

PALESTINIAN RECONCILIATION: PLUS ÇA CHANGE ...

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TABLE OF CONTENTS

EXECUTIVE SUMMARY AND RECOMMENDATIONS	i
I. WHY NOW?	1
II. WHAT WAS AGREED?	8
III. CHALLENGES	11
IV. THE INTERNATIONAL COMMUNITY’S REACTION	19
V. CONCLUSION	23
APPENDICES	
A. MAP OF ISRAEL AND WEST BANK/GAZA	28
B. ABOUT THE INTERNATIONAL CRISIS GROUP	29
C. CRISIS GROUP REPORTS AND BRIEFINGS ON THE MIDDLE EAST AND NORTH AFRICA SINCE 2008 ...	30
D. CRISIS GROUP BOARD OF TRUSTEES	32

PALESTINIAN RECONCILIATION: PLUS ÇA CHANGE ...

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Hamas and Fatah surprised all with their announcement of a reconciliation accord. What had been delayed since Hamas took over Gaza in 2007 and Palestinian Authority (PA) President Abbas asked Salam Fayyad to form a government in the West Bank was done in Cairo in hours. Shock was matched by uncertainty over what had been agreed and the course it would take. Would the factions produce a national strategy and unify fractured institutions? Or would the agreement codify the status quo? Even some of the more pessimistic scenarios were optimistic. Reconciliation stumbled at its first hurdle, naming a prime minister – though that is not the only divisive issue. Neither side wants to admit failure, so the accord is more likely to be frozen than renounced, leaving the door slightly ajar for movement. Palestinian parties but also the U.S. and Europe need to recognise that reconciliation is necessary to both minimise the risk of Israeli-Palestinian violence and help produce a leadership able to reach and implement peace with Israel.

The reconciliation accord signed on 4 May, is several agreements in one: the Egyptian Reconciliation Document, signed by Fatah in October 2009 but rejected by Hamas, which claimed it did not accurately reflect prior discussions; an additional five points, agreed on 27 April – the “Understandings”, which reflect many of Hamas’s reservations about the Egyptian Document; and unwritten, informal understandings, some of which undo provisions of the signed agreements. Taken together, they would alter politics in two ways. First, they provide for a single Palestinian government, with limited functions, of technocrats or independents, charged with unifying institutions and preparing for legislative, presidential and Palestine National Council elections in a year. Secondly, they call for a newly constituted, temporary leadership body operating in ambiguous partnership with the Palestine Liberation Organisation (PLO). The key was the decision to delay security reform until after the elections.

There were several reasons why the parties at long last reached an agreement, though a genuine change of heart was not one of them. Neither Fatah nor Hamas changed its views of the other, and their mutual mistrust did not somehow evaporate. Rather, the accord was yet another unpredictable manifestation of the Arab Spring. To an extent, it

sensitised the two movements to the importance of public opinion which, among Palestinians, firmly favoured unity. But that was not the main impetus. Instead, what made the difference were the strategic shifts produced by Arab uprisings.

For Fatah and President Abbas in particular, it has meant the fall of a reliable ally in Cairo. Coming atop dwindling Palestinian faith in negotiations and acute disenchantment with U.S. President Barack Obama, Mubarak’s ouster signalled the need for a strategic reorientation. The deal with Hamas was one step in that direction; greater determination in turning to the UN as a forum for dealing with the Israeli occupation is another.

For Hamas, the regional landscape shifted in two perceptible ways. Changes in Egypt both removed a thorn from its side and augured a likely improvement in bilateral relations; the prospect that the Muslim Brotherhood (Hamas’s parent organisation) would play an increasingly central role in Egyptian politics further led the Islamist movement to gravitate toward Cairo. Far more than Iran, and more even than Assad’s Syria, Egypt in theory is Hamas’s natural partner in light of its geographic proximity to Gaza and the movement’s historical relationship with the Egyptian Muslim Brotherhood. Simultaneously, popular unrest in Syria called into question the sustainability of Hamas’s close ties to President Assad’s regime. Together, these developments significantly enhanced the movement’s incentive to say “yes” to Cairo and sign the unity agreement.

Egypt’s newfound credibility among Arab publics is one reason why Fatah and Hamas are reluctant to walk away from the accord, even as both impede its implementation. The same applies to some extent to the U.S. and Europe, neither of which wishes to alienate the new regime in Cairo; the reconciliation accord represents its first foreign policy achievement, after all, and Western countries eager to show they are on the right side of history must think twice before openly opposing or blocking it. Besides, European capitals in particular seem to have learned a few lessons from the past and come to regret the approach they adopted the last time Palestinians sought to mend fences in 2007, when they kept their distance and contributed to failure. All of which explains why, to date, the European Union (EU)

and, to a lesser extent, the U.S. (which is far more susceptible to domestic political pressure) have avoided verbal condemnation of the agreement and instead adopted a wait-and-see approach.

But refusing to bury the accord is not the same as helping bring it to life. President Abbas and many in Fatah are loath to endanger the international legitimacy and support that they see as their chief asset; forming a new government, replacing Prime Minister Fayyad and reforming the PLO could put those at risk, as Washington has made abundantly clear. Likewise, Hamas finds it difficult to compromise on core issues after a long period of sacrifice in Gaza and the West Bank. The partisan rivalry has not abated; if anything, after five years of bitter feuding, it has intensified. So far, signing the reconciliation agreement simply has looked like a way for Fatah and Hamas to wage their struggle through other means. Israel and many in the West might see in this reason to celebrate, ignoring as they have in the past that a divided Palestinian leadership has less legitimacy, less room for flexibility and less ability to shape the outlook and behaviour of increasingly frustrated constituents.

The Arab world is boiling. Palestinian activists chafe at the current paralysis. The international community is contributing little of use. Meanwhile, the two leading Palestinian movements remain stuck in their ways. Plus ça change ...

RECOMMENDATIONS

To the Palestinian National Liberation Movement (Fatah) and the Islamic Resistance Movement (Hamas):

1. Reach a consensus on a professional, qualified prime minister who enjoys international support, avoiding either insistence on or exclusion of a specific candidate.
2. Form a government composed of non-partisan technocrats chosen by the factions that:
 - a) enforces a reciprocal Israeli-Palestinian ceasefire;
 - b) defers to the PLO chairman's negotiating agenda; and
 - c) is eventually confirmed by the Palestinian Legislative Council (PLC).
3. Implement the provisions of the 4 May agreement simultaneously, not sequentially, by:
 - a) beginning integration of the West Bank and Gaza-based Palestinian Authority by unifying the bodies that will oversee much of the process, including the Public Employees Bureau [diwan al-muwazifin al-amm] and the Public Supervision Agency [haiat al-riqaba al-amma];

- b) commencing reform of the civil police and civil defence branches of the security sector immediately, while deferring other branches to a later stage;
- c) providing sufficient support and resources to the social reconciliation committee;
- d) building internal confidence in reconciliation by ending questioning and detention on political grounds; redressing arbitrary firings of government personnel; providing freedom of expression and association; stopping incitement; and reopening shuttered political and non-governmental organisations (NGOs) and allowing them to operate free from harassment;
- e) considering PLC review of all laws and decisions passed by both West Bank and Gaza governments since June 2007 and opening court cases that relied upon such legislation to review;
- f) conducting elections for unions, professional associations and related entities over the next year to prepare for Palestine National Council elections; and
- g) initiating a strategic dialogue to define the principles and priorities of the national movement.

To the Islamic Resistance Movement (Hamas):

4. Affirm publicly that pending the reorganisation of the Palestine Liberation Organisation (PLO), its chairman will be mandated to negotiate with Israel, that any agreement will be presented to a referendum and that the movement will respect the outcome.

To the Governments of Europe and the U.S.:

5. Make clear that they will judge a unified Palestinian government based on its deeds, in particular whether it:
 - a) enforces a reciprocal Israeli-Palestinian ceasefire; and
 - b) defers to the PLO Chairman's negotiating agenda.
6. Press Israel to maintain transfer of tax clearance revenues to a new PA government formed along the lines described above.

To the Government of Egypt:

7. Facilitate movement through the Rafah crossing by increasing staffing and hours of operations to allow all those wishing to depart to do so in a timely fashion.
8. Consider allowing the movement of goods through the Rafah crossing in order to reduce smuggling under the Gaza-Egypt border.

To the Governments of the States of the Arab League:

9. Make clear to Quartet members (U.S., Russia, EU, UN Secretary-General) that they will support a new Palestinian government along the lines described above and encourage others in the international community to engage with it.
10. Promptly fulfil financial commitments to the Palestinian Authority (PA).
11. Create a reporting, monitoring and dispute resolution mechanism to support implementation of the reconciliation agreement.

To the Government of the United States:

12. Maintain budgetary assistance to a new Palestinian government formed along the lines described above.
13. In the event Congress mandates a cutoff in budgetary support to such a government, maintain development assistance to the population and refrain from applying sanctions, particularly in the banking sector, or otherwise impeding the assistance that other states may wish to supply.

To the Government of Israel:

14. Maintain transfer of tax clearance revenues to a new PA government formed along the lines described above.
15. Allow the import of construction material into, and exports from, Gaza.

To the international community:

16. Allow, to the maximum extent permitted by law, donor-funded projects to use construction materials that enter Gaza via the tunnels under its border with Egypt.
17. Encourage Israel to increase the movement of materials into and exports out of Gaza and Egypt to enhance the functioning of the Rafah crossing as described above.

**Ramallah/Gaza/Jerusalem/Washington/Brussels,
20 July 2011**

PALESTINIAN RECONCILIATION: PLUS ÇA CHANGE ...

I. WHY NOW?

The reconciliation agreement signed on 4 May¹ was rooted in regional, international and to some extent local Palestinian developments. At the top of the list was the Arab Spring, which affected both Fatah's and Hamas's calculations; declining faith in negotiations and popular pressure to end the costly divide also played a part.

Yet, when Egypt first renewed its mediation in the weeks after Mubarak stepped down on 11 February 2011, both Fatah and Hamas leaders – along with ordinary Palestinians and observers – evinced pessimism, believing the conditions unripe. Significant gaps remained between the two sides, notably regarding a putative unity government's political program (and whether or not it would comply with the Quartet conditions),² the prospect of Hamas joining the Palestine Liberation Organisation (PLO) and the status of security forces in the West Bank and Gaza. Moreover, it appeared difficult for President Mahmoud Abbas to break free of his belief in negotiations with Israel and close diplomatic – as well as security and financial – ties with the U.S., both of which could be jeopardised by a deal

with Hamas. As importantly, the two movements were of the view that progress was impossible without Egyptian pressure, which, given the country's internal preoccupations, seemed unlikely to materialise.

What many – including virtually all but the most senior ranks within Hamas and Fatah – failed to recognise was the extent to which pressure in fact was building on the two main Palestinian movements to reach an agreement. In effect, and for the first time since Hamas took over Gaza in June 2007, the interests of Cairo, Fatah and Hamas were simultaneously aligned in favour of a unity deal.

Events in Egypt were paramount. Even before they had occurred, President Abbas's reliance on negotiations – and particularly on the U.S. to ensure their success – had been exposed as futile. It had become increasingly difficult to defend a strategy that, almost twenty years after the Oslo accords, had yielded little and offered scant promise of future achievements.³ The fall of Mubarak's Egypt added to the sense of failure in that it signified both the loss of a key ally and a significant weakening of the so-called moderate Arab camp to which Abbas and his colleagues remained tied. Tellingly, several Palestinian leaders bemoaned what they considered Washington's hasty abandonment of Mubarak, some going so far as to suspect an American conspiracy to weaken the Arab world.⁴

The former regime in Cairo, which hardly concealed its concern about Hamas's ascendancy and, chiefly, its control of Gaza, maintained pressure on the Strip through strict management of access via Rafah and constrained the movement of Gaza-based Hamas leaders.⁵ On reconciliation, likewise, it was far more inclined to back Fatah, for example insisting – over the Islamists' objections – that the Egyptian Reconciliation Document, named for its author and sponsor, was the sole, unalterable basis for any putative

¹ The reconciliation agreement was initialled by Hamas and Fatah on 27 April and signed by thirteen factions in Cairo on 4 May. In an illustration of potential difficulties to come, a disagreement over protocol nearly derailed the event. Controversy arose over whether Hamas politburo head Khaled Meshal would sit on the stage or give a speech. Intense Egyptian intervention brokered a compromise whereby Meshal spoke for ten minutes (in contrast with Abbas's half-hour) and was seated in the audience, next to then-Arab League chief Amr Mousa, not on the podium. In light of his stature as president, Abbas insisted that he be treated differently from Meshal; for Hamas, Abbas's refusal to treat Meshal as an equal indicated "his lack of good will" regarding the accord. Crisis Group interviews, Fatah Revolutionary Council member, Ramallah, May 2011; Hamas leader, Cairo, May 2011.

² At its 30 January 2006 meeting in the wake of Hamas's victory in the Palestinian Legislative Council elections, the Quartet (the U.S., Russia, EU and the UN Secretary-General) laid down three principles: "It is the view of the Quartet that all members of a future Palestinian government must be committed to nonviolence, recognition of Israel, and acceptance of previous agreements and obligations, including the Roadmap". www.un.org/news/dh/infocus/middle_east/quartet-30jan2006.htm.

³ A PLO negotiator stated bluntly: "Has the time not come for us to admit we were wrong, that we failed and that at this rate our main function appears to be to facilitate Israel's continued occupation?" Crisis Group interview, June 2011.

⁴ Crisis Group interviews, Fatah leaders, Ramallah, February 2011.

⁵ On Egypt's role and attitude, see Crisis Group Middle East Report N°85, *Gaza's Unfinished Business*, 23 April 2009, pp. 36-42.

deal.⁶ By contrast, the new Egyptian government signalled that it would shift its posture toward Gaza,⁷ and relations with the Islamist movement quickly appeared to move to a sounder footing.⁸ Most assumed that in the future, an

⁶This document is formally known as the “Palestinian National Conciliation Accord – Cairo 2009 [ittifaqiyat al-wifaq al-watani al-filastini – al-qahira 2009]”. Given that the Accord is more commonly referred to simply as the “Egyptian document” and that there are other documents with names similar to the official title, this report refers to the Accord as the “Egyptian Reconciliation Document”. The document was issued in October 2009 after six rounds of Egyptian-sponsored dialogue attended by Hamas, Fatah, other factions and independents. It included points of agreement as well as Egyptian bridging proposals, although Hamas disputes that the document signed by Fatah (and that it rebuffed) accurately reflected those discussions. Hamas’s reservations were ultimately whittled down to three chief areas: security (the leadership of the security forces, the composition of the committee that would oversee them, and the fate of militias); the nature of election planning and oversight; and PLO reform (particularly the composition and role of the temporary leadership framework that would shepherd the organisation through the reform process). Crisis Group interview, Hamas leaders, Gaza and Damascus, October and November 2010. Given the dispute over the precise text of the Egyptian Document, it is worth clarifying that according to both Fatah and Hamas negotiators, the version that the movements and factions signed on 4 May 2011 was the one that had been signed by Fatah and rejected by Hamas in October 2009. Crisis Group interviews, Ramallah and Gaza City, June 2011. *Al-Ayyam* published the document on 14 October 2011. An English summary can be found at www.mesi.org.uk/ViewNews.aspx?ArticleId=3577.

⁷In late May, Cairo changed the procedures at Gaza, purportedly allowing women of all ages, boys under eighteen and men over 40 to enter Egypt without prior security clearance. In practice, travel has become more arduous, not less; while more people in theory are allowed to travel, the numbers of travellers per day permitted to leave Gaza averages only in the low hundreds. This at first generated a significant backlog, as Gazans rushed to register for a coveted spot on the departure list. This in turn led the Gaza government to change its registration procedures (abolishing online registration; payment of fees in advance; and imposing a three-month travel ban on those who register to depart then fail to do so). As a result, the backlog has dropped from several months to a few weeks. Crisis Group observations, Gaza City and Rafah, July 2011. The Gaza government also has begun to prioritise travellers in much the same way that Egypt did under Mubarak, according priority to the sick, students and those with visas. *Felsteen*, 23 June 2011. Those travelling for religious obligations (Umra and Haj) also receive preferential treatment. Those who do travel attest to the better treatment they receive.

⁸A Hamas leader said that Cairo “is seeking to chart a new course and maintain equal distance from the two parties [Hamas and Fatah]”. Crisis Group interview, Gaza City, March 2011. A former Egyptian official confirmed this assessment: “I was very direct with my Fatah contacts. I told them that Egypt intends to normalise life in Gaza, which inevitably will mean a certain normalisation with Hamas as well”. Crisis Group interview, Cairo, May 2011.

elected, more representative Egyptian government would be likely to carry this further; were the Muslim Brotherhood to make important electoral gains and play an influential political role, such shifts could become deeper still. More generally, any increase in the Brotherhood’s international legitimacy would redound to its Palestinian offshoot’s benefit.

Some PA and Fatah officials, even in the early days of the new Egyptian order, downplayed the extent of these setbacks. They argued that Egypt’s stature already had been vastly reduced in recent years, a decline that had benefited more militant states (such as Iran, Syria or even Turkey) and movements (including Hamas and Hizbollah). An adviser to President Mahmoud Abbas commented: “Mubarak never did anything for us other than deliver us to the Americans”.⁹ Nor had Cairo been able to successfully pressure Hamas, which, for years, openly defied its wishes regarding reconciliation. By contrast, a senior PLO official said, a resurgent and empowered Egypt could prove more helpful to its diplomatic strategy:

Egypt will regain its place. It will have strong relations with the U.S. and with Israel, albeit based on an independent rather than subservient foreign policy. It will be strong, and those countries whose stature rose as a consequence of its diminishment themselves will be diminished in turn. Qatar, Turkey, even Iran will fade.¹⁰

The spread of more democratic systems also was seen as potentially advantageous in the diplomatic tug-of-war with Israel. In the words of an adviser to President Abbas:

By the end of this process, Israel will look like the odd man out rather than the region’s sole democracy. Soon, it could appear merely as another despotic occupier. For the secular Palestinian national movement, the Arab revolution could be the saving grace.¹¹

But this was meagre consolation at a moment when it seemed that all the familiar rules of the Middle East game were changing. Abbas and his colleagues did not want to alienate the new regime or find themselves further at odds with Arab public opinion at a time when Cairo was playing a far more active role. Moreover, the halt in negotiations

⁹Crisis Group interview, Ramallah, March 2011.

