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IN SEARCH OF LEGITIMACY: THE PALESTINIAN NATIONAL MOVEMENT 20 YEARS AFTER OSLO

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SUMMARY

Two decades after the Oslo Accords were signed, and with peace yet to be realised, the Palestinian leadership is facing a severe test of legitimacy that stems from multiple factors: the failure of the Oslo process; failure of the leadership to defend more immediate rights violations inside and outside the occupied Palestinian territories; and the absence of a clear strategy to overcome the stalemate in negotiations with Israel. No less important has been the growing disconnect between the leadership and key Palestinian constituencies such as refugees and Palestinian citizens of Israel. Israel's failure to adhere to negotiated agreements and the failure by other powers to mediate a final status agreement have only exacerbated the challenges facing the Palestinian leadership.

This brief advocates changes in three areas. To facilitate national dialogue, it recommends the establishment of a constituent assembly to draft a new national programme. Second, institutional reform should include a revived PLO whose powers are clearly separated from the Palestinian Authority (PA); a reinstatement of the Palestinian Legislative Council through PA elections; and a restructuring of international donor aid to help revitalise Palestinian civil society. Third, Europeans should assess the impact of the possible shift from national independence towards a Palestinian civil rights movement by engaging supporters of the latter, especially while the pursuit of rights still leaves open the door for a two-state solution.

As 13 September marked the 20th anniversary of the Middle East Peace Process (MEPP), Palestinians seemed little closer to establishing a viable and sovereign Palestinian state along the 1967 border, with East Jerusalem as its capital, or achieving a “just solution” for Palestinian refugees. The failure of bilateral negotiations to deliver on their promise of an end to Israel's occupation has not only eroded public faith in the “peace process”, but also the credibility of those most readily identified with it. Deeply sceptical of Israel's commitment to a negotiated two-state solution, and angered by what many perceive as international acquiescence given Israel's violations of international law and negotiated agreements, many Palestinians are also critical of their own leadership for squandering much of the last 20 years on negotiations which they see as having provided a cover for Israel to accelerate its settlement construction and consolidate its occupation. More and more Palestinians are calling for a change in strategy and approach, with national reconciliation often top of the agenda. While no consensus yet exists regarding possible next steps, virtually all Palestinians agree that the status quo does little to advance their interests.

A crisis of legitimacy

Over the course of a few weeks in late August and September 2012, Palestinians staged some of the largest demonstrations seen in the West Bank for many years. Unlike previous years, however, the focus of their anger was not Israel's occupation, but rather the Palestinian Authority (PA), which was created

as a consequence of the Oslo Accords. Protesting against the rising cost of living and unpaid PA salaries, the list of demands made by demonstrators quickly cascaded from the resignation of (former) Prime Minister Salam Fayyad, to calling for President Mahmoud Abbas to resign, to demanding that the Palestinian Liberation Organization (PLO) rescind the Paris Protocol signed with Israel in 1994, and finally for it to walk away from the Oslo Accords altogether.

Encapsulating many of the frustrations felt by Palestinians across the West Bank, protestors reserved their harshest criticism for the political status quo established under the Oslo Accords. More than a crisis of confidence in any single individual, they voiced a lack of confidence in Palestinian politics per se. The same is also true of those Palestinians who openly advocate for political change, whose demands include reform of the PLO, new elections for the Palestine National Council (PNC), the PLO's primary legislative body, and even the dismantlement of the PA. As recent polls show, frustration and pessimism are on the rise among most Palestinians. In the occupied Palestinian territories (OPTs), a June 2013 poll conducted by the Palestinian Center for Policy and Survey Research found that:

- Only 30 percent of residents believe the PA is an accomplishment for the Palestinian people.¹
- Only 31 percent positively evaluate conditions in the West Bank, and 36 percent in the Gaza Strip.
- 77 percent of West Bank residents believe that corruption is a problem in PA institutions, while 61 percent of Gaza's residents believe it is a problem in Hamas government institutions.
- 58 percent of respondents believe that the two-state solution is no longer practical due to settlement expansion, while 69 percent believe that chances for the establishment of a Palestinian state in the next five years are slim to non-existent.²

Much the same patterns exist among youth. In its report entitled "The Status of Youth in Palestine 2013", the Sharek Youth Forum found that 42 percent of young people surveyed believed that none of the existing political parties represented Palestinians, while 60 percent believed that the two-state solution was no longer viable. Only 3 percent believed that negotiations alone could deliver Palestinians their rights.³

