks by administration officials raised questions. Administration officials argued that, by presenting this as a real option, they were putting Netanyahu on notice: either take the proximity talks seriously, or you know what is coming.³⁰¹ In contrast, some analysts saw the attention to a possible U.S. plan as potentially harmful. As one put it:

If the administration is not thinking of unveiling a plan or vision, it makes no sense to talk about it. If it is considering it, then the last thing to do is raise the idea prematurely, allowing opponents to gather forces and prepare a pre-emptive strike. Already, many Israelis and not a few Americans are railing against an “imposed peace”, painting the idea in its worst possible light. This is the sort of initiative one must work on in a quiet manner and bring out at an appropriate time.³⁰²

Foreign leaders who have met the president emerged with the sense that, for now, the goal remains to start proximity talks and give them some time to see if progress can be made.³⁰³ U.S. articulation of its principles would be considered should that effort fail, but most likely not be-

fore the autumn.³⁰⁴ Obama himself has sent mixed signals about how forcefully he intends to move. Alongside his strong statement about the importance to U.S. national interests of resolving the conflict, he made this observation about the limits of American power:

Even if we are applying all of our political capital to that issue, the Israeli people through their government, and the Palestinian people through the Palestinian Authority, as well as other Arab states, may say to themselves, we are not prepared to resolve this – these issues – no matter how much pressure the United States brings to bear.³⁰⁵

This sentiment sparked renewed Palestinian fears that Obama’s initiative, however passionately he may believe in it, will fall short for lack of U.S. resolve – another example of the fine line Washington must walk in dealing with the two sides. The implication that primary responsibility for ending the conflict lies with the parties themselves led a Fayyad adviser to comment: “Leaving it up to the parties leaves the weak at the mercy of the strong and the process hostage to the balance of power”.³⁰⁶

²⁹⁹ Crisis Group interview, U.S. official, Washington, December 2009.

³⁰⁰ See *The Washington Post*, 7 April 2010; *New York Times*, 8 April 2010.

³⁰¹ Crisis Group interviews, U.S. officials, Washington, April 2010. Some analysts suggested the leaks also might have been intended by some to promote their view within a divided administration. Crisis Group interviews, Washington, April 2010.

³⁰² Crisis Group interview, U.S. analyst, Washington, April 2010. Israeli officials spoke strongly against the prospect of what they call an imposed peace in response to press reports that the White House was considering putting its ideas on the table. Israel’s deputy foreign minister, Danny Ayalon, commented: “I don’t believe this will be accepted by the administration, because it will be a grave mistake ... The solution has to be home-grown”. *The Wall Street Journal*, 13 April 2010.

³⁰³ Crisis Group interview, U.S. official, Washington, April 2010.

³⁰⁴ Crisis Group interviews, European officials, April 2010. On 19 April, Rahm Emanuel, the president’s chief of staff, was explicit: “A number of people have advocated that [putting a U.S. plan on the table]. That time is not now. The time now is to get back to the proximity talks [and] have those conversations that eventually will lead to direct negotiations, start to make the hard decisions to bring a balance between the aspirations of the Israelis for security and make that blend with the aspirations of the Palestinian people for their sovereignty”. Interview with Charlie Rose, quoted in *Haaretz*, 20 April 2010.

³⁰⁵ From the president’s 13 April 2010 press conference, www.whitehouse.gov/the-press-office/press-conference-president-nuclear-security-summit.

³⁰⁶ Crisis Group interview, Ramallah, 19 April 2010. Popular Palestinian frustrations with Obama’s statement were reflected in the title of a column written by Hani Masri, a leading columnist, “Excuse me Obama, but Palestinians are ready to end the occupation”. *Al-Ayyam*, 17 April 2010.

VI. CONCLUSION: A CRISIS IN SEARCH OF A STRATEGY

Some eight years ago, Crisis Group advocated presentation by the U.S. of its ideas for comprehensively solving the Israeli-Arab conflict.³⁰⁷ As this report has showed, Palestinians have grown deeply disillusioned with peace negotiations and thus have been considering complementary ideas. At the same time, they have yet to figure out how to resolve the tensions between these notions – which all involve a degree of confrontation with Israel – and the PA's current dependency on Israeli cooperation. Nor is it clear how they might lead to full resolution of the conflict.