¹⁰Crisis Group interview, Ramallah, 2 March 2011.

¹¹Crisis Group interview, Ramallah, 25 March 2011. Domestically, too, a presidential adviser argued that the Arab Spring could help Abbas: “He has called for elections for years now; he is not seen as one of those leaders who clings to power at all costs. In that sense, he is on the right side of the call for more representative government”. Crisis Group interview, June 2011. Abbas is fond of saying that, if a mere handful of demonstrators in Ramallah demanded his resignation, he would immediately step down. Crisis Group interview, presidential adviser, June 2011.

with Israel and the uncertainty surrounding the Palestinians' strategy of seeking membership in, or internationalisation of its conflict with Israel via the UN encouraged them to assemble a new hand of cards. Abbas and other Fatah leaders long had claimed that unity would enhance their diplomatic options, though it always was unclear whether they believed their own argument (since bringing Hamas would alienate Israel, risk making Europeans uncomfortable and harden U.S. opposition to the UN route).¹² Now, the combination of the Arab Spring and disappointment with the U.S. pushed him to take a chance on reconciliation particularly since a united home front also could be used to signal that he had other choices, should none of his preferred options pan out.¹³

Hamas initially interpreted Arab developments as unmistakably redounding to its benefit. In Mubarak's overthrow, it saw not only the defeat of an antagonist but also the downfall of a misguided approach to the Palestinian question. Regional upheaval, in the movement's eyes, indicates that history is moving in its direction, and Islamists will gain important influence. A senior leader said, "popular mobilisation in the region will enhance our program, protect our cause and support our national rights. Fatah should fear this change because its project has reached a dead end: the option of a negotiated political settlement with Israel has been revealed as illusory".¹⁴

Emboldened, Hamas made entry into the PLO a sine qua non of reconciliation; the events of Egypt and Tunisia

demonstrated, its leaders said, that what was important was not a narrowly conceived reconciliation between Fatah and Hamas,¹⁵ but rather a more comprehensive unity involving all Palestinian political forces. In that spirit Hamas planned a new initiative to forge consensus on the national movement's next steps – such as elections for the Palestine National Council, the PLO's legislative arm – that in effect would circumvent Abbas and appeal directly to the other factions and the Palestinian people more generally.¹⁶

But the Islamists' hesitation about reaching an agreement with Abbas soon was overcome as well. Again, regional events played a paramount role. The combination of the Egyptian uprising and Syria's unrest led Hamas to reassess its strategic posture. With Mubarak gone, Hamas had an opportunity to set its relationship with Egypt on sounder footing. This was far from inconsequential. Historically the Arab world's most influential country, Egypt also was – given long-time Israeli restrictions at its crossings with Gaza – the Strip's sole viable lung. Far more than Iran, and more even than Assad's Syria, Egypt in theory is Hamas's natural partner in light of its geographic proximity to Gaza and the movement's historical relationship with the Egyptian Muslim Brotherhood.¹⁷

Once Egypt's authorities made clear their interest in a unity deal, pressure on Hamas mounted, since it did not wish any more than Fatah to alienate them. What is more, changes at the Rafah border crossing in the post-Mubarak era were slow to come. While Hamas demonstrated patience,¹⁸ Egypt

¹² Several Palestinian officials in Ramallah argued that reconciliation would remove what they called the "Israeli pretext" that Abbas does not represent both the West Bank and Gaza and so cannot deliver on any putative agreement. Reconciliation also would strengthen his hand at the UN, they say, since otherwise the PLO would be asking the UN to recognise a "shattered territory". Crisis Group interview, PLO Executive Committee member, Ramallah, May 2011. They add that so long as Abbas names a government of technocrats or independents, his political program remains the same – a state on the 1967 lines – and all factions adhere to a de facto ceasefire, Abbas will be strengthened. A UN official offered a similar analysis, commenting: "When the Palestinians approach the UN General Assembly in September, the Arab states, Islamic states, and non-aligned bloc will support him and the U.S. will oppose him. The real question is what the Europeans will do, and so far they have signalled that so long as a ceasefire obtains, and Abbas remains committed to a negotiated solution, they won't fight him". Crisis Group interview, Jerusalem, May 2011. This was prior to President Obama's 19 May speech and concerted efforts to discourage EU countries from backing the Palestinians at the UN.

¹³ "Abbas can't point to a single success during his tenure as president, but at least he can now claim to have repaired the division that he himself presided over. It's his sole national achievement". Crisis Group interview, civil society activist, Ramallah, May 2011.

¹⁴ Crisis Group interview, Gaza City, May 2011.

¹⁵ A Hamas leader derided such an agreement as a "life preserver" for his movement's chief rival. Crisis Group interview, Gaza City, May 2011.

¹⁶ Crisis Group interview, senior Hamas leader in exile, March 2011.

¹⁷ Hamas and the Egyptian Muslim Brotherhood maintain what leaders of both groups affirm are positive relations. But in order to avoid creating the impression that either serves a foreign interest or prioritises transnational religious commitments over national ones, both groups emphasise that they operate individually. A young Muslim Brotherhood activist said, "there is no way that the Brotherhood will let Hamas be strangled in Gaza. But the Brotherhood has always left space between it and Hamas. It can only be a mediator". A senior Hamas leader affirmed that Egyptian Muslim Brothers are Egyptian before all else. Crisis Group interviews, Cairo, May 2011.

¹⁸ In the immediate aftermath of Mubarak's ouster, a Hamas leader predicted: "Changes toward us and Gaza will be slow and incremental. We don't expect the new rulers to undertake a dramatic shift. But over time, especially after elections, things will become clearer". Crisis Group interview, February 2011. At a press conference, Hamas politburo head Khaled Meshal said that he understood Egypt's problems and would not push for a change – though he also added that opening the crossing would not take much effort. A senior Gaza leader echoed his patience, attributing the delay in opening the crossing more to bureaucratic obstacles than to ill intent: "A day in the life of the Egyptian government is a year for the rest of us". Crisis Group interview,

made it clear that a new border regime depended on reconciliation¹⁹ and that though it would pursue a more balanced deal, it had not shifted camps.²⁰ By accommodating the new regime's desire to rapidly close the reconciliation file,²¹ the Islamic movement sought to cement its relationship with its Arab neighbour as it bided its time, waiting for Egypt's star to rise, and the Muslim Brotherhood to gain strength.

Hamas's hopefulness about Egypt was counterbalanced by a sense of foreboding about Syria, where the regime's repression of protests has left its credibility in tatters. Damascus has hosted the movement's leadership since 2001

Rafah, May 2011. In general Hamas has taken every opportunity to show sensitivity to Egypt's dilemma and stay out of its internal affairs. At a press conference, Khaled Meshal said that for Egypt to grow into a leader of the Arab world, stability is necessary, and Palestinians would never be a cause of Egyptian strife; he also called fears of a monolithic Islamic front a "scarecrow" and said, "we enter houses by the door, not by the window". Press conference, Cairo, 7 May 2011. This obliging attitude was on display when, after Egyptian officials announced they would block Nakba Day protesters from reaching the border given the possibility of violence, Meshal said, "Egyptians of various factions and sectors must unite to establish a strong internal front ... They must pay attention to the fact that the transitional period must end as soon as possible and with minimal losses so it can form a strong government and authority that can heal the internal faults and protect the country from external threats ... As a Palestinian resistance movement, we cannot expose Egypt to the burden or to more than it can handle now ... The Palestinian people, who endured for 60 years, will be able to withstand another five or ten years and can wait for a powerful Egyptian recovery, which will in turn lead to the rise of the entire Islamic world, not only Palestine". *Al-Masri al-yawm*, 12 May 2011. Also on that day, Gaza security forces prevented protesters on their side of the border from reaching the tens of Egyptians that succeed in defying their government's protest ban.

¹⁹ Crisis Group interview, independent Palestinian close to reconciliation process, Ramallah, May 2011.

²⁰ An Egyptian intelligence official said, "after the Egyptian uprising, we sent a message to all that Egyptian foreign policy will not change substantially on the Palestinian front. At first, Hamas was convinced that momentum was with them, that with the change in Egypt they had no need to compromise. Its first emissary seemed emboldened, but we delivered a stern message and told him he would hear the same from all, including the Brotherhood. He did. The next trip someone else came, and this person adopted a different, more flexible attitude". The official made a similar point about the Rafah crossing: "We will not open it the way Hamas wants. This is a matter of Egyptian national security. We are not besieging Gaza; Israel is, and we cannot afford to let Israel off the hook and risk our own security. Weapons came in during the [Egyptian] uprising because they are more expensive in Egypt – or at least that's what Hamas told us". Crisis Group interview, Cairo, May 2011.

²¹ "Egypt called us and told us that Abu Mazen [President Abbas] has agreed to all our demands. So we signed [both documents, the Egyptian Reconciliation Document and the Understandings]". Crisis Group interview, Gaza City, Hamas leader, May 2011.

and has been one of its most reliable allies; at the same time, Hamas has come out in favour of protest movements elsewhere; does not wish to alienate Syria's majority Sunni population; and is eager to retain the sympathy of Syrian public opinion regardless of the upheaval's ultimate outcome.²² As a result, it has sought a non-committal position. Hamas officially expressed its appreciation for the support provided by the Syrian government²³ but has refrained from taking a position on the domestic conflict.

But this balancing act is not without peril. Hamas's "lukewarm embrace"²⁴ of the regime was far from what Syrian authorities sought. Reports of a crisis have abounded, with credible information that the regime asked for more outspoken rhetorical and even material support that Hamas failed to provide.²⁵ Movement leaders deny that they have been asked to leave the country,²⁶ but they are deeply uncomfortable with the status quo. A movement official said:

Syria's internal affairs are really none of our business, but still, it's very disappointing how the regime has handled it. Bashar had capital with his own people that few other leaders have because of his popular foreign policy and because he is young. It's very sad. All Arab regimes suffer from a lack of democracy. A class forms that enjoys benefits from the situation and is not willing to give them up; they refuse reform because they think it will bring them down.²⁷

Given how deeply the unrest has affected the country, the movement likely will find its conditions of operation strained

²² Crisis Group interview, Damascus, May 2011. A senior Hamas leader in exile said, "we insist that we are the people of Palestine, so we are not supposed to interfere in internal issues of other countries". Crisis Group interview, May 2011.

²³ A carefully worded – and ambivalent – Hamas statement said, "we hope the current situation will be overcome in the way that achieves the aspirations and the wishes of the Syrian people and maintains the stability of Syria and its internal integration and reinforces its role in the side of confrontation and rejection ... In the light of all of this we reaffirm our standing beside brotherly Syria, beside both its leadership and people". Reuters, 2 April 2011.

²⁴ Crisis Group interview, Hamas leader, Gaza Strip, May 2011. The Syrian government also was displeased that Khaled Meshal, in his 4 May speech, did not thank Damascus for its role in bringing about reconciliation. Crisis Group interview, Hamas leader, Cairo, May 2011. A senior Hamas leader noted that Meshal mentioned Syria – at the top of his list – in a subsequent interview with Al Jazeera. Crisis Group interview, Cairo, May 2011.

²⁵ Crisis Group interview, Hamas official, 26 April 2011.

²⁶ Crisis Group interview, Hamas leaders, Gaza City, May 2011. Some Hamas leaders in Gaza downplay the consequences were the movement to leave: "The weight of Hamas is inside [Palestine]. We went from Jordan to Qatar, Qatar to Syria, and nothing changed on the ground in Palestine". Crisis Group interview, senior leader, Cairo, May 2011.

²⁷ Crisis Group interview, May 2011.

regardless of how and when the wave of unrest ends. “We have not been asked to leave Syria”, a Hamas leader said, “but we don’t want to wait until we are asked to before we prepare other options”.²⁸

On the other hand, protesters and other Syrians apparently expected greater solidarity on the part of Palestinians living in the country. Having fared relatively well under successive Assad regimes, Palestinian refugees largely have remained on the sidelines during the unrest, to the displeasure of many Syrians; moreover, the visibility of pro-regime Palestinian factions, such as the Popular Front for the Liberation of Palestine-General Command (PFLP-GC), has tainted public perceptions of the nearly half-million Palestinian refugees in the country.²⁹

The most visible manifestation of the Palestinian dilemma occurred on the occasion of the June commemoration of the Naksa [“Setback”] Day³⁰ marking the anniversary of the 1967 Israeli-Arab war. Three weeks earlier, on the occasion of Nakba (“Catastrophe” Day, 15 May), which commemorates the Palestinian flight and expulsion from the territories that became Israel, refugees, along with their brethren in Lebanon, had breached the armistice lines with Israel in the south of their respective countries in a symbolic attempt to exercise the right of return. The fourteen deaths and hundreds of injuries notwithstanding,³¹ the popular sense that day was one of satisfaction at having taken history into their own hands and fulfilled part of the promise of the Arab Spring.

Things looked very different on Naksa day. In the West Bank and Gaza, PA and Hamas forces respectively were even more proactive than they had been three weeks earlier in hampering the demonstrations, eager to prevent confrontation with Israel. In Lebanon, too, a decision was made not to march to the border for fear of casualties. Not so in Syria. There, Palestinian refugees repeated their earlier performance, and 23 reportedly were killed by Israeli forces.³² In the Damascus refugee camp of Yarmouk, reactions were furious. Mourners at a funeral procession assaulted the headquarters of the Syria-based PFLP-GC.³³

security guards killed fourteen. The mourners apparently were angry that their youth had been the victims of a crude attempt by the Syrian regime to distract attention from the popular protests gripping the country and that their deaths had not served the interests of the Palestinian national struggle.

As suggested by these events, Palestinians were getting drawn into the maelstrom in their adopted home. As a senior Hamas leader said even before violence flared, “when Palestinians take sides in the internal affairs of an Arab state, they always come out the worse for it. Look at what happened in the Iraq/Kuwait war [in 1991]. It was very expensive for Palestinians [who were expelled en masse from Gulf Arab countries]”.³⁴

Ultimately, changes in Egypt and Syria meant that, once Cairo expressed its interest in concluding the deal, it was hard for Hamas to drag its feet. Besides, many within the movement believe that reconciliation will yield additional benefits for Gaza and the West Bank, in that a reunited PA might be able to do for Hamas what the movement itself had been unable to do over the past four years: finally rebuild Gaza;³⁵ restore the movement’s image; relieve it

Palestine National Congress, which called to “establish the independent combatant national authority for the people over every part of Palestinian territory that is liberated”. The PFLP-GC voted in favour of the program at the Congress, but after the leftist faction within its ranks launched an attack in northern Israel to demonstrate displeasure with the prospect of a separate “national authority” and negotiations with Israel, the PFLP-GC formally retracted its support. Yezid Sayigh, *Armed Struggle and the Search for the State: The Palestinian National Movement, 1949-1993* (Oxford, 1997), pp. 340-341. <http://domino.un.org/unispal.nsf/0/ba7a9909f792340f8525704d006bdaf1?OpenDocument>.

³⁴ Crisis Group interview, Cairo, May 2011.

³⁵ Exactly how a reconciled government would be able to do this is unclear, since the Rafah crossing is used for people only; Israel continues to impose restrictions on the passage of construction materials; and Western donors and international organisations based in the U.S. and Europe, which would fund home-rebuilding projects, have rules that prevent them from obtaining supplies that enter the Strip though the tunnels. Since Israel loosened restrictions on the passage of consumer goods after the May 2010 flotilla incident, the tunnels no longer are used to bring in the inferior (and sometimes more expensive) products from Egypt; they are much more likely to be used for less lucrative building materials, the prices of which have declined markedly in the Strip. As a result, Gaza is experiencing something of mini-construction boom – in relative terms, of course – with signs in front of hospitals, schools, roads and other government infrastructural projects indicating that they are funded by Gulf and Islamic organisations in cooperation with the Gaza government. Crisis Group observations and interviews with aid officials, Gaza City and Ramallah, July 2011. This is yet another example of how Western policies toward Hamas and Gaza are working at cross purposes with stated pol-

²⁸ Crisis Group interview, Cairo, May 2011.

²⁹ Crisis Group interview, Syria analyst, Damascus, May 2011.

³⁰ Reuters, 6 June 2011.

³¹ A fifteenth protester died from his wounds on 16 May. A UN report condemned Israel for using disproportionate force: “Other than firing initial warning shots, the Israel Defence Forces did not use conventional crowd control methods or any other method than lethal weapons against the demonstrators”. Quoted in Agence France-Presse, 6 July 2011.

³² Ibid.