That it faces a crisis of confidence has not been lost on the Palestinian leadership, but its room for manoeuvre is limited, caught as it is in a series of asymmetric relationships that ensure continued dependency on and vulnerability to Israel. Even so, it has taken several steps to win back public trust, such as conditioning a return to negotiations on a full settlement freeze and recognition of the 1967 border as the basis for territorial negotiations, a position the Palestinian leadership held on to for three years before dropping both conditions during the resumption of negotiations in August this year. It also includes its decision to go to the United Nations to seek to upgrade Palestine's status despite strong US and Israeli opposition. Taken in isolation, however, these measures are insufficient and are no guarantee against popular protests resurfacing in the future. Rather, if the West Bank today remains relatively quiet, it is because, for most Palestinians, reliance on a monthly pay check trumps all other concerns, especially for those heavily indebted to creditors for consumer loans and mortgages. Fear of a return to chaos and fatigue after two intifadas provide additional reasons why a third intifada is unlikely anytime soon. The situation on the ground, however, remains tense. In particular, a number of factors exist that could push the OPTs over the edge, including the PA's worsening financial crisis, youth unemployment, and ongoing settler violence. Against this backdrop, popular disenchantment adds tinder to an already combustible situation.

Causes of crisis

The main causes fuelling the crisis of legitimacy facing the Palestinian leadership are many and varied. Some involve hard, though important, lessons for the Palestinian leadership.

A loss of political credibility

Following the signing of the Oslo Accords, the political platform of the Palestinian leadership was firmly consolidated around the promise that bilateral negotiations could bring about an end to Israel's occupation and facilitate a two-state solution. Failure to achieve either has done enormous damage to the leadership's credibility. This has been further exacerbated by a general worsening of conditions on the ground in the OPTs, the PA's deepening fiscal crisis, and persistent claims of corruption, lack of transparency, and the use of heavy-handed tactics by the Palestinian security services.⁴

¹ Palestinian Center for Policy and Survey Research, *Palestinian Public Opinion Poll No. (48)*, 13–15 June 2013, available at <http://www.pcpsr.org/survey/polls/2013/p48e.html>. No equivalent surveys exist for Palestinian refugees, particularly those living outside the OPTs.

² Interestingly, 56 percent of residents oppose the ideas presented by US Secretary of State John Kerry for a return to negotiations without preconditions (versus 38 percent in support), while 72 percent support going to the International Criminal Court despite fears that the step would lead to the imposition of financial sanctions and PA collapse.

³ Sharek Youth Forum, *The Status of Youth in Palestine 2013: The future is knocking*, 2013, available at <http://www.sharek.ps/new/report%202013e.pdf>.

⁴ In large part, the promised dividends of negotiations have been concentrated in the hands of those in or close to power, while for most Palestinians life has become harder. Social inequalities have grown, poverty rates remain high, and dependency on aid has soared. Popular unity has given way to a bitter power struggle between Fatah and Hamas, territorial fragmentation, and the political disenfranchisement of the Palestinian diaspora following the establishment of the PA. New restrictions on movement, coupled with ongoing land confiscation and settlement construction in the West Bank; a crippling blockade over the Gaza Strip; the progressive encirclement and de facto annexation of East Jerusalem; and a host of Israeli policies that continue to adversely impact daily life for Palestinians have collectively come to define the Oslo era in the OPTs.

A failure of leadership

In the absence of credible negotiations, failure to intervene robustly where Palestinian rights are most visibly being violated in the OPTs – including home demolitions and forced evictions, land confiscation, and underage arrests – has done little to win the leadership popular support. So has its relatively muted response regarding the plight of Palestinians outside the OPTs – including Palestinian refugees caught up in the violence gripping Syria or denied their basic socioeconomic rights in Lebanon – and of Palestinians living in Israel who routinely face structural discrimination.

A lack of clear strategy

In the absence of negotiations, Abbas has offered a medley of alternative options, none of which have been consistently pursued. These include (i) continuing to push for a restart of negotiations based on the 1967 borders and a settlement freeze; (ii) internationalising the conflict via the UN; (iii) supporting a broader move towards popular non-violent resistance; (iv) pursuing reconciliation with Hamas; and (v) threatening to dismantle the PA or leave office (or not running in future elections). What they highlight is the absence of a clear strategy or plan of action for how Palestinians will move forward towards achieving their collective goals.

The political exclusion of the Palestinian majority

The virtual collapse of the PLO into the PA, coupled with the reduction of Palestinian political demands to a narrow focus on state-building, has effectively marginalised the majority of Palestinians living in the diaspora and denied them the institutional mechanisms to influence political decision-making. This has only widened the gap between the Palestinian leadership and key Palestinian constituencies.

Israeli policies on the ground

The Palestinian leadership has drawn attention to a number of Israeli policies on the ground as having a negative effect on its domestic credibility. Among them are continuing settlement construction and Israeli military incursions into PA-controlled areas.