A well thought out U.S. initiative potentially could break this logjam and restore Palestinian faith in the process, while simultaneously mobilising international – and, in particular – Arab support. But there are risks, and these ought not to be taken lightly. Circumstances have changed dramatically since 2002, when Crisis Group first made this proposal. Palestinians are politically divided and geographically fragmented; the PLO and Fatah are weaker and face stronger domestic challengers; foreign countries are wielding greater influence and in greater numbers. Though to a lesser degree, Israel's political system also is fragmented and finds it more difficult to make historic decisions. In both arenas, actors opposed to the kinds of compromises that will be necessary – Israeli settlers and religious right; the Palestinian refugees, diaspora and Islamists – are the more dynamic, most actively mobilised and least involved in discussions about a settlement. In both societies, faith in peace has crumbled.

This report describes the reasons why on the Palestinian side. Israelis focus on the violent aftermaths of their withdrawal from South Lebanon and Gaza; on the threat – perceived, exaggerated or real – emanating from Iran; on the rise of militant forces in Palestine and throughout the region that reject their nation's very existence; and on their concern that those groups may acquire ever more deadly and far-reaching weapons.

The region, too, has undergone huge shifts. Arab allies such as Egypt, Jordan and Saudi Arabia upon whom the U.S. long relied no longer can dictate or expect compliance from others. Their governments, too, have suffered from the peace process dead-end, the Lebanon war and the conflict over Gaza, which exposed them to their peo-

ple as impotent or, worse, on the wrong side of history. Increasingly, they appear worn out and bereft of a cause other than preventing their own decline and proving their own relevance. Gradually, they are being upstaged or rivalled by others – states (such as Iran, Syria, Turkey or, to a lesser degree, Qatar) or movements (most notably Hamas and Hizbollah). They still can carry the day – as shown by the Arabs' initial decision to back proximity talks. But they do so with greater difficulty and so with greater reservations, feeling the pressure of dissenters both domestic and regional.

Finally, U.S. credibility has taken a severe beating. This report illustrates how this occurred among Palestinians. But so too has an important segment of Israeli society become distrustful, unsure whether the current administration understands its predicament or the Middle East and uncertain whether it can or should place its fate in America's hands.

None of this implies that presentation of U.S. ideas would be a bad idea; rather it requires steps to maximise chances that such a vision would be welcomed and translated into reality. A proposal introduced at a time when Palestinians are deeply polarised, and Hamas has every incentive to act as a spoiler; when the region is deeply divided, incapable of producing a credible Arab consensus; when Syria feels excluded; and when important Israeli constituencies doubt Washington's commitment and reliability likely would become the target of intensive and effective attacks. The rifts created could be such as to render acceptance, let alone implementation of a plan extraordinarily complicated.

Failure would not be inevitable, and there certainly would be benefits from the expression of a broad international consensus on the endgame. But a positive response and genuine follow-up from the region's key actors would be more uncertain.³⁰⁸ There would be a very real possibility of one or both sides taking the risk of saying "no" and arguing they cannot accept an externally-imposed plan.³⁰⁹ What would the U.S. do in that event?

³⁰⁷ Crisis Group Middle East Reports N°2, *Middle East Endgame I: Getting To A Comprehensive Arab-Israeli Peace Settlement*; N°3, *Middle East Endgame II: How A Comprehensive Israeli-Palestinian Peace Settlement Would Look*; and N°4, *Middle East Endgame III: Israel, Syria and Lebanon – How Comprehensive Peace Settlements Would Look*; they were published simultaneously on 16 July 2002.

³⁰⁸ A U.S. analyst argued: "The Palestinians who are pushing for a U.S. peace proposal are doing so because they fear they are too weak to make the compromises themselves. The Israelis who are advocating the same are doing so because they don't have the necessary domestic support to carry the country. It's an alliance of those who want outside support because they are too weak inside. That's not a very promising recipe for success". Crisis Group interview, April 2010.