³³ The Popular Front for the Liberation of Palestine-General Command (PFLP-GC) split from the mainstream Popular Front in 1968. In 1974, it was among the factions that formed the “Rejectionist Front” in opposition to the conclusions of the twelfth

of the burden of funding Gaza's government's operations at an annual expense of \$540 million;³⁶ revive its operations, leadership and institutions in the West Bank; and reactivate the Palestine Legislative Council (PLC), where it holds a majority.³⁷

As a Hamas leader put it, reconciliation is a "win-win" venture for his movement: if it lifts pressure on Gaza, Hamas will have shown that its persistence paid off, but if little changes on the ground, and a reconciled government under Abbas's leadership proves just as incapable of cracking the Strip's isolation, then Hamas will have demonstrated that it is not the obstacle to progress.³⁸ Speaking of renewing *daawa* [outreach] activities and particularly Hamas's charitable societies, a West Bank Legislative Council member said, "don't think in terms of resistance, don't think in terms of government. Think about charities and civil associations – they are more politically important for Hamas".³⁹ In the eyes of some Hamas leaders, moreover, were the international community to do business with the new government, it would amount to de facto endorsement of the movement's legitimacy.⁴⁰

Because, under the agreement that was finally reached, the security setup would be frozen in both Gaza and the West Bank – and, accordingly, continued Hamas control of Gaza would be virtually assured – even Hamas's military wing, the Izz al-Din al-Qassam Brigades, and the movement's security establishment saw upsides to the deal.⁴¹ Hamas leaders across the board – internal and external; the political and military wings – use the term "strategic" to describe the nature of the shift, citing a consensus decision within the movement to pursue a political, security and administrative partnership with Fatah and the other factions.⁴²

Finally, new forms of protest in the West Bank and Gaza played a role, albeit a secondary one.⁴³ Youth activists

initially targeted neither the Israeli occupation – if only because few aspire to another intifada at this stage⁴⁴ – nor either of the two Palestinian governments, but rather the political division that kept the movements apart.⁴⁵ As in Egypt, the protests were spearheaded by younger campaigners who saw in regional developments an opportunity to claim a role and change the trajectory of a stagnant political system. These events provided activists with motivation and justification for taking to the streets and shamed some Palestinians into wondering why a traditional revolutionary vanguard suddenly found itself playing catch-up.⁴⁶

In contesting the division, the youth claimed not to be interested in unity for its own sake; that, they argued, was not a recipe for rejuvenating the national movement, since the factions, as they saw it, represented their own parochial interests rather than popular aspirations.⁴⁷ Were Fatah and Hamas to strike a deal, everyone else – the unaffiliated majority, refugees, Palestinian citizens of Israel – would, under this view, continue to be unrepresented.⁴⁸ As a result, independents and many leftists advocated broadly inclusive elections to the Palestine National Council. This, they hoped, would rejuvenate the PLO, enabling it to formu-

"Palestine: The Fire Next Time?", <http://carnegieendowment.org/2011/07/06/palestine-fire-next-time/2sh8>.

⁴⁴ Crisis Group interviews, Ramallah, March and April 2011.

⁴⁵ To an extent, ferment among Palestinians – in the occupied territories, but also among the diaspora – predated the Tunisian and Egyptian upheavals. With the Palestinian national agenda at an impasse, elements of civil society and some non-governmental organisations had been energised, advocating a more confrontational approach toward Israel. Crisis Group Middle East Report N°95, *Tipping Point: Palestinians and the Search for a New Strategy*, 26 April 2010. Ideas such as the boycott, divestment and sanctions campaign (BDS) that urges sanctioning Israel to advance Palestinian rights (though Israelis tend to see the campaign as seeking to delegitimize their state) and popular resistance (meaning largely non-violent, mass participation protests) over the last few years have attracted more adherents, albeit still in limited numbers. More recently, the January 2011 leak of Palestinian negotiating documents prompted some youth, looking for an outlet, to consider demonstrations not merely on account of the revelations but because of the lack of transparency in decision-making and accountability of a diplomatic process that appeared to have led the national cause to a dead-end. Crisis Group interviews, youth activists, Ramallah, March 2011.

⁴⁶ Crisis Group interviews, diaspora activists, February-March 2011.

⁴⁷ An activist said, "Fatah monopolised the national cause for itself and worked in its own interest for years. What the split means is that Hamas gets to play the same game in its own territory. Ending the division does not solve that problem if they just share the spoils. What good does that do the rest of us?" Crisis Group interview, protest leader, Ramallah, April 2011.

⁴⁸ As many activists see it, this includes West Bankers and Gazans as well. "Both governments' terms have expired. I never voted for anyone in the PLO. They don't represent me". Crisis Group interview, activist, Ramallah, March 2011.

icy goals, clearing the field for Islamists to operate without competition from other quarters.

³⁶ A Hamas leader said that the movement's revenues declined as the Arab Spring accelerated, because governments found themselves with other priorities, and funding the Gaza government's budget increasingly had become a burden. Crisis Group interview, Gaza City, May 2011.

³⁷ Crisis Group interviews, Hamas member of the Palestinian Legislative Council, Ramallah, May 2011.

³⁸ Crisis Group interview, Gaza City, June 2011.

³⁹ Crisis Group interview, West Bank, May 2011.

⁴⁰ Crisis Group interview, Hamas leader, Cairo, May 2011.

⁴¹ Crisis Group interview, senior Hamas leaders, Cairo, May 2011.

⁴² Crisis Group interviews, Ramallah, Gaza City and Cairo, May 2011.

⁴³ For an excellent appraisal of the possibilities of, and constraints limiting, new forms of Palestinian protest, see Nathan Brown,

late a new national strategy behind which all Palestinians could rally.⁴⁹

Their agenda did not gain broad popular traction. With the history of the national movement and two intifadas behind them, many older Palestinians viewed the unaffiliated youth with some scepticism.⁵⁰ More importantly, neither Hamas nor Fatah was prepared to allow any protest to escape its control; accordingly, they swamped the rallies with their own activists and, with more violence in Gaza and less regularity in the West Bank, dispersed them.⁵¹ The youth protests were relatively easily controlled by the political movements, which demonstrated their continued dominance of mass mobilisation and the Palestinian political equation more generally.

⁴⁹ In the words of one activist, “we can’t rearticulate the national project so long as the same faces are running it”. Crisis Group interview, Ramallah, April 2011.

⁵⁰ A Gazan said, “we don’t need to be taught to be revolutionaries by a bunch of twenty-somethings”. Crisis Group interview, Gaza City, March 2011. Credibility and leadership in Palestine is a function of age, experience and above all a record of confronting Israel, which the young cannot boast; they therefore often are seen as seeking a role they have not yet earned. Crisis Group interview, Fatah leader, February 2011. Another Gazan commented: “We are sick and tired of our leaders, but that doesn’t mean we will follow these kids with their shallow slogans, who show off how tough they are by demanding their ‘rights’ from Palestinian police”. Crisis Group interview, Gaza City, March 2011. Feelings were roughly similar in the West Bank. In Ramallah, an onlooker remarked that the protesters were “playing at politics” and described the demonstrations themselves as “mismatched [*misharshah*]” – meaning that they lacked a coherence and intelligibility to which the average Palestinian could connect. Crisis Group interview, Ramallah, March 2011.

⁵¹ On 15 March, several hundred independents and leftists (along with some dissident Fatah members) were joined in Ramallah’s central square a few hours later by a contingent of 1,500 Fatah youth. The atmosphere quickly grew confrontational; Fatah protesters harassed the others, and PA security forces intervened. In the coming days, PA and Fatah leaders visited youths who had gone on a hunger strike, even as the security forces continued to monitor them and limit their movements, prompting a youth activist to describe the pattern of control in the West Bank as “more civilised than in Gaza, but no less effective”. In Gaza, the crowds and level of violence were greater. Fatah and the Popular Front for the Liberation of Palestine – unlike Hamas in the West Bank – played prominent roles in mobilising the crowds, which created a much more confrontational atmosphere. Hamas, at the outset, employed a strategy similar to Fatah’s, but by the evening of 15 March, Gaza’s security forces apparently changed their mind, calculating that it was less costly to forcibly disband the protest than to allow protesters to set up camp. After dark, security personnel along with club-wielding Hamas supporters on motorcycles cleared the square. In the following days, Hamas continued to violently repress attempts to organise. Crisis Group observations and interviews, protest leaders, Ramallah and Gaza City, June 2011.

Still, political leaders admit that the protests caused them some embarrassment, since it was awkward to repress, co-opt and otherwise neutralise those advocating a position on which there was national consensus and that embodied the spirit of the regional upsurge.⁵² At some level, this dynamic, too, played its part in the push toward reconciliation.

All in all, in other words, a unity agreement was ripe for Egypt’s picking. For authorities in Cairo, eager to show that they were implementing new – and more popular – policies and facing difficulties doing so on the domestic front, the Palestinian file presented a good opportunity. The public demanded that its government assuage Gaza’s plight and was far more sympathetic to Hamas than had been Mubarak’s regime. Accordingly, officials quickly forecast a different policy toward Israel⁵³ and the intra-Palestinian conflict, regarding which they adopted a more even-handed approach.

Egypt moved away from the Mubarak regime’s refusal to countenance any side understandings by Fatah and Hamas to its reconciliation document⁵⁴ and from its insistence that Ramallah-controlled security forces return to Gaza and establish a monopoly on the use of force there before signing⁵⁵ – two adjustments without which the 4 May agreement likely would not have been concluded. With its new flexibility, Egypt was able deliver to each movement what it had publicly demanded – for Abbas, a Hamas signature on the Egyptian Reconciliation Document; for Hamas, Fatah’s agreement on its reservations regarding the same document – which enabled both to make the face-saving claim that they had gotten what they wanted and therefore had no reason to go it alone.

⁵² Crisis Group interview, Hamas and Fatah leaders, Cairo, May 2011.

⁵³ A leading Egyptian figure said, “the treaty is not in danger, but bilateral Egyptian-Israeli relations are”. Crisis Group interview, Cairo, May 2011.

⁵⁴ In October 2010, shortly after Fatah and Hamas negotiators reached agreement on a number of side understandings in Damascus, an Egyptian official said, “if Fatah and Hamas want to agree on side understandings, let them. But the basis of reconciliation will be the Egyptian document. Whatever they agree among themselves will not be binding. We will not accord Hamas’s observations – whether they are agreed with Fatah or not – any more weight than those of any other faction during the implementation process”. Crisis Group interview, October 2010.

⁵⁵ In October 2010, when Hamas was pressing to put off discussion of the security sector in Gaza until after the reconciliation was signed, an Egyptian official said, “the security details must be decided first, including the fate of the Qassam Brigades. If the PA does not go back to Gaza and re-establish control there, there’s no point in reconciliation. There is only one legitimate authority. We won’t let Hamas empty the Egyptian document of meaning”. Crisis Group interview, October 2010.

II. WHAT WAS AGREED?

The reconciliation agreement in reality is a package that includes the Egyptian Reconciliation Document and the Understandings⁵⁶ that amend and extend it.⁵⁷ The former was signed in its original form,⁵⁸ even as provisions of the latter superseded some of its articles. As important as any of these formal elements, however, are additional, informal understandings between Fatah and Hamas that appear to nuance or undo some of the signed provisions. This is particularly true regarding the security setup in both the West Bank and Gaza. The details of the accord are supposed to be worked out in five committees (government, reconciliation, elections, PLO and security). The identity of the prime minister so far has absorbed the vast majority of attention.

In order to arrive at even this initial accord, both sides moved from previous positions. In broad terms, Fatah came around to Hamas's positions on procedural issues by agreeing that members of the electoral committee and judges on the election court, like the members of the higher security committee, would be chosen by consensus (as opposed to being named by Abbas after consulting with the factions); Hamas – for the most part – showed flexibility in terms of signing the Egyptian document despite earlier reservations.⁵⁹

Government. The Understandings speak simply of the formation of a “government”,⁶⁰ without further detail, though Hamas and Fatah privately agreed that the cabinet would be composed of “independents” and “technocrats”.⁶¹ The naming of the ministers is the first task of reconciliation and the primary one on which there has been discussion thus far.⁶² The government's tasks will be to prepare a positive atmosphere for presidential, legislative and Palestinian National Council elections, which are to be held within one year of the signing of the reconciliation agreement;⁶³ oversee the handling of social dimensions of reconciliation; follow up on the reconstruction of Gaza and end the siege; handle implementation of the Egyptian Reconciliation Document; resolve civil and administrative problems resulting from the division; unify PA institutions in the West Bank, Gaza and Jerusalem; and resolve the status of associations and civic and charitable institutions.

Outside the framework of the agreement itself, Hamas and Fatah both said they seek a government capable of lifting the closure of Gaza. To this Fatah later added that the government must be capable of engaging the international community⁶⁴ – which would imply that it somehow must meet international conditions – although the text of the Understandings makes no mention of a governmental political program.⁶⁵

⁵⁶ This 4 May 2011 document is formally called the “New Understandings Paper [waraqat al-tafahumat al-jadida]”, herein referred to as “Understandings”. The Arabic can be found at www.amad.ps/arabic/?action=detail&id=49721 and the English at www.jmcc.org/Documentsandmaps.aspx?id=828.

⁵⁷ This agreement was signed by thirteen Palestinian factions, but it is at heart a Hamas-Fatah deal. Islamic Jihad signed only as a witness, since it does not recognise the Oslo Accords, as a product of which the PA was established. Nevertheless, it signed as a witness in order to signal its support for and willingness to abide by the agreement, since silence would have been taken by other factions as an indication of hostility. Crisis Group interview, Islamic Jihad leader, Cairo, May 2011.

⁵⁸ A Fatah negotiator claimed that his movement was so insistent on fidelity to the original text that the document signed retained the phrase “Under the auspices of President Hosni Mubarak” – even though he had stepped down almost three months earlier. Crisis Group interview, Ramallah, June 2011.

⁵⁹ According to the reconciliation agreement, members of the Central Elections Committee will be chosen by consensus by the factions then formalised through a presidential declaration; the judges (of which there are nine) of the election court will be chosen by Abbas from among the names submitted to him by consensus of the factions; and the higher security committee will be composed of professional officers decided upon through consensus. In earlier rounds of inter-factional dialogue in Cairo, Fatah had held that Abbas, as president, would fill these positions in consultation [*bi-tashawwur*] with the factions, an arrangement that Hamas rejected on the ground that the president was liable to symbolically consult with the factions and then appoint whomever

he wanted. Crisis Group interview, Hamas leader, Gaza City, October 2010.

⁶⁰ “Fatah and Hamas agree to form a Palestinian government and to appoint by consensus the prime minister and ministers”. www.jmcc.org/Documentsandmaps.aspx?id=828. The Understanding's provision for a “government” superseded the Egyptian Reconciliation Document's provision for a joint committee that would coordinate between the separate governments in the West Bank and Gaza Strip.

⁶¹ Crisis Group interviews, Fatah and Hamas leaders, Cairo, May 2011.

⁶² Crisis Group interviews, Hamas and Fatah leaders, Gaza City and Ramallah, June 2011.

⁶³ Per the Egyptian Reconciliation Document, these are to be held via a mixed system of proportional lists (75 per cent) and direct election in constituencies (25 per cent). *Al-Ayyam*, 14 October 2009.

⁶⁴ Crisis Group interview, Abbas advisers, Ramallah, May 2011. A Hamas leader called the requirement of international acceptability a Fatah demand, though in an usual statement, Mousa Abu Marzook, Hamas's deputy politburo head, said that his movement was ready to form a government that would be accepted by the West, so that Israel would have no excuse or justification to continue its siege. Sama News Agency, 15 June 2011.

⁶⁵ The Egyptian Reconciliation Document called for Abbas, in his capacity as PLO chairman and PA president, to be the source of authority for a joint committee overseeing the separate governments in the West Bank and Gaza – a provision that was superseded by the reconciliation government for which the Understandings provided. The Understandings do not specify a source of authority for the reconciliation government.

PLO. The agreement provides for a “temporary leadership framework” to oversee the integration of Hamas, among other groups, into the PLO.⁶⁶ This, as originally specified in the 2005 Cairo Declaration,⁶⁷ is to include the chairman of the National Council, the secretaries-general of the factions, members of the PLO Executive Committee and certain independents. All thirteen factions that signed the reconciliation documents – including Hamas, Islamic Jihad, and Mustafa Barghouti’s National Initiative – will be represented in the temporary framework, which “will determine the relations between the PLO and PA institutions, structures, and missions”, while ensuring that the PLO will be the “PA’s source of authority”. Moreover, it is entrusted to “lay down the foundations and mechanisms of the Palestine National Council” and “address fateful

political and national issues” on which decisions will be taken “by consensus”,⁶⁸ thereby rendering it the “temporary leadership framework of the Palestinian people”.⁶⁹

Crucially, neither the Egyptian Reconciliation Document nor the Understandings defines the relation between, and the hierarchy structuring, this “temporary framework” and the PLO Executive Committee, an ambiguity that is further discussed below.

Security. The Egyptian Reconciliation Document outlines a number of changes to the security sector that, in the view of even the most enthusiastic supporters of reconciliation, remain more theoretical than real for the time being. A “higher security committee” is to be formed, composed of agreed-upon professionals, who will be entrusted with two basic tasks: designing security policies and overseeing the rehabilitation and rebuilding of security forces in both the West Bank and Gaza.⁷⁰ More specific tasks have yet to be decided; the same goes for committee membership. As described in the Egyptian Reconciliation Document, the ultimate goal is to form a unified security apparatus of three branches (national security, internal policing and intelligence), which will involve reducing the number of security personnel, prohibiting the formation of military units outside the security services and integrating as well as training cadres in order to create a professional, national force.⁷¹

The security provisions of the Egyptian Reconciliation Document are more voluminous and detailed than any other but, tellingly, they are only briefly referenced in the Understandings. This is because even were the reconciliation to surmount its other challenges, little would be expected to change over the next year; Hamas and Fatah informally agreed to defer all adjustments until the interim period passes, and a new government is elected.⁷² Both Fatah and

⁶⁶ The Council has been largely defunct since 1988, meeting only twice in Gaza (1996 and 1998) to annul provisions of the Palestine National Charter and once (in limited numbers) in Ramallah in 2009 to fill empty seats on the Executive Committee. Council elections – at least where possible, either at the polls or by internet – would be a fundamental change for the PLO, as membership previously has been determined by allocating seats to various factions and groups. Jamil Hilal, a Palestinian scholar, explains that the quota system grew out of the incorporation of resistance factions into the PLO. This gave the PLO legitimacy but at the cost of bypassing Palestinian communities, since the resistance factions secured a “preponderance” of the seats on both the National Council and the Central Council (an intermediate policymaking body); each of the factions was assured a seat on the Executive Committee (the PLO’s highest executive body) regardless of its size. Jamil Hilal, “PLO Institutions: The Challenge Ahead”, *Journal of Palestine Studies*, vol. 23, no. 1 (autumn, 1997), pp. 54-55. Theoretically – as decided at the Eighth National Council session in 1971 – membership was to be determined by a vote of the Executive Committee, the speaker of the National Council and the commander of the Palestinian Armed Forces, but, in practice, the quota system obtained. “The PNC: Historical Background”, *Journal of Palestine Studies*, vol. 16, no. 4 (summer, 1987), pp. 149-152.