Policy failings of the outside powers involved in the process

The poor track record of Europe, the US, and the Quartet in ensuring that negotiated agreements and international law are implemented on the ground in the OPTs has only added to the culture of failure surrounding the MEPP, and further

damaged the Palestinian leadership's credibility. Other damaging policies include (i) seemingly double standards, particularly when it comes to Hamas (for example, the demands of the Quartet Principles on Hamas, but with no equivalent applied to the Israeli government); (ii) the weakening of Palestinian civil society organisations via donor aid (see below); and (iii) preference (both from Western and regional actors) for perpetuating the status quo at the expense of Palestinian aspirations for statehood.

A disconnect with constituents

An additional factor fuelling the crisis of legitimacy facing the Palestinian leadership concerns the widening disconnect that exists between the Palestinian leadership and key Palestinian constituencies living both inside and outside the OPTs.

Palestinian refugees and Palestinian citizens of Israel

The political marginalisation of Palestinian refugees is largely written into the historical changes that transformed the PLO from a liberation movement to an independence movement in the 1980s. Until 1988, the PLO sought to liberate all of Mandatory Palestine. The return of refugees was subsumed within this goal: only after liberating Palestine would refugees be able to return to their homes and rebuild their lives. In turn, both liberation and refugee return were seen as essential prerequisites for Palestinian self-determination.

In the late 1970s and throughout the 1980s, the goal of full liberation slowly gave way to the idea of establishing a Palestinian state on any part of Mandatory Palestine that could be liberated. A precursor to the two-state solution, the PLO officially changed its policy in 1988, embracing the establishment of a Palestinian state next to Israel. With its focus fixed on the OPTs, the PLO increasingly began to treat refugee return separately as a “right” framed by international law, one only tangentially connected to aspirations for independence and statehood. The decoupling of refugee return and Palestinian self-determination was cemented under the Oslo Accords. Reformulated as a permanent status issue, the right of return has since been put on indefinite hold, and all but forgotten beneath the more immediate challenges associated with self-governance under occupation.

Not surprisingly, Palestinian refugee groups were among the earliest opponents of the Oslo Accords. This included local refugee councils in the West Bank that organised a series of popular refugee conferences from 1996 onwards under the leadership of the Union of Youth Activity Centres – West Bank in response to the dangers they saw associated with the Oslo Accords. These conferences forced the PLO to reactivate its Department of Refugee Affairs and establish Popular Service Committees in each refugee camp. Yet despite their promising start, these initial successes did not lead to lasting change.

⁵ To point to bilateral negotiations as the proper place to deal with such concerns ignores the highly secretive nature of negotiations thus far and invests an enormous amount of faith in a process that many now doubt.

No less important, the subsequent collapse of the PLO into the PA, including the blurring of lines of responsibility between the two, has further marginalised Palestinian refugees by closing whatever bridges were once open to them in the PLO to influence political decisions.⁶ Promoting compromise and consensus between Palestinian factions, the PLO spoke directly to the different concerns of Palestinians living both inside and outside the OPTs. In contrast, the PA's power arrangements are more centralised and selective, while its jurisdiction and mandate does not extend past Area A (civil and security responsibility) and Area B (civil responsibility) of the West Bank. That Palestinian refugees have no one to turn to is readily apparent in the virtual silence of the Palestinian leadership with respect to the fate of Palestinian refugees in Syria and Lebanon.

Much the same history can be written for Palestinian citizens of Israel who no longer factor in any meaningful way in the decisions taken by the Palestinian leadership save for its refusal to recognise Israel as a Jewish state. Unlike Palestinian refugees, Palestinian citizens of Israel enjoy a number of civil and political rights. These rights, however, exist within a state system whose laws are weighted heavily in favour of its Jewish population. Also unlike refugees, Palestinian citizens of Israel have created their own political institutions outside the PLO, with several political parties running in Israeli elections, as well as umbrella leadership and municipal associations and a strong political NGO sector. The political platforms of these parties are generally oriented towards the demand for equal rights and an end to racial discrimination within Israel, while most support the establishment of a Palestinian state in the OPTs.

Civil society organisations

Prior to the beginning of the MEPP in 1993, mass-based civil society organisations – including professional associations, trade unions, women's associations, NGOs, youth groups, and charitable organisations – served as the organisational focus and expression of political, social, and economic life in the OPTs. In particular, they provided a platform for popular mobilisation and political engagement in the absence of direct political representation.⁷ Leadership of these organisations tended to be decentralised, while decision making was collective, with priority given to sustaining the goal of national liberation and providing services to help local communities remain steadfast in the face of occupation. Not surprisingly, these groups would provide the first intifada with much of its leadership and organisational infrastructure.