³⁰⁹ A Kadima Knesset member said, "we are not facing the danger of an embargo or sanctions from the U.S. I do not underestimate for a moment the current international crisis and the need to deal with it, but there are things that also under pressure one cannot accept. If the U.S. puts forward parameters or a plan, it won't change the situation on the ground. Peace requires a peace agreement". Crisis Group interview, Jerusalem, April 2010. As noted, President Obama suggested that the par-

American policy on the Israeli-Palestinian conflict throughout much of 2009 seemed rudderless, reduced to remedial interventions with regional actors who were not marching to Washington's tune. Should the U.S. put forth ideas without the necessary preparatory work, that situation could well recur and its proposal become a football in the service of other agendas. If the administration is serious about avoiding the fate of prior peace proposals – from the 1969 Rogers plan through the 1982 Reagan plan to the 2000 Clinton parameters – its effort should be the culmination of a period of intensive diplomacy designed to create a more propitious climate, focusing on the following:

- Additional work on the substance. Although the broad contours of a final deal likely are known, important gaps remain over which it would be foolhardy to gloss – on Jerusalem and refugees in particular.³¹⁰ The two sides' views also might well have evolved over the years on some matters, for example on security arrangements. On all these, prior engagement with the parties will be required to maximise their buy-in, satisfy core aspirations and avoid intensive domestic backlash in the two arenas. This also will entail reaching out to and seeking to better address concerns of groups that traditionally have been ignored yet can play an active role in mobilising dissent: Islamists, refugees and the diaspora on the Palestinian side; settlers and religious groups in Israel.³¹¹
- A new, more nuanced American approach to Palestinian politics, including at a minimum a hands-off approach toward reconciliation; enhanced steps to relax or remove the siege on Gaza; and encouragement of third-party contacts with Hamas.³¹²
- Deepened engagement with Syria and efforts to restart Israeli-Syrian negotiations, as discussed in previous Crisis Group reports.³¹³ Bringing Damascus on board would be crucial. First, it would help create a regional, Arab consensus without which the Palestinians will

find it hard to move, and domestic Palestinian opposition would be far greater and more effective. In a sense, the U.S. should do advance work to line up important potential “validators” with credibility among Arab and Palestinian public opinion to endorse its initiative; having Syria, Turkey and others on board in this respect would be key. Secondly, without a Syrian (and Lebanese) deal, the incentives for Israel would be greatly reduced: it would not get the benefits of the Arab Peace Initiative and its promise of full normalisation with and recognition by all Arab countries; and it still would face security threats on its northern border which, today, loom larger than those emanating from the West Bank.

- Overcoming the current mistrust between the U.S. and large parts of Israeli public opinion. Witnessing the public disagreement might give Palestinians some satisfaction; it will not necessarily give them what they want. Trust needs to be rebuilt, with the government but also with the public at large. A former American official argued: “ultimately, if you want an agreement, the Israeli government is going to have to make the concessions and take risks regarding Israel's physical security. Assuming he is willing, the prime minister will do so only with a U.S. president on whom he can rely. He will not move courageously with a president he does not trust. And if there is scepticism about the U.S. among the wider public, as there is today, he will have sufficient backing for his stance”.³¹⁴

This does not mean giving either party a veto over American policy, which is likely to encounter opposition from many in Israel (as among Palestinians) no matter what; nor does it mean renouncing the calibrated and judicious use of pressure without which the U.S. would lack a valuable tool of diplomacy. But the goal should be to convince, through the various means of persuasion the U.S. possesses, a critical mass of Israelis and Palestinians to support its plan, thereby making rejection more difficult and more politically costly on both sides.

Also, should proximity or direct talks commence, Mitchell should be given the necessary leeway to assess when the introduction of any U.S. ideas would be useful and when, in contrast, they might impede progress.³¹⁵

Diplomatic work will be equally important after U.S. ideas are unveiled, so that they do not remain idly on the shelf. The focus in the first instance could be on powerful, even

ties might indeed reject a U.S. proposal, no matter how forcefully presented. See fn. 304 above.