⁶⁷ The Cairo Declaration was issued by thirteen factions on 19 March 2005. Article five reads: “Those gathered agreed to develop the Palestine Liberation Organisation on bases that will be settled upon in order to include all the Palestinian powers and factions, as the organisation is the sole legitimate representative of the Palestinian people. To do this, it has been agreed upon to form a committee to define these bases, and the committee will be made up of the president of the National Council, the members of the PLO’s Executive Committee, the secretaries general of all Palestinian factions and independent national personalities. The president of the executive committee will convene this committee”. www.miftah.org/Display.cfm?DocId=6938&CategoryId=5. However, the 2005 Cairo Declaration differs from the Egyptian Document and the Understandings in an important way. Whereas the Cairo Declaration limited the task of this “committee” to “developing” the PLO, the later agreements instead speak of a “temporary leadership framework” whose tasks extend beyond reforming the PLO to “address[ing] fateful political and national issues”.

⁶⁸ *Al-Ayyam*, 14 October 2009.

⁶⁹ Both Hamas and Fatah negotiators in Cairo, for different reasons, used this phrase to distinguish the temporary leadership framework from the PLO itself. For Fatah, this was key to ensuring its continued control over the organisation. For Hamas, this phrase indicated the ultimate superiority of the temporary leadership framework over the PLO Executive Committee. Crisis Group interviews, Cairo, May 2011.

⁷⁰ Crisis Group interview, Hamas and Fatah leaders, Cairo, May 2011.

⁷¹ *Al-Ayyam*, 14 October 2009. The document further specifies that 3,000 former security personnel in Gaza are to be absorbed into the Gaza security services, in addition to other provisions.

⁷² The idea of delaying movement on the security file was borrowed from a unity plan promoted by Prime Minister Salam Fayyad and Fatah Central Committee member Nabil Shaath. Fayyad’s logic ran as follows: “I am not asking Hamas to change anything but rather to sketch out what [already] exists If there is fear about the security situation, the security arrangements will stay as they are. The security apparatus in the West Bank and Gaza Strip will remain without change”. *Al-Ayyam*, 22 February 2011. A Shaath confidant agreed that codification of the status

Hamas members of the team negotiating security issues in Cairo said they recognised that there was “one reality in Gaza and a different one in the West Bank”.⁷³

The different “reality” is largely a product of Israeli control in the West Bank and, most importantly with regard to the reconciliation agreement, the question of PA security coordination with Israel. Officially, the matter has been delegated to the higher security committee, but, regardless of its deliberations, there is unlikely to be much change at all – particularly since, as Hamas officials concede, the committee will not have operational control over West Bank security forces.⁷⁴ PA and Fatah officials assert that coordination with Israel will continue, for both legal reasons – because it results from PLO agreements with Israel – and political reasons, insofar as the PA could ill afford to alienate both Israel and the U.S.⁷⁵ Indeed, Israel and the U.S. are resolutely opposed to any change in the West Bank; any adjustment to the security regime there could trigger an Israeli response and the severing of U.S. security support.

Hamas formally has demanded that coordination stop but has little faith that it will.⁷⁶ Here, too, there are several reasons. First is the understanding that the status quo will remain in Gaza in exchange for it being preserved in the West Bank. Beyond that, a senior leader in exile predicted that no matter what the fate of security coordination, Hamas would benefit politically. It has already hurt Abbas, he said, and would continue to do so as long as it continues; by contrast, were security coordination to stop and Israel to step up unilateral operations, the PA would look impotent.⁷⁷ A senior leader in Gaza also did not seem particularly exercised at the likelihood the coordination would continue: “Hamas and Islamic Jihad both maintain that there should be a change, but the question is whether that is practical or not at the current time. Without a decision from Abu Mazen [Abbas] to change the security chiefs, there will not be a change in the behaviour of the security services, and that doesn’t seem to be in the cards”.⁷⁸

quo offered the best way forward: “If there is a wall, don’t pound your head against it. Go around it. That wall is security arrangements. Hamas is not going to let go in Gaza, and even if we were to reach an agreement on paper, it would take a long time to see any changes on the ground. So for the time being, we can keep the status quo in the West Bank and Gaza and form a national unity government”. Crisis Group interview, Ramallah, March 2011.

⁷³ Crisis Group interviews, Gaza City, May 2011.

⁷⁴ Crisis Group interview, Hamas leader and dialogue team member, Gaza City, May 2011.

⁷⁵ Crisis Group interview, Abbas adviser, Ramallah, May 2011.

⁷⁶ A senior leader indicated as much when he said, “we are *hoping* coordination will stop”. Crisis Group interview, Cairo, May 2011.

⁷⁷ Crisis Group interview, May 2011.

⁷⁸ Crisis Group interview, Cairo, May 2011.

The agreement also is expected to preserve the fragile calm in Gaza. In fact, after a worrying escalation in April 2011,⁷⁹ the Israel-Gaza border has been strikingly quiet, with only seven projectiles fired in May, June and the first week of July (in comparison to 251 from February through April).⁸⁰ A senior movement leader denied that Hamas had agreed to maintain a ceasefire per se, but his explanation of what the movement had agreed to is tantamount to one: “We have agreement not to give Israel a chance to destroy reconciliation and that we will run our struggle by consensus, both in terms of resistance and in terms of security practice”.⁸¹

Palestine Legislative Council. The Understandings provide for the reactivation of the Hamas-dominated Palestine Legislative Council, which Hamas has dominated since it won the January 2006 elections. The body has been dormant since Israel launched an arrest campaign against legislators – predominantly but not only Hamas – after the capture of Israeli corporal Gilad Shalit in June 2006.⁸²

⁷⁹ Crisis Group Middle East Briefing N°30, *Gaza: The Next Israeli-Palestinian War?*, 24 March 2011.

⁸⁰ www.terrorisminfo.org.il/malam_multimedia/English/eng_n/html/ipc_e209.htm.

⁸¹ Khaled Meshal made a similar statement: “It’s a house that we all live in and about which we will make decisions jointly”, press conference, Cairo, 7 May 2011.

⁸² Hamas boycotted several PLC sessions in Ramallah, in addition to committee meetings; in Gaza, Hamas has convened the PLC regularly, though only with its own members.

III. CHALLENGES

While it took four years for the parties finally to reach an accord, that may well turn out to be the easiest part. For each area of agreement, far more issues are outstanding than have been resolved. The single most important stumbling block so far has been the identity of the prime minister but there are many more. At bottom, neither movement has fully reconciled itself to reconciliation, and both believe time will prove it right; as seen, the agreement was signed more because of the pressure of regional events than because of a genuine change of heart or consensus regarding the way forward. The best hope for meaningful unity lies in the momentum that the agreement itself might someday create and in pressure that Egypt could exert. For now, however, inertia seems likely.

Government. The first hurdle, selecting ministers for the new government, has yet to be surmounted. The parties agreed to a technocratic government to be chosen by consensus, which Hamas considered a concession owing to the fact it won a majority in the 2006 legislative elections.⁸³ Initial discussions focused on the prime minister. While Fatah and Hamas suggested other names,⁸⁴ most of the discussion so far has centred on Salam Fayyad. Many within Fatah see him as a dangerous political rival and argue he lacks the nationalist – by which some mean militant – pedigree to lead the Palestinian people; no small number of Fatah officials would like to hold his job themselves or at least see their movement get credit for governing.⁸⁵ For that reason, he was not among the initial names suggested by Fatah for the post. However, in light of Abbas's strong insistence that Fayyad be retained, the movement's Central Committee ultimately endorsed him.⁸⁶

⁸³ Crisis Group interview, Hamas leader, Gaza City, June 2011.

⁸⁴ At a 16-17 May meeting in Cairo, the movements floated tens of names for the various ministerial posts, including prime minister. Salam Fayyad's name was raised and was rejected by Hamas. At the conclusion of the session, negotiators settled on four candidates: Hamas supported former Economy Minister and businessman Mazen Sinukrut and Jamal Khodari, formerly communications and technology minister in the Hamas-led government; Fatah's candidates were Muhammad Mustafa, economic adviser to President Abbas and the Chairman of Palestine Investment Fund, and businessman Maamun Abu Shahla. A Fatah negotiator said that he had not expected to discuss specific names in this session but rather only "mechanisms and procedures" and that accordingly, Mustafa and Abu Shahla were never formal movement candidates. Crisis Group interviews, Hamas and Fatah leaders, Gaza City, May 2011.

⁸⁵ Crisis Group interviews, Fatah leaders, Ramallah, January-February 2010 and October-November 2010.

⁸⁶ The Central Committee did not vote on Fayyad's nomination, though nobody objected. Crisis Group interview, Central Committee member, June 2011. Given that it was always clear that

Some uncertainty has surrounded Abbas's true intentions, given his ambiguous – and, at times, tense – relations with his prime minister. That said, the president publicly has made clear that his preferred candidate is Fayyad and, in private, gone so far as to say that he would not countenance anyone else, since failure to nominate him would jeopardise critical international support.⁸⁷ Indeed, Western countries strongly have pushed for him to remain in place, making clear that continued assistance to the PA could well depend on that.⁸⁸

At the outset, several Abbas advisers suspected Hamas might agree.⁸⁹ Some movement officials argued that Fayyad could help ensure continued international assistance, which would constitute a form of endorsement for Hamas's political and government role.⁹⁰ So far at least, that estimation has proven to be wrong. As many others in the movement have come to identify Fayyad with the – remarkably effective – campaign against them in the West Bank and with the pressure their movement faces in Gaza.⁹¹ The call

Abbas would have the final word, a Palestinian political analyst described protestations of the Central Committee members against Fayyad and their advocacy of other candidates as "theatre". Crisis Group interview, Jericho, June 2011.

⁸⁷ Crisis Group interview, Western diplomat, June 2011. That said, several U.S. officials and Fayyad advisers have expressed scepticism. They speculate that Abbas is pushing for Fayyad, knowing Hamas will not accept him and without the belief he will be nominated but rather as a means of placating the West and of implicitly shifting the blame to his prime minister for the reconciliation impasse. "Abbas does not want Fayyad as prime minister, and Fayyad knows it. This is a political manoeuvre which allows Abbas to say to us that he is doing all he can, and to the Palestinian people that Western pressure to keep Fayyad is what is hampering reconciliation". Crisis Group interview, Western official, June 2011.

⁸⁸ Crisis Group interviews, senior U.S. and EU officials, Washington, June 2011.

⁸⁹ Crisis Group interview, senior Fatah leaders, Ramallah, June 2011.

⁹⁰ Crisis Group interview, Hamas official, May 2011. He added: "If, despite Fayyad's presence, international support ended, we still would benefit. We would have shown our people that we were prepared to be as flexible as possible, and still the West turned its back – and neither Abbas nor Fayyad could do anything about it despite all their efforts to placate the U.S. and Europe".

⁹¹ During his brief tenure as finance minister of the short-lived unity government in 2007, Hamas leaders expressed real appreciation for his professionalism and independence. Crisis Group interviews, Damascus, June 2007. For a time after he formed an alternate government in the West Bank, Hamas leaders generally held their fire against Fayyad and distinguished him from certain Fatah elements, and especially Abbas, whom they blamed for the campaign against them. Over time, however, he increasingly was criticised for the systematic efforts unleashed against the Islamic movement in the West Bank as well as the denial of vital services to Gaza. Crisis Group interviews, Hamas leaders, Gaza City and Damascus, March, June, August 2010. For a detailed description of the PA security forces' conduct toward Hamas, see

for a technocratic, independent government, they argue, means that any figure associated with either of the two existing governments ought not to be selected as prime minister; Fayyad's role since June 2007, under this theory, should rule him out. Opposition is particularly strong in Gaza, where Hamas leaders feel that to endorse Fayyad now would be to retroactively legitimate his tenure and thus indirectly discredit the movement's governance in the Strip and call into question its claim to power after winning the 2006 legislative elections.⁹² As one leader said:

We didn't fight for five years [since the 2006 elections] just to accept Fayyad and the rest of Abu Mazen's program. If we accept that today, people will be right in asking why didn't we do that years ago and save everyone the trouble. It will look like we have been defeated and that Fatah won. We are ready to go to unity, not to surrender.⁹³

It might seem strange that such an obvious stumbling block was not addressed before the reconciliation agreements were signed. The answer partly lies in the fact that both movements signalled flexibility in the run-up to reconciliation that never fully materialised; moreover, as suggested, divisions within each movement further raised the expectations of its rival. Within Fatah, while some leaders were convinced that Hamas would ultimately be persuaded to accept Fayyad, others made no bones about their desire to see him replaced; key Fatah figures, according to a Fatah Central Committee member, signalled to Hamas that Fayyad "would not be an issue".⁹⁴ A Fatah negotiator said that Hamas leaders had sent him precisely opposite signals: that they would not object to Fayyad.⁹⁵ These, he said, came largely from the outside leadership; movement leaders in Damascus at first seemed more flexible regarding Fayyad,⁹⁶ but the Gaza leadership, like many of the

movement's West Bank cadres, is resolutely opposed to Fayyad and has successfully pushed this line with the rest of the movement.⁹⁷

The answer also lies in the strong negative response, both internationally and on the part of some regional actors,⁹⁸ to the ambiguity surrounding the prime minister. While some Fatah leaders say the president was always intent on retaining Fayyad – but publicly downplayed that since, in the words of a Fatah negotiator, "if he had not, there would not have been a reconciliation agreement"⁹⁹ – Abbas, for some six weeks after the 27 April announcement, left his ultimate choice open to question. During that period, he encountered strong support for Fayyad,¹⁰⁰ particularly on the part of the U.S. For Abbas, U.S. support is a lynchpin, the loss of which would set off a chain of events that would undermine not just his political program but potentially the PA as a whole. That said, given U.S. political and legal constraints, there is no guarantee that keeping Fayyad in place within a reconciliation government would result in continued support – contrary to what some PA officials seem to think.¹⁰¹

The U.S. position will be important in many ways, none more so than the question of funding. Hovering over the

implements, I'm fine with him. We've put up with him for four years, and we can for another year. Those who knock him do it out of a personal animus for him, not because he's wrong for the job". Crisis Group interviews, Ramallah, June 2011. That said, it seems that the weight of Hamas opinion in the West Bank opposes Fayyad because of what he symbolises. Crisis Group interview, Palestinian journalist, Ramallah, June 2011.

⁹⁷ Even in Gaza, there are those in Hamas who believe that Fayyad is best positioned to deliver stability, both in terms of funding and international engagement, which would facilitate Hamas's obtaining the benefits it seeks from reconciliation. Crisis Group interviews, Hamas leaders, Gaza City, May 2011.

⁹⁸ When Abbas travelled to Saudi Arabia in June, the king reportedly told him: "You have a good prime minister and you should protect him". Crisis Group interview, Fayyad adviser, Ramallah, June 2011. Others dispute this version of the meeting. Crisis Group interview, Palestinian journalist, Ramallah, July 2011. Reflecting on external intervention, a Fatah negotiator said, "the issue of the prime minister has become a regional and global one. It is not up to Palestinians themselves to resolve alone". Crisis Group interview, Ramallah, July 2011.

⁹⁹ Crisis Group interview, Ramallah, July 2011.

¹⁰⁰ A Fayyad adviser pointed not only to regional and international voices supporting Fayyad, but also local ones, including polls that showed support for the prime minister to remain in his post and the calls from the local business community that said, "in effect, 'We know this guy, and we don't want uncertainty'". Crisis Group interview, Ramallah, July 2011. For an example of one among several polls that made this point, see Palestine Center for Policy and Survey Research at www.pcpsr.org/survey/polls/2011/p40epressrelease.html.

¹⁰¹ Crisis Group interview, U.S. official, Washington DC, June 2011.

Crisis Group Middle East Report N°98, *Squaring the Circle: Palestinian Security Reform under Occupation*, 7 September 2010.

⁹² "Fayyad is associated with deepening the division. We need to turn a new page and pick someone with a different agenda, someone who will be associated with unity". Crisis Group interview, Hamas leader, Gaza City, May 2011.

⁹³ Crisis Group interview, Hamas leader, Gaza City, June 2011.

⁹⁴ Crisis Group interview, Ramallah, June 2011. This was the impression with which Hamas came away from its mid-June meeting with Fatah. In its aftermath, Hamas leaders claimed that the two sides had agreed to rule out anyone to whom their rival objected, thereby in effect excluding Fayyad. Interview with Mousa Abu Marzook, PalToday, 25 June 2011 at <http://paltoday.ps/arabic/News-112107.html>.

⁹⁵ Crisis Group interview, Ramallah, June 2011.

⁹⁶ Some in the West Bank shared this view. A West Bank Hamas PLC member said that the focus on the identity of the prime minister was delaying the more important substantive issues that needed to be achieved. "What we need is a prime minister who can implement the unity agreement. If it's Fayyad who

manoeuvring over the prime minister¹⁰² is fear that Western donors will cut their support if the new government and its members do not adhere to the Quartet conditions¹⁰³ – but, even more importantly, that Israel will halt the transfer of tax clearance revenues, which, per the 1994 Paris Protocols, it collects on behalf of the PA and, under normal conditions, then turns over to it. In 2010, external funding provided \$1.3 billion of the PA's \$3.4 billion budget, but tax clearance revenues constituted a full two-thirds of its total revenues.¹⁰⁴

After Hamas and Fatah indicated in April that they would sign the agreement, Israel withheld the money, thereby forcing a delay in the payment of salaries to some 151,000 Palestinian employees¹⁰⁵ in both the West Bank and Gaza. Under pressure from a number of governments, Quartet Special Envoy Tony Blair and the UN,¹⁰⁶ Israel finally released it, calling the delay, in football terms, a “yellow [caution] card for the Palestinian Authority”.¹⁰⁷ For this

reason, a UN official noted, “the key issue is not so much whether Israel changes its behaviour regarding Gaza – which is unlikely – but rather whether the siege mentality gets extended to the West Bank”.¹⁰⁸

Once the battle lines were drawn, neither movement could back down. Following consultations between Hamas in Gaza and the outside, the movement in early June conveyed its “final answer”¹⁰⁹ to Egypt – a resounding “no” to Fayyad. Shortly thereafter, Abbas abandoned ambiguity. In an interview with the Lebanese LBC network, he said, “it is I who bears responsibility for and the consequences of the work of this government, so it is my right to say who the prime minister will be. Yes, the prime minister is Salam Fayyad”.¹¹⁰ Hamas took umbrage at what Palestinian analyst Hani Masri called the “redrafting”¹¹¹ of the reconciliation agreement, not only in terms of Fayyad himself, but also Abbas's tone, as the Understandings specify that the prime minister is to be chosen “by consensus”,¹¹² not dictated by one of the parties.¹¹³

¹⁰² While the debate over the prime minister has been sharpest, it is not the only obstacle to forming a new cabinet. An Abbas adviser called the selection of each minister a potential “landmine”. While the appointment of the head of the interior ministry, because of its control over security forces, was hard-fought in the 2007 unity government, any ministry this time could pose a risk: “What if the foreign minister says he doesn't recognise Israel? What if the education minister puts in place a curriculum that teaches that Palestine is the river to the sea? What if the economy minister launches a boycott not only of settlement products but of all Israeli products?” Crisis Group interview, Ramallah, May 2011. That said, Hamas and Fatah agreed that some positions were more sensitive than others: the prime minister, foreign minister, interior minister and finance minister accordingly were to be decided by Meshal and Abbas themselves. Other ministries would be divided, with Fatah and Hamas each choosing an independent, professional minister, whom the other would accept, except in what a Hamas negotiator characterised as “egregious circumstances, for instance if the candidate was known to be corrupt”. Crisis Group interview, Gaza City, June 2011.