For many years, civil society organisations in the OPTs relied on funding from wealthier Arab states channelled through the Arab League and distributed via a joint PLO–Jordanian

committee. From the early 1990s onwards, however, this funding began to dry up due to the disbanding of the joint PLO–Jordanian committee following Jordan's decision to officially disengage from the West Bank in 1988, declining oil prices that saw a reduction in funding from Gulf states, and the advent of the first Gulf War. The gap was filled by European donors whose funding arrangements had a profound effect on the structure and operation of Palestinian civil society organisations. In particular, lengthy application processes, reporting requirements, and complex accounting procedures all meant that many local organisations needed to professionalise and reform if they were to have any chance of survival. This led to what some have called the “NGO-isation” of Palestinian civil society or the creation of a new brand of Palestinian NGO far removed from the mass-based grassroots organisations they began to replace.

Leadership and decision making became concentrated in the hands of a few, while funding was often conditional on having no political affiliations or involvement in national politics. Donor projects themselves were often open to accusations of being imposed from the top down according to the funding priorities of donors and advocating technical solutions to essentially political problems created by Israel's occupation. Furthermore, many have argued that these projects serve to disempower Palestinians as decision makers and agents of their own destiny, reconfiguring them as passive “recipients” and “beneficiaries” of aid, thereby contributing to their depoliticisation, demobilisation, and fragmentation.⁸ Likewise, the arrival of the PA, and its attempt to control the sources of funding for civil society organisations, had a similar effect.

Nevertheless, in recent years a number of other civil society initiatives and campaigns have emerged. These include a number of weekly protests that are largely localised, and herald the (re)emergence of new political actors on the ground who adopt often new and inventive methods to make their voices heard. Organised by popular committees, and filling what they see as a vacuum left by a disengaged Palestinian leadership, they all confront Israel's occupation where it most impacts Palestinian life (for example, the construction of Israel's wall, or continued land confiscation). The exception to the local dimension is the Boycott, Divestment, and Sanctions (BDS) movement, which presents itself as a “popular Palestinian response to the incessant concessions by the so-called leadership over basic rights”, and boasts an international following. Launched in 2005 and signed by more than 170 civil society organisations, the BDS call seeks to reaffirm the inalienability of basic Palestinian rights and emphasises the role of various forms of boycott in forcing Israel to comply with its obligations under international law. Its demands are three-fold: (i) an end to Israel's occupation

⁶ Mahmoud Abbas, for example, is both chairman of the PLO and president of the PA.
⁷ Throughout the OPTs, Israel has long imposed a ban on virtually all Palestinian political factions, as well as on the PLO itself.

⁸ Tariq Dana, “Palestinian Civil Society: What Went Wrong?”, al-Shabaka policy brief, April 2013, available at http://al-shabaka.org/sites/default/files/Dana_PolicyBrief_En_Apr_2013.pdf, p. 4.

and colonisation of all Arab lands; (ii) full equality for Israel's Arab-Palestinian citizens; and (iii) the right of return for Palestinian refugees.

Independent youth movements and leadership

Burdened by high rates of poverty and unemployment, Palestinian youth in the OPTs have few opportunities to combat either. Many also feel unrepresented by the main political parties. More recently, several Palestinian youth movements have been formed in the OPTs, including some directly inspired by the ongoing popular protests in the Arab world. As yet small in number, they are far from forming a critical mass or potent force for social change.⁹ Perhaps best known is al-Hirak al-Shababi (Independent Youth Movement), comprising a network of youth activists from different political factions and civil society organisations. Openly critical of the Oslo Accords, al-Hirak's members instead support direct elections for the PNC, a move they claim will guarantee representation for all Palestinians, as well as unify Palestinians around a single political platform and national strategy.

In part inspired by events in Egypt, al-Hirak and other youth movements, such as Falastiniyyun Min Ajl al-Karamah (Palestinians for Dignity), played an important role in the establishment of the 15 March movement in 2011, which organised regular sit-ins at al-Manara, Ramallah's central square, and marches in front of the Muqata, Abbas's compound, to demand national reconciliation between Fatah and Hamas. Palestinian activists also staged rallies in Gaza. Youth groups were also behind simultaneous protests staged across several capital cities in the Arab world and beyond to commemorate the 63rd anniversary of the *Nakba* in May 2011, which included scores of youth from Syria and Lebanon attempting to cross the border into the occupied Golan Heights.

Beyond this, however, youth engagement in politics is on the decline. According to a recent survey by Sharek Youth Forum, 27 percent of youth belong to a political party. Fatah and Hamas continue to dominate student politics, as routinely confirmed by student council elections held in West Bank universities. For example, in recent student council elections held at Birzeit University in April 2013, Fatah won 23 out of 51 seats and Hamas won 20 seats. The remaining eight seats were shared between the Democratic Progressive Student Pole (seven seats) and the Palestine for All Bloc (one seat). More generally, engagement in political affairs among youth in the OPTs tends to come a distant second to other concerns, particularly employment.