³¹⁰Tellingly, while Palestinian officials and activists interviewed by Crisis Group readily endorsed the notion of a U.S. plan, most expressed reservations about possible language on refugees. “We want Obama to impose a solution. But the plan must be acceptable – and the Clinton parameters [which spoke of refugee return to Palestine and Israel's sovereign decision as to who it might allow] do not qualify as such”. Crisis Group interview, Fatah Revolutionary Council member, Ramallah, April 2010. Others disagreed and felt that if the package were otherwise appealing, Palestinians would embrace it. Crisis Group interview, PLO official, Ramallah, April 2010.

³¹¹See Hussein Agha and Robert Malley, “Obama and the Middle East”, *New York Review of Books*, 11 June 2009.

³¹²Crisis Group Report, *Gaza's Unfinished Business*, op. cit.

³¹³Crisis Group Middle East Reports N°92 and N°93, *Reshuffling the Cards? (I) Syria's Evolving Strategy* and *Reshuffling the Cards? (II) Syria's New Hand*, 14 and 16 December 2009.

³¹⁴Crisis Group interview, Washington, April 2010. A former senior Israeli official put it as follows: “An Israeli prime minister who is dragged kicking and screaming will not bring you where you want to go”. Crisis Group interview, April 2010.

³¹⁵A former U.S. official observed: “It would make no sense to entrust Mitchell with negotiations and then undercut him with an initiative he opposes. Either you trust him or you don't”. Crisis Group interview, Washington, April 2010.

dramatic steps to signal international and especially Arab support in order to convince Israelis of the benefits of an agreement and Palestinians of the political backing they would enjoy. Several ideas have been mooted in this respect, the most recent by two Crisis Group board members,³¹⁶ all of which depend crucially on prior commitments by Arab states to publicly back the U.S. ideas. The U.S. parameters also should be immediately endorsed by the Security Council. In short, without a strategy that provides the initiative with impetus and momentum, it would be at real risk. For just as it will be hard to mobilise supporters on behalf of a not yet implemented agreement with uncertain benefits, opponents will be galvanised by the prospect of tangible losses.

To say conditions are not ripe for a U.S. initiative does not mean waiting for them to ripen; it means taking deliberate, sustained and active steps to make them so.

**Ramallah/Jerusalem/Washington/Brussels,
26 April 2010**

³¹⁶They argued: “A routine unveiling of a U.S. peace proposal, as is reportedly under consideration, will not suffice. Only a bold and dramatic gesture in a historically significant setting can generate the political and psychological momentum needed for a major breakthrough”. Their suggestion: “in the company of Arab leaders and members of the Quartet, President Obama should travel to the Knesset in Jerusalem and the Palestinian Council in Ramallah to call upon the Israelis and Palestinians to negotiate a final status agreement based on the proposed framework for peace”. This, they say, would create the conditions required for both sides to make the necessary concessions – vividly demonstrating Arab willingness to normalise relations with Israel in the context of an acceptable agreement and to back Palestinian compromises. Zbigniew Brzezinski and Stephen Solarz, *The Washington Post*, 11 April 2010.

APPENDIX A

MAP OF ISRAEL AND WEST BANK/GAZA



APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters are in Brussels, with major advocacy offices in Washington DC (where it is based as a legal entity) and New York, a smaller one in London and liaison presences in Moscow and Beijing. The organisation currently operates nine regional offices (in Bishkek, Bogotá, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina and Tbilisi) and has local field representation in fourteen additional locations (Baku, Bangkok, Beirut, Bujumbura, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria, Sarajevo and Seoul). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh, Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in

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ARAB-ISRAELI CONFLICT

After Mecca: Engaging Hamas, Middle East Report N°62, 28 February 2007 (also available in Arabic)

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After Gaza, Middle East Report N°68, 2 August 2007 (also available in Arabic)

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Iraq after the Surge I: The New Sunni Landscape, Middle East Report N°74, 30 April 2008 (also available in Arabic)

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