¹⁰³ A Fatah negotiator pointed out that even if a formula were found to permit continued funding, other issues would soon arise. For instance, “is the world going to pay the salaries of 31,000 personnel that Hamas hired in Gaza, including their security services, which include Qassam members? I don't think so”. Crisis Group interview, Ramallah, June 2011.

¹⁰⁴ See “Macroeconomic and Fiscal Framework for the West Bank and Gaza Strip: Seventh Review of Progress”, International Monetary Fund, Brussels, 13 April 2011.

¹⁰⁵ Separately, the Gaza government and Hamas pay the salaries of some 31,000 employees whom they have hired, about half of whom (16,000) are in the security sector. Crisis Group interview, Gaza government officials, Gaza City, May 2011.

¹⁰⁶ The U.S. was among them. “We pressed Israel to reverse tax revenue withholding, saying that would be contrary to their own interests. It would weaken those they have dealt with, cut off security cooperation and accelerate process they fear most”. Crisis Group interview, U.S. official, Washington DC, May 2011.

¹⁰⁷ *Haaretz*, 11 May 2011.

¹⁰⁸ Crisis Group interview, Ramallah, May 2011. Israel suspended tax clearance revenues in 2006 pending a policy review, after Hamas won a majority in the previous month's PLC elections. BBC, 1 February 2006. It subsequently released a portion of the funds in tranches for humanitarian purposes. Aaron D. Pina, “Fatah and Hamas: The New Palestinian Factional Reality”, Congressional Research Service, 3 March 2006; BBC, 24 December 2006. On 24 June 2007, after Abbas dismissed the national unity government and named Fayyad prime minister, Israel began to release the funds in instalments. *The New York Times*, 24 June 2007.

¹⁰⁹ Crisis Group interview, Hamas leader, Gaza City, June 2011. He said, “Hamas will not accept Fayyad even if it takes ten years to form the government”.

¹¹⁰ LBC, 20 June 2011. A Fatah leader commented on Abbas's insistence on Fayyad: “The focus on Fayyad is a problem for Fayyad. It puts him under suspicion. People are asking why the international community is pressing for him. They see him as an imposition”. A Fayyad adviser expressed disdain for how Abbas is speaking of Fayyad in general. “Calling him a ‘technocrat’ is belittling. The prime minister is a politician, not a functionary”. Crisis Group interviews, Ramallah, June 2011.

¹¹¹ *Al-Ayyam*, 28 June 2011.

¹¹² “Fatah and Hamas agree to form a Palestinian government and to appoint the prime minister and ministers by consensus”. www.amad.ps/arabic/?action=detail&id=49721. Some Fatah members agreed that Abbas and the movement had made a tactical mistake by putting Fayyad's name forward, thus making it harder for Hamas to accept him. “We should have had his name come out as a joint decision, since he is neither Hamas nor Fatah. But by endorsing him, and having Abbas make clear he would accept no one else, we've made it that much more difficult for Hamas to agree”. Crisis Group interview, June 2011.

¹¹³ Interview with Mousa Abu Marzook, PalToday, 25 June 2011 at <http://paltoday.ps/arabic/News-112107.html>. A Fatah negotiator expressed displeasure with Abbas's LBC interview, saying that the “timing and mode of expression” were wrong and that

Hamas officials indicated their flexibility on the identity of the prime minister, reportedly telling Turkish mediators that they would accept “anyone whom Abbas suggested” except Fayyad, including Muhammad Mustafa, economic adviser to President Abbas and the Chairman of Palestine Investment Fund;¹¹⁴ what was important, Khaled Meshal, the head of Hamas’s politburo, maintained, was the qualifications of the prime minister and not his identity.¹¹⁵ Abbas had hoped to convince Meshal in person to accept Fayyad, but when it became clear that Hamas would not budge, Fatah postponed their scheduled 19 June meeting, and the impasse remains.¹¹⁶

No less contentious is how the government will be installed and any putative program enshrined. Abbas insists on the government being his and abiding by his program and

it harmed the movement. Crisis Group interview, Ramallah, June 2011. Another Fatah leader expressed understanding for Hamas’s position and acknowledged that it was rooted in the agreement. At the same time, he articulated two reasons why Hamas would be better served by accepting Fayyad. First, “Fayyad can give Hamas more than anyone else. Anyone else who would come in his place is going to have to prove to the world how un-Hamas he is, but with Fayyad that’s already established”. He also pointed out that the concept of consensus ought to be understood more broadly: “We need to have consensus on all things moving forward for reconciliation to work, since that’s the philosophy behind the whole agreement. If we have a broad consensus, reconciliation will work regardless of who the prime minister is, including Fayyad. If we don’t have a broad consensus, replacing Fayyad with someone else won’t help, and things will stay stuck. In that sense, he’s just an excuse”. Crisis Group interview, Ramallah, July 2011.

¹¹⁴ *Al-Safir*, 25 June 2011.

¹¹⁵ “In Turkey, Abu Walid [Khaled Meshal] posed a question to his hosts: ‘What is more important, the name of the prime minister or his qualifications?’ They said the latter. ‘If that’s the case’, Abu Walid said, ‘I can give you many, many names of people just as qualified as Fayyad’”. Crisis Group interview, Hamas leader, Gaza City, June 2011. Of course, for Abbas the identity of his prime minister is itself a unique qualification, in that only Fayyad can bring the continued international support necessary for carrying out his program. That said, a Fatah negotiator reported that when a Turkish official asked Abbas if he had a guarantee that the U.S. would support reconciliation and continue to provide support if Fayyad remained in place, Abbas responded in the negative. The negotiator felt that response greatly complicated Turkish mediation, as it denied their hosts an effective argument with Hamas. He commented: “The U.S. demanded Fayyad as prime minister but wouldn’t actually commit to what would happen if we did as they wanted”. Crisis Group interview, Ramallah, June 2011.

¹¹⁶ A Fatah negotiator said that his movement had approached Hamas so that both would agree to delay the meeting, but that it refused. This left Fatah to unilaterally take the decision, a move Hamas hoped would cast Fatah in the public eye as the recalcitrant party. Crisis Group interview, Ramallah, June 2011.

thus objects to a parliamentary confidence vote.¹¹⁷ Hamas insists that parliament must vote its confidence in the new government¹¹⁸ on the logic that it is the government of national consensus – and beyond that, of the people – not of the president.¹¹⁹ In this, Hamas has the support of the vast majority of the factions and civil society, which object to Abbas’s desire, as they see it, to marginalise their votes and democratic role.¹²⁰ For many in Fatah, the purportedly temporary nature and transitional role of the reconciliation government justify the exceptional arrangement.¹²¹

¹¹⁷ Crisis Group interview, Abbas advisers, Ramallah, June 2011. A Fatah PLC member offered a compromise position when he suggested that the PLC could vote confidence in a government shortly after it was appointed by Abbas. Crisis Group interview, Ramallah, June 2011.

¹¹⁸ Palestinians of all political colours have suggested that Israel easily could impede the new PLC’s activities by arresting enough delegates to prevent a quorum from convening. One solution would be proxy voting, which has long been debated but rarely used in the Palestinian legislative context. The issue first arose during the 1996 PLC session when, following Israel’s detention of a number of legislators, it was decided that the detainees would be considered absent, and proxy voting was disallowed. The issue arose again in 2006 at the first PLC meeting, because some deputies held by Israel (including Fatah’s Marwan Barghouti) were unable to attend. Following precedent from the 1996 PLC, proxy voting was disallowed, and the detained deputies were simply marked as absent. If the body had met, there would have been a Fatah majority (because of disproportionate arrests of Hamas PLC members), so Hamas had no interest in summoning it. Fatah deputies tried to force a legislative session but backed off. In June 2007, Hamas – after its takeover of Gaza – decided to reconvene the PLC; the Gaza-based deputy speaker, Ahmad Bahar (since speaker Aziz Dweik, who represents Hebron, was in jail), issued a ruling that arrested deputies could vote by proxy. When the PLC convened in Gaza City, it approved Bahar’s ruling, which is the mechanism through which it conducted its business. Fatah at the time disputed the legality of the ruling, arguing that Bahar’s term as deputy speaker had expired. Yet, were the factions to agree today among themselves to permit deputisation, there likely would be no problem convening a PLC session in such a manner. Crisis Group email exchange, political scientist and analyst Nathan Brown, June 2011.

¹¹⁹ Hamas initially agreed in Cairo that the government would be formed by a presidential decree and not by a PLC vote, but the contrary view of Gaza leaders forced the movement as a whole to change its position. Crisis Group interview, Hamas negotiator, Gaza City, June 2011.

¹²⁰ Crisis Group interview, civil society activist, Ramallah, June 2011.

¹²¹ A Fatah negotiator said, “Fatah doesn’t trust Hamas and will not give it a legislative role before we have the government, unified institutions, and funding. A month after the government is formed, if all is working normally, the government will accept the president’s program. After that, legislative work should focus only on the tasks set out for the government in the Understandings. We won’t use a minority/majority system in parliament. This is clearly undemocratic but it’s temporary, only eight to ten months, within the framework of the agreement. This is to

The most likely course appears to be a delay in appointing a new government, probably until after September, when the Palestinian bid for statehood at the UN is due. If Hamas does not accept Fayyad, or if Fatah is not willing to accept an alternate candidate – neither of which appears probable – the order of implementation could well be reshuffled. Rather than dealing with government formation first, it would make sense to hold it for later and discuss other issues in the interim.¹²²

Political Program. The agreement signed in Cairo makes no mention of a political program for the reconciliation government, an omission from which Fatah and Hamas have drawn two very different conclusions. Abbas insists that he will appoint the government and, upon swearing in the ministers and issuing his letter of commission, indicate that the government will follow his political program, including references to the Quartet principles of non-violence, recognition of Israel and commitment to PLO agreements. This practice was followed when Fayyad reshuffled his cabinet in May 2009.¹²³ Abbas said:

There is a wrong understanding of the government that it is a power-sharing government between Fatah and Hamas. The government is my government and follows my strategies and policies. It is a government of independents that does not include anyone who belongs to any Palestinian faction.¹²⁴

A Fatah PLC member argued that an endorsement of Abbas's program necessarily follows from what was verbally

the benefit of both movements. Hamas shouldn't be able to change all the laws just because it has a majority in parliament, and Fatah shouldn't be able to profit if Israel arrests Hamas PLC members". Crisis Group interview, Ramallah, July 2011. A Fatah PLC official used the same logic to explain why PLC review of the Abbas presidential decrees of the past four years should be agreed by a Fatah-Hamas committee before being brought before the entire body: "If Hamas has free rein, it will open the gates of hell for us. Some presidential decrees are okay, others are not, but if we open up everything to review, Hamas could bring it all down". Crisis Group interview, Ramallah, July 2011.

¹²² Crisis Group interview, Ramallah, July 2011.

¹²³ At the time, Abbas wrote to Fayyad: "I commission you to form the next Palestinian government ... and call on you as the next prime minister to pledge yourself to the higher interests of the Palestinian people, to maintain its gains and to further them, and to work on realising its national goals as established in the Declaration of Independence, the resolutions of the Palestine National Councils and the articles of the amended Basic Law". Text on file with Crisis Group. Shortly after his swearing in, Fayyad responded: "This government is the president's government, and its program as regards politics is the president's program and the program of the PLO in all its components, including the Palestinian peace program declared in 1988". *Al-Ayyam*, 21 May 2009.

¹²⁴ Xinhua, 23 May 2011.

agreed among the factions in Cairo: "There was a consensus among Fatah, Hamas and everyone in Cairo that the government must be able to interact and cooperate with the international community. Nobody will benefit from a PA that causes a crisis for all Palestinians, both here and Gaza".¹²⁵ Hamas, by contrast, asserts that the reconciliation government must not be Abbas's nor subscribe to any program, at least one not approved by the temporary leadership framework. Responding to comments by Fatah leaders that the government will follow Abbas's program, Hamas leader Mahmoud Zahar said:

We are hostage to neither Abu Mazen's program nor Fatah's political program ... This government is known as a "government of national consensus", not "Abu Mazen's government". Abu Mazen's government is Salam Fayyad ... [By contrast] a government of national consensus and its political program are the realm of the temporary leadership framework [of the PLO]. This is the language that we agreed on ... The language that has been mentioned [by Abbas] – that this is Abbas's government and its program is his program – is not in keeping with the agreement.¹²⁶

Another leader grew testy at the suggestion that since Meshal, in his speech at the signing ceremony, had agreed to grant Abbas wide latitude, there was no reason for the new government not to explicitly endorse his agenda: "You can have the fruit of an agreement or we can stand around arguing about small details. We are being flexible. Do not ask us to spell it out".¹²⁷

At the signing ceremony and in its immediate aftermath, the movements tried to downplay the practical differences in their aspirations and tactics vis-à-vis Israel, but that did not get them very far. A Fatah leader on the margins of the Cairo discussions said, "we both believe in negotiations but only under certain conditions and these conditions do not obtain at the moment. Both Hamas and Fatah want an independent Palestinian state, based on the 1967 borders, with Jerusalem as its capital. So I don't see any problem with finding ground for a political program".¹²⁸ Khaled Meshal – he too likely overstating the extent of agreement – employed a similar formulation, saying that both movements wanted a state on the 1967 lines without modifications, Jerusalem as capital, no settlements left in place and the right of return. This he called a "shared vision".¹²⁹

¹²⁵ Crisis Group interview, Ramallah, June 2011.

¹²⁶ *Al-Quds al-arabi*, 16 May 2011. Zahar here is referring to the government's tasks as spelled out in the Understandings, described above.

¹²⁷ Crisis Group interview, Gaza City, June 2011.

¹²⁸ Crisis Group interview, Cairo, May 2011.

¹²⁹ Press conference, Cairo, 7 May 2011.

But putting aside whether in fact there is agreement on these matters (Fatah negotiators, for instance, have long agreed to land exchanges and have shown flexibility on the right of return), other issues that loom large for the international community remained unaddressed. These include questions of resistance and violence, recognising Israel, endorsing past agreements, and they have already become obstacles to the reconciliation deal insofar as they are central to international acceptance or not of the outcome.

Security. Unofficially, as noted above, Fatah and Hamas agreed that security provisions of the Egyptian Reconciliation Document will not take effect during the interim year preceding the elections. This might prove reassuring to those who hold the reins but is a source of concern to many others; indeed, over the past four years, both movements have, in varying degrees, engaged in arbitrary arrests, shuttered charitable and social institutions and more generally denied their people the freedoms of association, assembly and speech.¹³⁰ Many worry that without structural reforms to or real limitations on the security forces that carry out the abuses, their politicisation will be a perpetual irritant, undermining the agreement.¹³¹

The Egyptian Reconciliation Document provides for the release of political detainees,¹³² though with both sides denying that it holds any, the provision is unlikely to be implemented. West Bank officials claim that they arrest only on the basis of suspected criminal activity, for the most part illegal possession of weapons or illicit financial transactions.¹³³ They say that they will continue this policy and have been given no instructions to change their procedures.¹³⁴ Quite to the contrary, they have increased their vigilance out of concern that Hamas will take advantage of the agreement to renew organising in the West Bank. A Pre-

ventive Security official said, “reconciliation was a political move. It has nothing to do with security”.¹³⁵

Likewise, Hamas continues to impede efforts by other factions to organise in Gaza, and Fatah members are being summoned for questioning.¹³⁶ Like Fatah in the West Bank, Hamas is reluctant to see its hard-won, and sometimes brutal, domination of the Strip challenged. It fears the potential consequences of the return, reactivation and arming of former security personnel. In part, this stems from a desire to retain control and prevent any challenge to its hegemony – though preventing the re-emergence of Fatah-linked gangs that engaged in thuggery and criminality during the period of “security chaos” is of concern as well.¹³⁷ Hamas has not banned anyone from returning but has said pointedly that the Gaza government cannot guarantee the safety of those “with blood on their hands”, thus effectively discouraging their return.¹³⁸

The fate of the Qassam Brigades is another particularly tricky obstacle to comprehensive security reform. Not so much in the short term: Qassam officials were present in Cairo and vowed to back the reconciliation agreement; even Fatah leaders in Gaza concur that the Brigades seem supportive.¹³⁹ A Hamas leader attributed this to his move-

¹³⁰ There is wide agreement among human rights organisations on this matter. See the publications of the quasi-official PA ombudsman, the Independent Commission for Human Rights, at www.ichr.ps/index.php.

¹³¹ Crisis Group interviews, Fatah and Hamas members, Ramallah and Gaza City, May 2011.