⁹ Many young activists point to organisational rivalries and fragmentation as their greatest impediments to building a stronger movement.

Prisoners

According to the Palestinian Prisoner Support and Human Rights Association, Addameer, Israel has detained more than 800,000 Palestinians since 1967. This figure accounts for as much as 40 percent of the total male population of the OPTs and includes approximately 10,000 women arrested since 1967 and 8,000 Palestinian children (below 18 years old) arrested since 2000. As of June 2013, 4,979 Palestinians were being detained in Israeli prisons.¹⁰

Beyond the sheer numbers involved, Palestinians clearly see those detained by Israel as political prisoners unjustly incarcerated under an occupation intent on denying *all* Palestinians their basic rights and freedoms.¹¹ Prisoners are seen as embodying the Palestinian will to resist, while the difference between occupation and incarceration is seen as one of degrees. This political dimension to the prisoners issue explains its extraordinary symbolic power and capacity to mobilise Palestinians en masse. Celebrated for their principled opposition and personal sacrifice, prisoners are invested with precisely the type of legitimacy that continues to elude the Palestinian leadership.

This political dimension is further reinforced by the often overtly political nature of Palestinian arrests in the OPTs, which are governed by a series of wide-ranging military regulations that give the Israeli military broad powers. Palestinians can be arrested for membership of a political faction (including those in the PLO), waving a Palestinian flag or other political symbols, printing and distributing political material, organising or participating in public protests, or influencing public opinion against Israel's occupation ("political incitement"). Once arrested, Palestinians can be detained and interrogated for up to 90 days and denied lawyer visits for up to 60 days, while accusations of ill treatment and even torture during interrogations are routine among detainees. Those who are charged face military courts that many human rights groups claim fall short of international standards for a fair trial. Convictions occur in 99 percent of cases, many as a result of plea bargains. As an alternative to trial, Palestinians can be held under administrative detention for up to six-month renewable periods on the basis of "secret information" not made available to the defendant (Military Order 1651).¹⁴

¹⁰ Addameer, "Palestinian Political Prisoners in Israeli Prisons", September 2012, p. 4, available at [http://www.addameer.org/files/Briefings%20and%20position%20papers/Palestinian%20Political%20Prisoners%20in%20Israeli%20Prisons%20\(General%20Briefing%20September%202012\).pdf](http://www.addameer.org/files/Briefings%20and%20position%20papers/Palestinian%20Political%20Prisoners%20in%20Israeli%20Prisons%20(General%20Briefing%20September%202012).pdf) (hereafter, Addameer, "Palestinian Political Prisoners in Israeli Prisons").

¹¹ In contrast, Israel frequently categorises Palestinian detainees as "security" prisoners, as distinct from "criminal" prisoners, with the former facing harsher penalties and more difficult conditions in jail.

¹² Yesh Din, "Backyard Proceedings: The Implementation of Due Process Rights in the Military Courts in the Occupied Territories", December 2007, available at <http://www.yesh-din.org/userfiles/file/Reports-English/BackyardProceedingsfullreportEng.pdf>.

¹³ Addameer, "Palestinian Political Prisoners in Israeli Prisons", p. 5.

¹⁴ In prison, detainees can face isolation and solitary confinement for up to 12-month renewable periods with court approval. Many complain of a lack of access to adequate medical services and medicines and the denial of family visits. In particular, the vast majority of prisoners from the OPTs are held in Israeli jails located inside Israel proper, obliging family members to obtain a hard-to-come-by permit to enter Israel in order to be able to visit their relatives. See Harriet Sherwood, "Palestinian prisoners in Israeli jails stage hunger strike after inmate dies", the *Guardian*, 2 April 2013, available at <http://www.guardian.co.uk/world/2013/apr/02/palestinian-prisoners-israel-hunger-strike>.

Palestinian prisoners have long used hunger strikes – seen by their compatriots as an exemplary act of non-violent resistance and (civil) disobedience – to protest against the conditions of their detention. Over the course of 2012–2013, detainees such as Khader Adnan, Samer Issawi, and Mahmoud al-Sarsak – on hunger strike to protest against the use of administrative detention – became household names. More generally, popular protests and “solidarity tents”, erected to show support for striking prisoners, reaffirm the enormous political capital that Palestinian prisoners continue to wield.

Another example of their importance can be found in the release of the National Reconciliation Document, or “prisoners’ document”, in 2006. Negotiated in prison by the major Palestinian political factions and signed by representatives from Fatah, Hamas, Islamic Jihad, the Popular Front for the Liberation of Palestine (PFLP), and the Democratic Front for the Liberation of Palestine (DFLP), the document lays out a common platform for national reconciliation and unity.¹⁵ Invested with the legitimacy that prisoners command in Palestinian society, it is seen as a missed opportunity ignored by the Palestinian leadership. That it was ignored is seen by some as evidence of the leadership’s willingness to prioritise self-interest over the national interest. Perhaps more importantly, it demonstrates that any attempt to pursue a new Palestinian political strategy/platform would be more likely to gain public legitimacy were it to be driven by or draw on prisoner leadership support.