¹³² The Egyptian Reconciliation Documents states: “There must be no political arrests” and moreover: “Each side will release the detainees from all factions that it is holding, immediately upon the signing of the agreement. Following the release of all detainees, each side will hand over to Egypt a list of the names of any detainees whose release was refused [by the sides], and the explanations for the refusal, and will submit a report on the matter to the Fatah and Hamas leaderships”. Translation taken from www.mesi.org.uk/ViewNews.aspx?ArticleId=3577.

¹³³ Crisis Group interviews, PA security officials, Ramallah, June 2011.

¹³⁴ A Fatah PLC member claimed that Abbas had informed Hamas that “there would be no change in the procedures necessary for maintaining security and stability in the West Bank”. Crisis Group interview, Ramallah, June 2011.

¹³⁵ Crisis Group interview, Ramallah, May 2011. That said, in recent months PA security forces have changed their style of policing. In most cases, they let detainees go the same day, after questioning. Israel, by contrast, is arresting more of what one security officer called the “bigger fish”. Ibid. Hamas submitted a list of 120 names it claims to be PA-held political prisoners in the West Bank and demanded their release; the movement has participated in a number of demonstrations (in Nablus and Hebron) on this issue, some of which have been met with force by the PA. Crisis Group interview, Hamas PLC member, Ramallah, June 2011.

¹³⁶ On 31 May, the Gaza government prevented a gathering of the “Popular Movement to End the Division”. The Popular Front for the Liberation of Palestine, which plays a significant role in the movement, condemned the government’s action. *Al-Hayat*, 1 June 2011. Fatah leaders who were summoned for questioning are named at www.pal-home.net/arabic/?action=detail&id=50254. Details on the detention of Fatah in Gaza and Hamas in the West Bank can be found at www.pchrgaza.org.

¹³⁷ Crisis Group interviews, Hamas leaders, Gaza City, May 2011. On the security chaos and the steps Hamas took to combat it, see Crisis Group Middle East Report N°73, *Ruling Palestine I: Gaza Under Hamas*, 19 March 2008.

¹³⁸ A senior Hamas leader said that Abbas and others were welcome in Gaza, but “it would be better” for them to come after the social aspects of reconciliation are dealt with, “so that a collaborator cannot come, shoot in the air and blame it on Hamas. We want him to visit when it is safe to visit”. Crisis Group interview, Gaza City, May 2010. An analyst added: “The message is clear. For Palestinians with blood on their hands, you are free to come, but you should fear for your life”. Crisis Group interview, Gaza City, May 2011.

¹³⁹ Crisis Group interview, Fatah leader, Gaza City, May 2011.

ment's effective chain of command,¹⁴⁰ but equally plausible is that Qassam is convinced that so long as the security file is postponed, their vital interests will not be threatened.¹⁴¹ In the longer-term, however, the situation likely will be far more complicated.

Hamas considers its military wing to be outside the security sector and thus not concerned by agreed reforms, despite the fact that it occasionally backstops government security forces, with which it sometimes shares personnel. In the words of a senior leader, "we are not just any Arab country. We are besieged by and facing an occupation. We will not put our weapons in the cupboard, like the IRA, and pretend the occupation doesn't exist".¹⁴² Importantly, Qassam's status in movement eyes stems as much from its role in fighting Fatah as it does from resisting Israel.¹⁴³

Militias in the West Bank do not present a problem of this magnitude, as they were effectively dismantled after Fayyad assumed the premiership in June 2007.¹⁴⁴ That said, PA security agencies are still dominated by Fatah loyalists, particularly at the upper ranks; a remarkably open Fatah leader in Gaza described them as a "security mafia", with "vested interests" no less prominent than those among Hamas in Gaza.¹⁴⁵

Social reconciliation. The anger that dates to Hamas's bloody 2007 takeover of Gaza – and the subsequent campaign against a variety of Islamists in the West Bank – has not faded. Hamas's tight grip over the past four years has been a double-edged sword: it has kept a lid on Fatah/Hamas tensions that otherwise might have erupted, but at the same time it has exacerbated them, further angering Fatah militants and those who sympathise with them. A leading Fatah figure in Gaza argued that the continuing thirst for revenge constitutes the single biggest danger to

reconciliation. Defusing tensions, he estimated, would cost tens of millions of dollars in blood money – but, he added, even that may not be enough, since not everyone will accept money and forgo vengeance.¹⁴⁶ "If Fatah doesn't find a way to make progress on this file", said another Gazan Fatah leader, "it will face big problems with its supporters in Gaza".¹⁴⁷

Hamas leaders are concerned as well. Even should formal understandings be worked out, one said, "some [within Fatah] will put their family above the national interest".¹⁴⁸ Women married to Qassam members are said to be particularly fearful that should Hamas loosen its grip, their families will become targets.¹⁴⁹ Hamas already has launched a campaign among its supporters to calm fears.¹⁵⁰ While the fighting in 2007 in the West Bank was much less violent, hard feelings persist regarding the subsequent firings, arrest campaigns and repression. A Fatah leader from Nablus said that he, along with others from his movement, had made a concerted effort to pursue dialogue with Hamas locally but had met with a cold response.¹⁵¹

PLO. For Fatah, the matter is a fairly simple one, even if the text of the Understandings is quite confusing. The text says, as Hamas demanded, that "the tasks and decisions of the temporary leadership body are not subject to obstruction" – but adds, consistent with Fatah's request, that this is the case "so long as they do not conflict with the competencies of the PLO Executive Committee". As a leading Fatah figure commented shortly after this language was floated in October 2010, "we gave Hamas what they wanted and took it away at the same time".¹⁵² The self-contradictory text led an independent actor involved in me-

¹⁴⁰ Crisis Group interview, Cairo, May 2011.

¹⁴¹ A Qassam member denied that the liberalisation of movement at the Rafah crossing would bring any direct advantage for the Brigades: "We have never used and never will use the official crossing for military purposes. Both the Israelis and the Egyptians know this, but they use it as an excuse to put pressure on our people and government. We have our own tunnels and methods that are more than sufficient for our needs. Our known activists don't trust the official crossing and have other ways to move around". Crisis Group interview, Gaza City,

¹⁴² Crisis Group interview, Cairo, May 2011.

¹⁴³ Distinguishing the attitude of Hamas toward the diplomatic process in the 1990s to that of today, a senior leader said, "as with the process led by Arafat then, we will not put a stick in the spokes now. But unlike then, we will never allow another crack-down on Hamas". Qassam is their guarantee. Crisis Group interview, Gaza City, May 2011.

¹⁴⁴ Crisis Group Middle East Report N°78, *Ruling Palestine II: The West Bank Model?*, 17 July 2008.

¹⁴⁵ Crisis Group interview, Fatah leader, Gaza City, May 2011.

¹⁴⁶ Crisis Group interview, Gaza City, May 2011.

¹⁴⁷ Crisis Group interview, Ramallah, May 2011.

¹⁴⁸ Crisis Group interview, Gaza City, May 2011.

¹⁴⁹ Crisis Group interviews, Gaza City, May 2011. That said, women in general seem strongly supportive of reconciliation. The director of a woman's advocacy organisation said that divorce rates in Gaza have soared since 2007, the product in part of political differences within families (mainly when a woman's family of origin is on the opposite side of the political divide from her husband's family) but also from the tensions that have accompanied the Strip's economic free-fall and particularly the lack of work. "A man at home all day, with nothing to do, is a disaster for relationships and family life". Crisis Group interview, Gaza City, July 2011.

¹⁵⁰ To head off these and other challenges, Hamas has launched a campaign among its grassroots members "to explain its motives, to convince everyone of the importance of this move and to allay their fears". Crisis Group interview, senior Hamas leader, Cairo, May 2011.

¹⁵¹ The Nablus leader, having had the chance to observe the interaction between Hamas and Fatah leaders from Gaza, commented that their rapport seemed easier than that of leaders in the West Bank. Crisis Group interview, Nablus, May 2011.

¹⁵² Crisis Group interview, Ramallah, November 2010.

diating the reconciliation agreement to comment that he had no idea what this clause meant, particularly since the competencies of the Executive Committee are not spelled out.¹⁵³

Regardless of the wording, Fatah and certain others hold that the temporary leadership's capacity to influence sensitive deliberations will remain limited, since it operates by consensus – thereby giving anyone a veto – and its priority will be to prepare for the Palestine National Council elections, though it also will be entitled to give “recommendations” to the Executive Committee, which will continue to be the PLO's ultimate source of authority.¹⁵⁴ The president's advisers were clear about how he would use that power: Hamas will not gain access to the PLO unless it accepts previous PLO decisions, period.¹⁵⁵

Hamas seems to have a different idea about how the temporary leadership body will work. As it sees it, that the body constitutes the “leadership of the Palestinian people” means that it is superior to the PLO. At the time the reconciliation agreement was signed, movement leaders gave the impression this might not constitute a source of significant disagreement with Fatah. Instead, they indicated that for now they would give wide latitude to Abbas to conduct negotiations. Khaled Meshal, in his speech at the signing ceremony in Cairo, laid out an approach that a presidential adviser termed “unexpectedly flexible”.¹⁵⁶ “We have given peace, from Madrid to now, twenty years. I say: We are ready to agree as Palestinians, in the arms of the Arabs and with their support, to give an additional chance for agreement on how to manage it”.¹⁵⁷ There has been contro-

versy over this position, though it has since been confirmed as the movement's official one.¹⁵⁸

As the mood soured over the next weeks, however, some Hamas leaders offered a considerably more parsimonious interpretation of Meshal's phrasing, saying that it does not necessarily imply that Abbas has free rein, but rather that Hamas expects to be consulted on policy matters, with the temporary leadership framework playing a role not only in planning Palestinian National Council elections but in strategic decision-making as well. When it is so consulted, an Islamist leader said, it will demonstrate flexibility and good will, but until then, Abbas and the PLO have no right to make unilateral decisions.¹⁵⁹ A Hamas leader – echoing what Meshal and other senior leaders said – contended that the PLO's political decisions would have to be taken by consensus, in the same way that calculations regarding waging resistance (eg, through violence, popular action or international mobilisation) and security reform would need to be.¹⁶⁰ A Hamas leader asserted:

international law could yield for the Palestinians. See “Palestinian statehood: What is the U.N.'s role?”, *Los Angeles Times*, 12 June 2011.

¹⁵⁸ In the wake of Meshal's speech, Gaza leader Mahmoud Zahar criticised the politburo head, accused him of not speaking for the movement and said that Hamas would not condone further negotiations. Meshal's statement during the signing ceremony, Zahar charged, “does not represent the official position of the movement, which relies on resistance as its basic program and not negotiations We did not give Abu Mazen a chance to negotiate; we didn't agree to negotiations; and we did not encourage him [to pursue them]; to the contrary we embarrassed him about them day and night This language we did not agree to and were surprised by it. There has been no change in the position of the movement regarding resistance as the unifying choice”. *Al-Quds*, 16 May 2010. Other members of the leadership were subsequently drawn into the fray, until the Hamas politburo finally issued a statement on 1 June 2011 specifying that Meshal's speech indeed represented the movement's position and criticised those who spoke in the name of the movement outside the framework of the politburo. Making the best of the contretemps, a Hamas leader commented that it had enabled the movement to clarify its position on this issue, and despite personal differences among the leadership, Hamas' official position is clear. Crisis Group interview, Gaza City, June 2011.

¹⁵⁹ Crisis Group interview, Hamas leader, Gaza City, June 2011.

¹⁶⁰ Crisis Group interview, Hamas leader, Gaza City, June 2011. This explains the negative reaction of several prominent Hamas figures to Abbas's announcement of support for the French initiative to convene a conference to relaunch negotiations having a goal of two states for two peoples, with borders based on the 1967 lines with agreed land swaps and on security arrangements guaranteeing the security and sovereignty of both states. Negotiations, according to the proposal, would be finalised within a year on all final status issues including refugees and Jerusalem. Hamas politburo member Salah Bardawil condemned Abbas's embrace of the initiative as “precipitous, incorrect and

¹⁵³ Crisis Group interview, Ramallah, May 2011.

¹⁵⁴ Even were the group to produce decisions through a vote, Abbas's position would remain strong since the framework's composition gives a clear majority to his backers.

¹⁵⁵ Crisis Group interview, Ramallah, May 2011.

¹⁵⁶ Crisis Group interview, Ramallah, June 2011.

¹⁵⁷ Video at www.youtube.com/watch?v=k6zFDivGgCs; Crisis Group interview, Gaza City, May 2011. A senior Hamas leader said, “the pool of negotiations dried up and, lo and behold, there weren't any frogs. But if Abu Mazen wants to continue to negotiate, okay, go ahead. But in the end there will be elections, and whoever's program wins should be given a chance”. Crisis Group interview, Cairo, May 2011. He showed a similar laissez-faire attitude toward Abbas's UN strategy, convinced that it would not yield anything of value. He said, “maybe the UN will give people hope for five months, but practically, it will bring nothing. Maybe something formal will happen there, but even if it does, it will not matter on the ground. Even if the U.S. or Israel itself were to recognise you, it would be recognising you in your chair. Where is the land you are controlling? Who are the people you are governing? In 1993, the PLO recognised Israel in exchange for the PLO being recognised as the representative of the Palestinian people. We've heard this story before”. Crisis Group interview, Cairo, May 2011. That said, Mousa Abu Marzook, the deputy head of the Hamas politburo, offered a much more favourable position on what statehood and

We have not yet given anything to Abu Mazen. What Abu Walid [Meshal] indicated in Cairo was that the temporary leadership framework would allow Abbas to negotiate. But the temporary leadership framework hasn't met. Abu Walid didn't say that Abbas can do whatever he wants without consulting anyone.¹⁶¹

Elections. The apparent suspension of talks on implementing the agreement hardly bodes well for holding long overdue presidential, legislative and Palestine National Council elections within a year, as specified in the Understandings. Even before the talks bogged down, the signs were not good. Khaled Meshal's speech at the signing ceremony appeared to take a step back from the twelve-month deadline, when he said, "let us implement the reconciliation texts in all areas, and quickly, and if we realise this, and if natural conditions obtain in Gaza and the West Bank, we are ready to go to the ballot box".¹⁶² Nor was the agreement to prolong the rule of politicised security apparatuses in both Palestinian territories a positive sign. Fatah in Gaza and Hamas in the West Bank – among others – will have scant confidence in the fairness of an election campaign or in the legitimacy of the outcome under such conditions.¹⁶³

IV. THE INTERNATIONAL COMMUNITY'S REACTION

In reacting to the agreement, the U.S. and EU were pulled in several competing directions. Many, particularly in Europe, had come to believe that the immediate, negative reaction to the 2007 Mecca Accord¹⁶⁴ – and, in particular, the announcement of the Quartet conditions¹⁶⁵ – was mistaken. The inter-Palestinian division, they had come to conclude, had served neither the peace process nor Fatah; if anything, it had undermined the West's claim that it favoured democratic transitions in the Arab world.¹⁶⁶ Even in the U.S., where opposition to Hamas was strongest, the administration formally had endorsed Palestinian reconciliation in 2007, a view several times expressed by the Quartet.¹⁶⁷ Coming out squarely against the reconciliation agreement would be particularly awkward at a time when Western nations were seeking to regain credibility with Arab public opinion – which strongly backs unity – and when Egypt's new government had both brokered the accord and put its prestige behind it.

On the other hand, Hamas remained on the U.S. and EU lists of terrorist organisations, the Quartet conditions were still in force, and – particularly in Washington – the notion of acquiescing in what the U.S. and some European capitals view as a Palestinian power-sharing arrangement was politically and legally difficult. The White House initially

meaningless", "another return to the whirlpool of futile negotiations" and a "step back from Palestinian unity". It is necessary, he said, that "Abbas not take steps in isolation from the shared leadership that Palestinian reconciliation produced". *Felesteen*, 4 June 2011. Gaza Interior Minister Fathi Hammad said, "nobody is authorised to negotiate one grain of holy Palestinian sand from our blessed land". www.pal-home.net/arabic/?action=detail&id=50237. A member of Hamas's politburo reacted similarly to the possibility that the Palestinian leadership in Ramallah would seek a UN vote on statehood. Ironically echoing Netanyahu's charge that recourse to the UN would be a unilateral move, Izzat al-Rishq said, "Mahmoud Abbas's step of going to the UN to demand recognition as a state is a unilateral step inconsistent with the national consensus". *Al-Quds*, 17 July 2011.

¹⁶¹ Crisis Group interview, Gaza City, June 2011.

¹⁶² Video of the speech is available at www.youtube.com/watch?v=k6zFDivGgCs.

¹⁶³ Crisis Group interviews, Hamas and Fatah unity negotiators, Cairo, May 2011.

¹⁶⁴ The Mecca Accord, brokered by Saudi Arabia, was signed on 8 February 2007. "The accord consists of four clauses: a 'ban on the shedding of Palestinian blood ... [and] adopting the language of dialogue as the sole basis for solving political disagreements in the Palestinian arena'; 'reaching a final agreement on the formation of a Palestinian national unity government'; accelerated progress 'in activating and reforming' the Palestine Liberation Organisation (PLO); and reinforcing 'the principle of political partnership' within the Palestinian Authority (PA) 'on the basis of political pluralism according to an agreement ratified by both parties'". Crisis Group Middle East Report N°62, *After Mecca: Engaging Hamas*, 28 February 2007, p. 1. The Accord broke down over the next months, and after fighting between Hamas and Fatah intensified in the spring, Hamas seized control of Gaza in June 2007; Abbas then dismissed the unity government and tasked Fayyad to form an emergency government in its place.

¹⁶⁵ For those conditions, see fn. 2 above.

¹⁶⁶ This view was expressed by numerous European officials during the past several years. Crisis Group interviews, EU capitals, 2008-2011.