International efforts to help legitimise the Palestinian movement

After the 1993 Oslo Accords, the policies of the international community, particularly the United States and the EU, have been seen as yet another driver of Palestinian disunity. In particular, the US has largely borne the brunt of Palestinian criticism for its failure as a “dishonest broker” during negotiations.

The owners of the process: the US and the EU

In the eyes of the US and the EU, the Palestinian National Movement has, since Oslo, overlapped with the PA, with both engaging almost exclusively with the latter. Consequently, those constituencies who receive minimal to no representation within the PA leadership are in effect marginalised altogether from the international conversation on the Palestinian issue. The transformation of Palestinian civil society described above has also undermined local ownership of development projects despite unprecedented levels of financial support per capita accruing to the Palestinians from international donors, alongside contributing to the demobilisation of vast segments of Palestinian society.

Given that the crisis of legitimacy facing the Palestinian leadership in part rests on the failure of bilateral negotiations, the failure of the US, the EU, and the Quartet to apply more consistent pressure on Israel to fulfil its obligations as per international resolutions and negotiated agreements has been particularly damaging. International support for the PA has largely been implemented through donor assistance and institution-building projects that have unwittingly helped to consolidate the status quo. Failure to more robustly challenge the permit restrictions that Israel imposes in Area C of the West Bank is but one example. In particular, the EU and the US have invested in the PA the resources usually devoted to post-conflict, post-peace-deal situations, while their policies, although often moved by the best intentions, have been tantamount to making the conflict more manageable, rather than peace more of an imperative. Their own talk of the urgency of resolving the conflict is at one level undercut by policies whose net effect is to cushion and act as a palliative vis-à-vis that urgency.

Following the second intifada, the EU and the US have increasingly provided life support *to the institutions rather than the end goals* of the MEPP. Particularly after the 2006 PA elections, international support has been driven by a desire to consolidate Fatah’s rule, while marginalising Hamas and other Palestinian political actors. This has only deepened the political divisions that currently paralyse the Palestinian National Movement. Indeed, for some European countries, the decision to vote in favour of Palestine as a non-member observer state was driven as much by a desire to bolster popular support for Fatah and the Palestinian leadership as it was by support for an independent Palestinian state.¹⁶

While “owning” the MEPP and its consequences, the EU and the US have opened the door for other regional actors (Qatar, Turkey, and Egypt) to take the lead in promoting Palestinian national reconciliation, primarily by refusing to deal with Hamas. This has seen a softening in tone towards the two-state solution on the part of Hamas’s leadership.

Israel, the longstanding kingmaker

Israel has conditioned its dealings with the Palestinian leadership on four elements: (i) the Palestinian leadership’s commitment to negotiated agreements; (ii) its ability to deliver on what has been agreed, particularly in the field of security; (iii) its demonstrated rejection of violence; and (iv) its avoidance of diplomatic and legal measures opposed by Israel, such as calling for sanctions against Israel or going to the International Criminal Court.¹⁷

¹⁶ Note, for instance, the Italian decision, which was justified as providing crucial support to the PA after the war between Hamas and Israel earlier that month. Authors’ confidential interviews with Italian policymakers, December 2012.

¹⁷ Author interview with Amnon Aran, Senior Lecturer, Department of International Politics, City University London, 18 June 2013.

¹⁵ For the complete text, see <http://www.bitterlemons.org/docs/prisoners.html>.

The perceived absence of a credible peace partner and a desire to downplay the importance of the Palestinian-Israeli conflict on the part of the Netanyahu government have seen Israel turn its attention to what it believes to be much more pressing regional threats, including Iran's nuclear ambitions, the rise of Islamist parties in the region, and the ongoing conflict in Syria. Indeed, Palestinians were hardly mentioned during the 2013 Israeli elections. A unified Palestinian leadership capable of challenging the status quo in a strategically effective manner might just force a reversal of this situation. Palestinian reconciliation and an Israeli government willing to move closer to the international consensus on the two-state solution are necessary for negotiations to be successful.

Policy recommendations

There is near-universal recognition among Palestinians that renewal of their national movement requires a) internal reconciliation, including the reunification of the Palestinian body politic around a commonly agreed and inclusive set of national goals; b) the development of a new national strategy or strategies to achieve these goals; and c) the renewal of Palestinian national institutions.¹⁸

Work towards Palestinian sovereignty

Particularly in the wake of the PA's fiscal crisis, a key priority must be to ensure greater stability on the ground and limit the potential for an outbreak of widespread violence. This includes shoring up the continued viability of the PA, at least in the absence of any viable alternative. Moves in this direction, including support for the Palestinian private sector, as well as efforts by US Secretary of State John Kerry to restart negotiations, are welcome. However, any focus on boosting the Palestinian economy must not contribute to the "normalisation" of Israel's occupation, a criticism many Palestinians have directed towards Israel's proposal of "economic peace". In particular, the latter is seen as part distraction from the political issues that continue to fuel the conflict and part attempt to prolong (by making more palatable) Israel's occupation.