¹⁶⁷ On 21 March 2007, the Quartet issued a statement in which it "reiterated its respect for Palestinian democracy and the agreement reached in Mecca on 8 February 2007, which laid the foundation for Palestinian reconciliation". www.un.org/News/Press/docs/2007/sg2125.doc.htm.

abstained from passing judgment on the agreement,¹⁶⁸ making clear that it would await further clarification on the future government's shape and program as well as on the fate of security cooperation in the West Bank.¹⁶⁹ Obama's 19 May policy address on the Arab Spring seemed to leave the door slightly ajar,¹⁷⁰ though in his subsequent speech to the American Israeli Public Affairs Committee he struck a harder line, explicitly repeating the Quartet conditions.¹⁷¹

Without opposing the principle of unity or even the agreement itself, U.S. officials appeared to want to impress on Abbas and others that continued assistance – which they would like to provide – required that some redlines be respected: the government should be led by Fayyad; it should adopt Abbas's program; there should be no change to the security arrangements in the West Bank; and Hamas should not play a role in the PLO until it shifts its positions. At a minimum, U.S. officials said, they wanted to be able to maintain assistance to PA security forces in the West Bank – a critical component of Israeli-Palestinian security cooperation. For that to happen, they maintained, the security committee should either not be formed or have no role in the West Bank.¹⁷²

Even as the Obama administration seeks to project a more nuanced stance than had its predecessor, it is seriously hamstrung, both legally, by legislation governing U.S. funding to the Palestinians, and politically, by Congress's far more hardline attitude – all the more relevant in Washington's pre-electoral atmosphere. Legally, the administration is prohibited from providing assistance to “any power-sharing government of which Hamas is a member”,¹⁷³ unless the U.S. president either (1) certifies that the government and all its ministers have “publicly acknowledged the Jewish State of Israel's right to exist”,¹⁷⁴ and have committed themselves and are adhering to all past agreements with Israel, the United States, and the international community; or (2) issues a National Security Waiver¹⁷⁵ that would permit funding of the administrative and personal security costs of the Office of the Palestinian President (who, according to the Basic Law, is Commander-in-Chief of the Palestinian Forces).¹⁷⁶

Given these conditions, a U.S. official averred, a ban on aid could well apply even to a purely technocratic government in which no Hamas member participated, indeed even one headed by Fayyad, if it were endorsed by the movement – notably if it were endorsed by the Hamas-dominated parliament in a confidence vote.¹⁷⁷ Other elements, such as the nature and authority of the temporary leadership or

¹⁶⁸ “We are taking a wait and see approach to unity because we don't have sufficient details yet, and Fayyad is still prime minister. It would send a terrible message if we punished the current government because of fear of the next”. Crisis Group interview, U.S. official, Washington, May 2011. A senior Hamas official noted: “It seems that the U.S. position is less negative than in the past”. Crisis Group interview, Cairo, May 2011.

¹⁶⁹ Crisis Group interviews, U.S. officials, Washington DC, May-June 2011.

¹⁷⁰ Obama said, “in particular, the recent announcement of an agreement between Fatah and Hamas raises profound and legitimate questions for Israel: How can one negotiate with a party that has shown itself unwilling to recognise your right to exist? And in the weeks and months to come, Palestinian leaders will have to provide a credible answer to that question”, www.nytimes.com.

¹⁷¹ He said, “I indicated on Thursday that the recent agreement between Fatah and Hamas poses an enormous obstacle to peace. No country can be expected to negotiate with a terrorist organisation sworn to its destruction. We will continue to demand that Hamas accept the basic responsibilities of peace: recognising Israel's right to exist, rejecting violence, and adhering to all existing agreements”. <http://washingtonexaminer.com/blogs/beltway-confidential/2011/05/obamas-speech-aipac-prepared-text>.

¹⁷² Appearing before the Middle East and South Asia Subcommittee of the House Foreign Affairs Committee, Deputy Assistant Secretary for Near Eastern Affairs Jacob Waller testified: “I recently returned from a visit to Israel and the West Bank and had the opportunity to meet with both Israeli and Palestinian officials. The Israeli security officials I met with confirmed that Palestinian security efforts in the West Bank remain robust, even following the recent reconciliation agreement between Hamas and Fatah. And Palestinian officials assured me that this would

remain the case regardless of political developments”. 12 July 2011. www.internationalrelations.house.gov/112/wal071211.pdf.

¹⁷³ Though whether a national unity government made up of technocrats would constitute a “power-sharing government” is, in the words of a legislative analyst, a “very open question”. Crisis Group interview, Washington DC, July 2011. The legislation never defines “power-sharing”. The prohibition on aid to a power-sharing government comes from the Consolidated Appropriations Act of 2011, which can be found at <http://thomas.loc.gov/cgi-bin/query/F?c111:8:/temp/~c111wxrVCY:e1748128>.

¹⁷⁴ This text comes from Section 620K of the Palestinian Anti-Terrorism Act (PATA) of 2006. www.govtrack.us/congress/billtext.xpd?bill=s109-2370. The Consolidated Appropriations Act of 2011 refers to provisions of PATA, though the applicability of PATA is somewhat unclear, since it makes reference only to a “Hamas-controlled government” and not to a “power-sharing” one.

¹⁷⁵ It was under such a waiver that the U.S. provided aid to President Abbas after Hamas formed a government in 2006.

¹⁷⁶ Consolidated Appropriations Act of 2011, op. cit.

¹⁷⁷ Crisis Group interview, Washington, June 2011. He was particularly concerned that Abbas *not* conclude that Fayyad's mere presence would guarantee continued assistance. “Of course, we want Fayyad to stay on; it will make our political problem in the Congress and elsewhere less acute and would give us far more confidence in the new government. But it would be wrong to assume that his remaining prime minister automatically means continued assistance. The power-sharing clause potentially could kick in anyway depending on the circumstances”. Ibid.

of the higher security committee, likewise could trigger the “power-sharing” clause.¹⁷⁸

Regardless of whether the administration could find a way, consistent with the legislation, to continue providing budgetary aid to the PA and assistance to its security forces, administration officials make clear that what is equally important is Congress’s “perception” of what has occurred. In this respect, the reconciliation agreement, regardless of its details, is highly problematic; should the agreement be implemented, it is unlikely that Congress would continue to approve aid to the PA.¹⁷⁹ Security assistance might be salvageable, but, in the words of a U.S. official, “only if the Israeli government told the Congress that it was critical for its own safety.”¹⁸⁰

In terms of the Palestinian budget, U.S. assistance is considerable but its loss arguably would not be fatal. While U.S. aid to the Palestinians in the West Bank and Gaza in 2010 totalled nearly \$500 million, only \$200 million was direct PA budgetary assistance. Other forms of aid include \$200 million in project assistance delivered through the U.S. Agency for International Development (USAID), which could be preserved, and just over \$100 million in security assistance to the PA (including \$100 million¹⁸¹ in aid to the PA security and justice sectors and an additional \$2.5

million¹⁸² in anti-terrorism aid and counter-terrorism financing).¹⁸³ The \$200 million-plus direct budgetary assistance amounted to just under 18 per cent of the \$1.15 billion donor support for recurrent expenditures the PA received in 2010.¹⁸⁴ In the PLO Executive Committee meeting at which Abbas asked whether they were prepared to forego aid for the sake of unity, members reportedly unanimously said “yes”.¹⁸⁵ Some officials also claim – improbably – that any loss in U.S. funds would be compensated for with Arab assistance.¹⁸⁶

But reality is more complex. A cutoff in U.S. assistance would have an impact beyond the numerical. To begin, it would make it all the more likely that Israel would stop transferring tax revenues (and all the more difficult for the U.S. to object).¹⁸⁷ Moreover, it is possible, though not very likely, that U.S. sanctions would extend to barring any entity receiving U.S. assistance from providing funds to the PA – which would affect UN entities, among others; at the most extreme, the Treasury Department’s Office of Foreign Assets Control could extend to a reconciliation government the now-existing sanctions against Hamas and its affiliates (as well as the requirements imposed on U.S. financial institutions to block transactions involving Hamas

¹⁷⁸ Ibid.

¹⁷⁹ Implementation of the reconciliation agreement likely would trigger stricter enforcement of existing U.S. legislation on aid to the PA, as for the past several years, both Congress and the White House have adopted a permissive attitude in some areas. For example, the same clause of the 2011 Consolidated Appropriations Act that prohibits U.S. aid to “a power-sharing government of which Hamas is a member” also forbids appropriating U.S. funds for the payment of roughly 77,000 PA personnel in Gaza. U.S. officials claim to be in compliance with this restriction by arguing that U.S. aid to the PA goes only toward paying off the PA’s commercial debts. Crisis Group interview, U.S. official, Washington DC, July 2011. But in the words of a Congressional staffer, this is a “fiction” that ignores the fungibility of money. Crisis Group interview, Washington DC, July 2011. Should congressional support wane for U.S. aid and security assistance to the PA, such “fictions” might come in for increased scrutiny. Palestinian moves that much of Congress views unfavourably – in particular, efforts to seek UN recognition of Palestinian statehood, as well as progress on reconciliation – are likely to coincide with congressional deliberations on appropriations for the 2012 fiscal year (which begins in October 2011).

¹⁸⁰ Crisis Group interview, U.S. official, Washington, June 2011.

¹⁸¹ Most of the \$100 million was allocated to providing training (\$41 million), infrastructure (\$30.5 million) and non-lethal equipment (\$17 million). In 2011, U.S. security assistance rose by 50 per cent to \$150 million. “Palestinian Authority: U.S. Assistance Is Training and Equipping Security Forces, but the Program Needs to Measure Progress and Faces Logistical Constraints”, Government Accountability Office, 11 May 2010. www.gao.gov/new.items/d10505.pdf.

¹⁸² “Fiscal Year 2012 Congressional Budget Justification, Volume 2, Foreign Operations”, U.S. Department of State, www.usaid.gov/performance/cbj/158267.pdf.

¹⁸³ To these various forms of aid one could add \$238 million for the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), though that money is also distributed to Palestinian refugees outside the West Bank and Gaza. Jim Zanotti, “U.S. Foreign Aid to the Palestinians”, Congressional Research Service, 31 May 2011.

¹⁸⁴ “Macroeconomic and Fiscal Framework for the West Bank and Gaza”, op. cit.

¹⁸⁵ Crisis Group interview, PLO official, June 2011.

¹⁸⁶ Such hopes notwithstanding, the Arab states have been even less forthcoming in 2011 than in previous years. In 2008 and 2009 they gave \$450 million per year; in 2010, this dropped to \$235 million. In 2011, through June, they gave only \$78 million. In the past, Saudi Arabia and the United Arab Emirates provided the bulk of the money, but this year they have not delivered (though the UAE gave \$42 million for projects). “We don’t know why”. Crisis Group interview, Fayyad adviser, Ramallah, July 2011.

¹⁸⁷ An international aid official pointed out that were the U.S. to cut ties to the PA, Israel would have “cover” for cutting the tax clearance transfers. “This Israeli government”, he said, “is not going to let the U.S. be more Catholic [that is, hard on the Palestinians] than the proverbial pope”. That said, he continued: “There will be ways for Israel to cut off regular transfers but keep the Palestinians on life support. It would be highly disruptive to the PA mechanism, as it was in 2007, but Israel for instance could make direct payments to Israeli electric and water companies”. Crisis Group interview, Jerusalem, July 2011.

assets).¹⁸⁸ However determined the Palestinian leadership might be to continue the reconciliation process, it is hard to imagine that it is entirely impervious to such considerations and to the impact they might have on the PA's future.

The EU, more open to reconciliation, has taken a wait-and-see approach. EU foreign policy chief Catherine Ashton welcomed the unity announcement and, according to some reports, strongly considered attending the signing ceremony;¹⁸⁹ the May EU Council conclusions were equivocal, avoiding direct reference to the Quartet conditions and resorting to more ambiguous language.¹⁹⁰ But Ashton's pragmatic gestures notwithstanding, Brussels will have little room to manoeuvre, particularly given divisions among EU member states.¹⁹¹ The government's composition and program will do much to shape its final position and the fate of the roughly €500 million¹⁹² in annual assistance

the EU has provided to the Palestinians (including to civil society and refugees) since 2007.¹⁹³

Predictably, Israel reacted negatively to the reconciliation agreement. Prime Minister Netanyahu seized upon the announcement to deflect growing international pressure on his government to display greater flexibility toward the Palestinians. In talks with U.S. and European officials, Israel insisted that they stick to the Quartet conditions and predicate any resumption of Israeli-Palestinian talks on either Hamas's adherence to those conditions or Abbas's renunciation of the partnership.¹⁹⁴ As noted, Israel also fired a warning shot, suspending for some time transfer of tax clearance revenues collected on the PA's behalf. Privately, officials insisted on the importance of continued security cooperation and of Fayyad carrying on as prime minister. As an official at the strategic affairs ministry said, "having virtually anyone else as prime minister would indicate that Hamas had gotten its way, which would affect cooperation between us and the PA".¹⁹⁵

Overall, Israeli officials expressed scepticism that the agreement signaled a genuine change in the relationship between Hamas and Fatah; in particular, they doubted that Hamas possessed willingness or capacity to alter its ideological stripes.¹⁹⁶ As a result, many Israeli decision-makers, especially among the elected leadership, consider technocrats "greenlighted" by Hamas to be no more acceptable than full-fledged members of the movement; a Likud minister called such an arrangement a "façade" that his

¹⁸⁸ Crisis Group interview, U.S. official, Washington DC, May 2011. It should be noted, however, that on this matter Congress, and not the Treasury Department, has the final say. Crisis Group interview, legislative analyst, Washington DC, June 2011.

¹⁸⁹ "I understand President Abbas's desire to move forward on reconciliation. We have all argued there needs to be a reconciliation, and with caution we are moving to try and support his efforts. I say caution because we understand it needs to be based on principles of non-violence". 25 May 2011, EUobserver.com

¹⁹⁰ "The EU looks forward to continuing its support, including through direct financial support, for a new Palestinian government composed of independent figures that commits to the principles set out in President Abbas' speech on 4 May. Such a government should uphold the principle of non-violence, and remain committed to achieving a two-state solution and to a negotiated peaceful settlement of the Israeli-Palestinian conflict accepting previous agreements and obligations, including Israel's legitimate right to exist. The EU's ongoing engagement with a new Palestinian government will be based on its adherence to these policies and commitments". By replacing the Quartet condition of "renouncing violence" with "upholding the principle of non-violence", the EU left open the possibility of judging the new government based on its conduct. The statement also holds out the possibility that commitment to accepting previous agreements and obligations, including Israel's right to exist, would need to come only at the conclusion of a negotiating process and not as a precondition for recognition of a reconciliation government, though the language is ambiguous. Conclusions at www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/122165.pdf.

¹⁹¹ Germany, the Netherlands, and the Czech Republic are less inclined to view a national unity government favourably, while France, the UK, and Spain are more inclined to do so. Crisis Group interviews, Brussels, May-June 2011.

¹⁹² See, "Press Release – European Union and [Palestinian] Prime Minister's Office", 27 October 2010. http://eeas.europa.eu/delegations/westbank/documents/news/20101027_signing_ceremony40mill_en.pdf.

¹⁹³ Crisis Group interviews, EU officials, Brussels, May 2011. A European official in Jerusalem added that if the government is composed of independents, and its platform respects international humanitarian law and non-violence, "we are in. But if the government's reference is the Palestinian Legislative Council, then the EU cannot support it". Crisis Group interview, Jerusalem, June 2011. A breakdown of European Commission assistance provided to the Palestinians in 2008 can be found at http://eeas.europa.eu/occupied_palestinian_territory/ec_assistance/ec_aid_to_pa_2008_en.pdf.

¹⁹⁴ Responding to the announcement of a unity agreement in April 2011, Netanyahu stated: "The Palestinian Authority must choose either peace with Israel or peace with Hamas. There is no possibility for peace with both". "Abbas must choose between Israel, Hamas: Netanyahu", Reuters, 27 April 2011. Following a meeting with French Foreign Minister Alain Juppé several weeks later, Netanyahu stated: "We would also like to emphasise and reiterate: Negotiations will not be conducted with a Palestinian government, half of which is Hamas, a terrorist organisation that seeks to destroy Israel. I made it clear to Foreign Minister Juppé that Hamas must adopt the Quartet principles". www.pmo.gov.il/PMOEng/Communication/Spokesman/2011/06/spokejuppe050611.htm.

¹⁹⁵ Crisis Group interview, Jerusalem, June 2011.

¹⁹⁶ Crisis Group interviews, Jerusalem, June 2011.

government ought to reject.¹⁹⁷ As they see it, Hamas cannot be moderated, and an ostensibly “independent” government cannot launder the movement’s radicalism.¹⁹⁸

The cooperation at stake is substantial. Were the current set-up to change, Israel almost certainly would curtail its substantial information-sharing with PA security forces and increase incursions into PA-administered urban areas,¹⁹⁹ thereby rendering the new government less able to deal with potential threats and more impotent before its people. Moreover, as discussed, withholding Palestinian tax clearance revenues would threaten the PA with financial ruin, though Israeli officials are somewhat doubtful that, given international attitudes, they could exercise such pressure for long.²⁰⁰ PA officials have been sending their Israeli counterparts clear messages that the security situation in the West Bank will be unchanged²⁰¹ – though whether security coordination could survive a cutoff of aid or the disruption of tax clearance revenues is uncertain – but until

their words are accompanied by sustained evidence on the ground, Israel will remain suspicious.²⁰²

¹⁹⁷ Crisis Group interview, adviser to Likud minister, Jerusalem, June 2011. Only opposition figures – such as Kadima Knesset member Shaul Mofaz, who also chairs the Knesset Foreign Affairs and Defence Committee – describe the reconciliation agreement publicly as “also an opportunity”. Crisis Group interview, Kadima adviser, Jerusalem, June 2011. An Israeli foreign affairs official argued the Fatah-Hamas agreement makes a prisoner deal for the Israeli soldier Gilad Shalit more likely. Crisis Group interview, Jerusalem, June 2011.

¹⁹⁸ Other officials said that “if the government accepts the Quartet conditions, then we will have to work with it”, while quickly adding that such a prospect seemed remote. Crisis Group interview, Israeli strategic affairs ministry official, Jerusalem, June 2011.