Palestinians should therefore be supported in their attempts to end the OPTs' dependency economy and work towards independence. This will need a concerted effort on the part of the EU and its member states to ensure real changes happen on the ground, allowing for greater freedom of movement for people and goods; greater access to the OPTs' natural resources, particularly land and water in Area C; greater control over trade, including imports and exports; and a more independent monetary policy – without which prospects for a two-state solution will continue to fade.

Support a Palestinian national dialogue

Twenty-five years after the PLO amended its political programme in 1988 and 20 years after the Oslo Accords were signed, a reassessment of Palestinian national goals and strategies seems opportune. What lessons have been learned? What do Palestinians want, and how best can they achieve their goals given the context of the status quo that exists today and the realities of the power dynamics in play? What assets can the Palestinians deploy and to what end?

That such conversations are already happening is readily evident in the numerous publications and forums that are a regular feature of political debate among Palestinians living both inside and outside the OPTs. Helping to facilitate such debates in a structured, inclusive, and open environment that allows for different constituencies to have their say is something that the Palestinian leadership can and should be doing, not only as a pre-emptive measure, but as a show of national leadership and as a way of reconnecting with those Palestinian communities it has largely lost touch with, including Palestinian refugees. The resumption of negotiations should not be used to indefinitely delay such a reassessment, even if questions of timing have taken on additional sensitivity.

Mindful of the lessons learned following the EU and US boycott of the Hamas-led government in 2006, the EU and its member states should support and encourage moves in this direction. Particularly at a time when popular participation and democratic transition are on the rise in the region, the EU and the US can ill-afford to ignore the demand for both in the case of the Palestinians. The Palestinian leadership is likely to be reluctant to open what could be a Pandora's box. However, negotiating an agreement with Israel at the same time that a clear national consensus on Palestinian national goals and strategy seems to be fast disappearing, and without any provisions for a national dialogue in place, does little to inspire confidence.

Many have argued that the PNC is the proper place in which to conduct such a debate, and have accordingly called for new elections to ensure its legitimacy after years of neglect. While on paper the PNC is best placed to review and revise the PLO's national platforms, policies, and strategies, in practice the challenges associated with registering Palestinians to vote in PNC elections (no such registry exists) and holding PNC elections are considerable, particularly in countries such as Syria, Lebanon, and Jordan where political sensitivities and continued instability create virtually insurmountable obstacles.¹⁹ In the current Palestinian political climate, PNC elections may even exacerbate the very divisions and factional rivalries they are supposed to overcome.

¹⁸ In contrast, few believe that a return to bilateral negotiations, at least as long as the current imbalance of power on the ground remains intact and is reflected in the negotiations themselves, offers a viable option.

¹⁹ A civic registration drive to encourage Palestinians to register for PNC elections was launched in early 2011. For more information, see <http://palestiniansregister.org/>.

One viable alternative is for the leadership to form a constituent assembly charged with reviewing the Palestinian national strategy and drafting a new national programme capable of reunifying the Palestinian body politic around an agreed set of national goals.²⁰ As such, it must include representatives from the different political factions (including those not currently in the PLO), civil society, lawmakers, refugee committees, and political independents, and it must give adequate weight to the needs and perspectives of different Palestinian political constituencies, including Palestinians living under occupation; Palestinians living in Israel; and Palestinian refugees.²¹ Its deliberations must be open, transparent, and easily accessible to the public, while any recommendations it makes must conform to international law if Palestinians are to preserve the moral dimensions of their cause.²² Rules and procedures will need to be established to determine the proportional distribution of seats relative to constituent size, internal mechanisms for deliberation and decision making, and so forth. While the Palestinian leadership is best placed to officially initiate this constituent assembly, the process of choosing its members should be left to individual political factions, civil society organisations, and community groups wherever possible. Existing organisational bodies representing key Palestinian constituencies both inside and outside the OPTs provide a ready starting point for choosing the assembly's members.