¹⁹⁹ Crisis Group interview, Israeli security official, Jerusalem, June 2011. The official added that cooperation is quite high now, as evidenced by the handling of the 15 May Nakba and 5 June Naksa events, which involved “a level of coordination not seen since the days of joint Israeli-Palestinian patrols during the 1990s”. Deputy Assistant Secretary of State Walles echoed this sentiment in his testimony before Congress: “U.S.-trained Palestinian Authority Security Forces (PASF) have worked effectively with the Israel Defense Forces (IDF) to counter the mutual threat of terrorism, and have maintained calm in the West Bank even during periods of tension, including the recent May “Nakba Day” and June “Naksa Day” protests. While there was violence on the Blue Line with Lebanon and in the Golan along the Disengagement Line with Syria, in the West Bank U.S.-trained Palestinian Authority Security Forces maintained order in coordination with Israeli forces”, op. cit.

²⁰⁰ “The money is not ours. It is an illegal act”. Crisis Group interview, Likud adviser, Jerusalem, June 2011. The adviser added that this weapon would be better held in reserve until September, in case the Palestinians follow through on their declared intention to seek international recognition at the UN, at which point Israel could argue that the Palestinians had abrogated the Oslo Accords.

²⁰¹ Crisis Group interviews, Israeli security officials, Jerusalem, June 2011.

²⁰² The Israeli defence establishment largely believes that the current PA government would not support mass protests. Crisis Group interview, Israeli strategic affairs ministry official, Jerusalem, June 2011.

V. CONCLUSION

While both Hamas and Fatah have decided that reconciliation offers tactical and even strategic rewards, the status quo also has advantages that each is loath to sacrifice. For Abbas, removing the objection that he cannot deliver on a negotiated deal and claiming unity of territory and population as he seeks UN membership for the state of Palestine might be useful. But sacrificing U.S. goodwill and Israeli cooperation – the PA's two principal assets for the past two decades – would be costly, especially for a leadership that lacks a reliable alternative strategy. For Hamas, too, there are powerful incentives for reconciliation – to normalise life in Gaza; relieve the pressure of governing under a closure regime that has been attenuated but not ended since the May 2010 flotilla; establish a good relationship with the new Egyptian regime; and prepare regional backup options in case of worsening turbulence in Syria. But if the price for these is bending to what are seen as Fatah and Western dictates – adopting Abbas's prime minister, his political program and putting off PLO integration – Hamas is unlikely to go along.

The reconciliation accord was achieved because little sacrifice was required to reach it – but that is also the reason why implementation has proven substantially more difficult. The most significant trait the movements have in common is a determination not to squander the gains they believe they have secured since 2007. Indeed, even when the reconciliation spirit, now withered, was in full bloom, the accord offered a new framework for competition rather than for genuine unity. In the words of Hamas leader Mahmoud al-Zahar, reconciliation offers not integration but mere “co-existence between [Hamas's and Fatah's] contradictory and conflicting programs”.²⁰³ Or, as a Fatah negotiator said, “after fighting each other and being divided for years, a piece of paper signed after a few hours of negotiation doesn't mean much. It was just headlines, full of holes”.²⁰⁴

Moreover, just as changes to the regional and international configuration helped bring about the agreement, so too are limitations to those changes now delaying implementation. In April, with Egypt's revolution fresh, Fatah, like Hamas, faced uncertainty that led it to hedge bets. In July, the world, from Ramallah's perspective, looks like a friendlier place.

Egypt has not moved aggressively in a new direction;²⁰⁵ the opening of the Rafah crossing has been restricted;²⁰⁶ polls showed a bump for Abbas after reconciliation was agreed;²⁰⁷ and the prospect of a Palestinian bid for UN membership in September appears to have enhanced the PLO's international leverage.²⁰⁸ Abbas's strategic course, which seemed to have run aground as a result of the Arab Spring, appears to have legs; the regional realignment on which Hamas is banking has yet to materialise. This does not mean Abbas is no longer interested in reconciliation; by all accounts, he is. But it means he is in a stronger position. Moreover, international insistence that he retain Fayyad

²⁰⁵ A Fatah negotiator said, “when I was in Cairo, I saw that Hamas assumed the change would benefit the Brotherhood and Hamas entirely. But they hadn't really studied the situation. Within the new regime, different opinions are emerging; the Brotherhood itself has divisions, the Salafis are also on the political scene. The foreign ministry established its presence on the Palestine file, but the *Mukhabarat* [intelligence agency] is still in control”. A Fatah negotiator assessed in late June: “In Egypt, the old regime is still in place”. Crisis Group interview, Ramallah, June 2011. A Fayyad adviser added that he was reassured by Cairo's re-affirmation that Gulf security was a “red line” after indications in the days and weeks after Mubarak resigned that Egypt might reorient its relations with Iran. Crisis Group interviews, Ramallah, July 2011. An Egyptian diplomat asserted that there indeed were some in the regime who would like to pursue the previous course, but that this sentiment was at odds with prevailing opinion in the government and among the public more broadly. Crisis Group interview, July 2011.

²⁰⁶ Hamas accused Abbas of lobbying Cairo, during his 30 May meeting with Egyptian officials, to renege on their pledge to liberalise movement at the Rafah crossing. Crisis Group interview, Hamas leader, Gaza City, June 2011. A presidential adviser confirmed that Abbas indeed had made such a request during his trip: “If the crossing is opened, Gaza will be split from the Palestinian envelope. That's all Hamas wants, and if they get it, they will be comfortable there, and the PA, by contrast, will be in an awkward position”. Crisis Group interview, June 2011.

²⁰⁷ These gains somewhat faded as his insistence on Fayyad hardened. Many in Fatah acknowledge that the way Abbas presented his demand to retain Fayyad cost the president some of the support he had gained when he agreed to reconciliation. A Fatah leader explained: “Abbas needs to make decisions based not only on popularity, but also on the interests of his people. Nobody has his perspective since he is the only one that holds all the threads. Azzam Al-Ahmad is responsible for reconciliation; Saeb Erekat for negotiations. They both answer to Abu Mazen, who makes the ultimate decision. If he tacks away from popular opinion for a time, so be it. That's not the be all and end all of being a ruler. Besides, Abu Mazen is not up for elections, so he can take unpopular decisions. If he were to agree with Hamas, he could end up with an 80 per cent popularity rating, but then he won't be able to pay salaries the next month. What would be the point?” Crisis Group interview, Ramallah, July 2011.

²⁰⁸ Palestinian analyst Hani Masri described some of these developments in his column, “Redrafting the Reconciliation Agreement: Why?”, *Al-Ayyam*, 28 June 2011.

²⁰³ *Al-Akhbar*, 24 May 2011.

²⁰⁴ Crisis Group interview, Fatah negotiator, Ramallah, June 2011. This comment was made with hindsight, in late June, once discussions had already bogged down, but others had made similar points at the outset. A Fatah Central Committee member deprecated the agreement shortly after it was signed, saying that there was no point in signing such a “flimsy” document without prior agreement on principles, vision and rules of the road. Crisis Group interview, Ramallah, May 2011.

and ensure that a government meets Quartet conditions has further shaped his attitude.

Recent events likewise have cooled whatever enthusiasm Hamas had felt for reconciliation. From the outset, the Islamists were no less convinced of their own strategy than Abbas was of his. Even as Meshal in his Cairo speech proclaimed Hamas's willingness to proceed by consensus in the political, military and security realms during the next year, he also affirmed the sterility of negotiations and insisted on "resistance" in its various forms.²⁰⁹ Leaders unanimously say that reconciliation is a "strategic choice",²¹⁰ but confronted with Abbas's insistence on Fayyad, Hamas has appeared to revert to a more familiar stance: that Abbas's approach will fail and that when it does, Hamas will be the beneficiary. The movement is convinced that negotiations are a dead-end, that the yield at the UN will be meagre and that Palestinians will blame Abbas for freezing the reconciliation deal.

It might lose the benefits it had hoped to gain in the short-run – relief for the Gaza government's budget, opening Rafah, de facto legitimisation, greater freedom of operation in the West Bank – but if Abbas chooses to go it alone, Hamas figures, it still ultimately should be in a position to gain. The slow rate of change in Egypt has not effaced its optimism, though its timeline may have been extended. In late June, a leader said, "it will take a little time. The Mubarak era is not over yet, and many key players are still in place, but change will come, gradually, after the Egyptian elections".²¹¹ Some also suspect that Hamas is in no hurry to compete in elections, sensing that after a period in which it was unable to govern effectively, it risked being punished at the polls.²¹²

As the political calculations of old return, the atmosphere has taken on a more familiar feel as well. Abbas in his LBC interview accused Iran of spoiling reconciliation, interfering in Palestinian affairs and supplying Hamas and Islamic Jihad with weapons and money.²¹³ Hamas's harsh riposte was not long in coming:

²⁰⁹ Video at www.youtube.com/watch?v=k6zFDivGgCs.

²¹⁰ Crisis Group interviews, Gaza, Beirut, June-July 2011.

²¹¹ Crisis Group interview, Hamas leader, Gaza, June 2011.

²¹² Hamas leaders deny this, of course, claiming they pay no attention to polls that predict Fatah's victory and projecting confidence that their rival's disunity, the lack of commitment of its supporters and the failure of Abbas's program will all redound to their own favour. Crisis Group interview, Hamas officials, May-June 2011. That said, some leaders, when pressed, have appeared less sanguine about their movement's prospects – though they are equally sceptical about Fatah's and predict a rise in votes for independents. *Ibid.*

²¹³ LBC, 20 June 2011.

The insistence on Salam Fayyad to be the prime minister of the next government presents one of two possibilities. The first is that the Palestinian people have nobody who can perform the task of prime minister except Fayyad, in which case Palestinians should mourn the fact that their sterile women cannot bring forth progeny like Salam Fayyad, and this is a catastrophe in and of itself. As for the second possibility, it is that Salam Fayyad is an American and Zionist demand. This raises questions about Salam Fayyad and his relations and also about he who insists on putting forward Fayyad's candidacy against the will of the Palestinian people.²¹⁴

Senior officials in Ramallah took this sharp attack as a sign that Hamas was stepping back from the agreement²¹⁵ – a conclusion that Hamas officials had already reached about Fatah.²¹⁶ As a result, the reconciliation, according to a senior Hamas leader, has been "halted"; a PLO Executive Committee member (never particularly enamoured with the deal) was more categorical, describing it as "dead".²¹⁷ Some in Fatah profess to "understand Hamas's position", since the plain language of the agreement says that the prime minister will be named by consensus, but, in the words of a Fatah negotiator, "so, too, do they need to understand ours. Salam is the only name that Abu Mazen will accept. It was understood when we signed that the government has to be internationally acceptable, and Salam [Fayyad] is the only one who can do that. If Hamas wanted the train to move, it would take Salam. Instead, it is making trouble".²¹⁸ Hamas

²¹⁴ Hamas politburo member Ussama Hamdan continued in strikingly harsh terms: "It seems that the man [Abbas] has no history of struggle and has never resisted the occupation a day in his life. He rather always sought to make peace with the enemy and fell in love with the enemy along the way. He sees every action of resistance as a crime, whether transporting weapons to resistance fighters or transferring money to support the Palestinian people, because he doesn't see any reason for them. He sees that there is no choice but to extort the Palestinians out of their sustenance, their steadfastness and resistance. Therefore he speaks of Palestinian resistance as a crime. I believe that this raises doubts whether Abu Mazen is qualified to be in any Palestinian leadership position, much less the president of the Palestinian Authority". Palinfo, 21 June 2011, www.palestine-info.info/ar/.

²¹⁵ Crisis Group interviews, Ramallah, June 2011.

²¹⁶ A Hamas leader drew a line from Abbas's refusal to treat Meshal as an equal at the signing ceremony, to his involvement in limiting the changes at Rafah, to the lack of movement on the reconciliation's other files, to his insistence on Fayyad as prime minister, to his LBC interview, which he termed "the jewel in the crown of obstruction". Crisis Group interview, Gaza City, June 2011.

²¹⁷ Crisis Group interviews, Ramallah and Gaza City, 28 June 2011.

²¹⁸ Crisis Group interview, Fatah Revolutionary Council member, Ramallah, June 2011.

– not surprisingly, put the blame on Abbas: “Abu Mazen is violating everything we agreed on”.²¹⁹

The manoeuvring has put Fayyad in an uncomfortable position. He has complained about being presented as a foreign “imposition”²²⁰ and reportedly sees this portrayal as responsible for generating the public perception that he himself is the obstacle to reconciliation – an unfair assessment in his view, given the substantial number of disagreements that continue to separate the two movements.²²¹ For a prime minister who may have further political aspirations, such a depiction is troublesome.

At this stage, even should reconciliation remain stalled, the movements are unlikely to resort to the kind of open fighting that gripped both territories, and especially Gaza, in 2007. Unlike then, each today is hegemonic in its respective sphere and cannot be seriously challenged; moreover, neither side has an interest in internecine violence,

²¹⁹ Crisis Group interview, Gaza City, 28 June 2011. He continued: “When Abu Mazen says his only choice is Fayyad, and Hamas disagrees with that, that is no longer choosing by national consensus, which Abu Mazen agreed to. When he says he wants to freeze the PLC [ie, prevent it from voting confidence in the government], that violates the agreement. When he says it is my government and will have my program, it violates the agreement. When he says that the temporary leadership framework cannot meet until the government forms, he violates the agreement. He is putting stick after stick in the wheel”.

²²⁰ In late June, Fayyad suggested that he might withdraw his name from consideration as prime minister in a reconciliation government. “This nonsense about [my] being imposed on anyone has to stop”, he said, visibly angry. “And if this continues for any length of time, that would be the moment when I step in and say, enough already, under no condition will I accept to serve”. Fayyad also rejected the idea of serving as finance minister under a different prime minister in order to maintain donor support: “I am not the ATM for the Palestinian Authority. I never was”. Associated Press, 28 June 2011. Fayyad has been accused, particularly but not only within certain Fatah circles, of using his cachet with donors and his prime ministerial powers to ensure that he remains in place in a new government. A Fatah leader alleged that the prime minister was “extorting” people and – without adducing any specific evidence – that he had claimed that donor money would not continue to flow unless he remained in place. Crisis Group interview, Ramallah, July 2011. Many cite the June delay in PA salaries and their partial payment in July as evidence that Fayyad is intentionally withholding salaries to demonstrate the consequences of sidelining him. Crisis Group interviews, PA employees, Ramallah and Gaza City, July 2011. A Fayyad adviser laughed off the charge: “Don’t you think that paying salaries would be a better way to show that he can pay salaries?” Crisis Group interview, Ramallah, July 2011. International aid officials, as well as PA financial officials, all confirm that the PA’s financial crisis is real and not manufactured. Crisis Group interviews, Jerusalem and Ramallah, July 2011.

²²¹ Crisis Group interview, Fayyad confidant, Ramallah, July 2011.

and both have a greater stake in publicly manifesting goodwill. What breakdown seems to mean, by contrast, is the freezing of the agreement and the continuation of the status quo.²²² That will come at the cost of increased public cynicism and yet further erosion of public support. Already both movements have lost popularity – while opinion polls should be treated sceptically, the number of those claiming to lack faith in any faction continues to grow²²³ – and there is little belief that the reconciliation agreement will be implemented anytime soon.

Even should formation of a government remain stalled, the parties should make an effort to try to move on other important issues. These could include beginning integration of the West Bank- and Gaza-based Palestinian Authority by unifying the bodies that will oversee much of the process, such as the Public Employees Bureau [diwan al-muwazifin al-amm] and the Public Supervision Agency [haiat al-riqaba al-amma]; and initiating reform of the civil police and civil defence branches of the security sector should not await elections, though the reform of other, more sensitive branches will need to be deferred to a later stage.

Other measures would improve the atmosphere in both Gaza and the West Bank: ending questioning and detention on political grounds; redressing arbitrary firings of government personnel; providing for freedom of expression and association; stopping incitement; and reopening shuttered political and non-governmental organisations and allowing them to operate free from harassment. Palestinians also need to tackle the critical, albeit difficult, task of developing a more unified national strategy. Finally, as a means to prepare for – and display commitment to – elections in 2012, the factions should agree to conduct elections for unions, professional associations and related entities.

The international community has a role to play: so long as the incentive structure is such that unity is more costly than division – particularly for Abbas, whose strategy remains enormously dependent on Western goodwill – forward movement will be difficult. As was the case four years ago, the principal responsibility lies with the Palestinian themselves; but, like four years ago, Europe and the U.S. are not innocent bystanders. As Crisis Group long has argued, the most effective course of action would be for them to assess a new Palestinian government on the basis of its actions, focusing chiefly on two aspects that are human and political priorities: whether it enforces a mutually agreed Israeli-

²²² A civil society activist in Ramallah predicted this would happen in the days after the 4 May signing ceremony: “We are used to that here, governments without legitimacy that just keep exercising their powers”. Crisis Group interview, Ramallah, May 2011.

²²³ The increase in the percentage of voters indicating they do not trust any faction can be seen from Near East Consulting’s poll data, www.neareastconsulting.com/.

Palestinian ceasefire and whether it defers to the PLO's negotiating agenda. The U.S. and Europe need to realise – if they have not already – that enduring Palestinian division will make it impossible to hold elections and thus will perpetuate the current crisis of legitimacy; heighten risks of violence; and limit Abbas's diplomatic room for manoeuvre, both in terms of reaching a deal with Israel and of implementing it.

**Gaza/Ramallah/Jerusalem/Washington/Brussels,
20 July 2011**

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 chaired by 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, Kyrgyz-

stan, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, Russia (North Caucasus), Serbia and Turkey; in the Middle East and North Africa, Algeria, Egypt, Gulf States, Iran, Iraq, Israel-Palestine, Lebanon, Morocco, Saudi Arabia, Syria and Yemen; and in Latin America and the Caribbean, Bolivia, Colombia, Ecuador, Guatemala, Haiti and Venezuela.

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July 2011

APPENDIX C

CRISIS GROUP REPORTS AND BRIEFINGS ON THE MIDDLE EAST AND NORTH AFRICA SINCE 2008

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Gaza: The Next Israeli-Palestinian War?, Middle East Briefing N°30, 24 March 2011 (also available in Hebrew and Arabic).

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Iraq's Civil War, the Sadrists and the Surge, Middle East Report N°72, 7 February 2008 (also available in Arabic).

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APPENDIX D

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