Refugee communities form a special case given their organisational weakness and geographical dispersal, for which no easy solution exists. The circumstances that refugees find themselves in and their degree of internal organisation differ markedly from one host country to the next. For example, few if any Palestinian refugee organisations exist in Egypt as compared to, say, Lebanon. In the case of the latter, the presence of Palestinian refugees continues to elicit domestic opposition. They are currently denied basic socioeconomic rights and largely forced to live a life apart from the rest of Lebanese society. Any outreach would require considerable sensitivity so as not to embolden those calling for their deportation. To a lesser extent, the same also holds for Jordan even though Palestinians enjoy full citizenship rights. In Syria, thousands of Palestinian refugees have been forced to flee to neighbouring countries as a result of continued fighting. This plus general conditions pervading in Syria make co-ordination and outreach all but impossible.²³

Overcoming these difficulties will require creative solutions. In particular, reactivating unions and other institutional and associational mechanisms within refugee communities could help bridge the divide between these communities and decision makers. Examples exist, such as the CIVITAS collective research project, launched in early 2005 and based at the University of Oxford. The project hosted a series of public meetings for Palestinian communities living in the Middle East, Europe, and North and Latin America, with each community asked to undertake a needs assessment to determine what representative mechanisms they might need and the issues they want prioritised. Palestinians should enhance existing refugee organisations and organise delegations to present refugee concerns. The United Nations Relief and Works Agency (UNRWA) could update its registry of Palestinians living outside its current field of operations. A good starting point for all of these initiatives is to renew and substantially expand the PLO's Department of Refugee Affairs to enable it to better fulfil its mandate as a central address for refugee concerns and effective representation in Palestinian decision-making. This department could initiate many of the suggestions mentioned above.

The EU and its member states could play a helpful role in supporting the establishment of a Palestinian constituent assembly. Palestinians can only hope to overcome their crippling divisions if national reconciliation extends beyond Fatah and Hamas to include broader components of the Palestinian polity. This would be qualitatively different from the current focus on technical measures involving the provisional instalment of a new Palestinian government made up of independents and technocrats, which has thus far failed. Not only should the EU and the US review and eventually abandon all policies that have *de facto* worked as disincentives towards national reconciliation, they should also encourage other Middle Eastern and North African countries that have undergone a similar process to share their experiences.

One possible model the EU and its member states may consider promoting is the National Dialogue Conference (NDC) that was established earlier this year in Yemen. Comprising 565 individuals, the NDC gives equal footing to government ministers, activists, Islamists, civil society representatives, and high-level bureaucrats alike. It includes several working groups dealing with such issues as sustainable development, good governance, state building, security sector reform, national reconciliation, rights and freedoms, and the formation of a committee to draft a new constitution. The Yemen model has its own shortcomings and critics, who charge it with being wholly artificial in the way that it whitewashes Yemen's existing traditions of political pluralism, as well as with being both ineffectual and largely divorced from reality. Any Palestinian effort should seek to learn from the shortcomings in Yemen and elsewhere. It would also have to be tailored to the Palestinian context, perhaps taking the PLO's Basic Law or revision of the PLO Charter as its starting point. Whether as a constituent assembly or NDC, meetings would need to occur outside

²⁰ The authors are particularly indebted to Dr Hani Masri and Khalil Shaheen, director general and director of research and policies at Masarat respectively (see <http://masarat.ps/en>), for their valuable insight into how such an assembly might work.

²¹ Active participation in such a Palestinian national dialogue would prove complex for representatives of Palestinian citizens of Israel, leaving them exposed at home, with possible legal repercussions. Nonetheless it should be considered and space should be offered at the table. Were there to be participation, representatives could be drawn from existing organisations such as the Higher Arab Monitoring Committee, which is considered representative of Israeli mayors, political movements, parties, and Knesset members. For more information, see <http://www.reut-institute.org/Publication.aspx?PublicationId=2254>.

²² In addition to being practical, this sort of constituent assembly would also provide people with an incentive to vote in PNC elections.

²³ In all three countries, as well as in the West Bank and the Gaza Strip, the majority of Palestinian refugees are registered with the United Nations Relief and Works Agency (UNRWA), providing at least some formal mechanism in terms of ascertaining refugee numbers and location. In contrast, UNRWA does not operate in Egypt.

the OPTs to overcome current entry restrictions, as well as internal restrictions on movement implemented by Israel.

Support institutional reform to allow for democratic decision-making

No less important than drafting a broadly inclusive national programme capable of re-engaging Palestinians and reunifying the Palestinian body politic is the need to establish institutional mechanisms capable of facilitating greater public participation and democratic decision-making. Several options are available, the most important of which are listed below:

a) **Revive PLO functioning and more clearly separate it from the PA** – the separation of powers and functions between the PA and the PLO is an important prerequisite for any meaningful institutional reform. This includes resuscitating the PLO as the sole legitimate representative of all Palestinians. Given its limited mandate and the nature of its powers, the PA is singularly unsuited to serve as a representative organisation for Palestinians, particularly those living outside the OPTs. Indeed, a strong argument can be made in favour of reducing the PA's political role given its heightened vulnerability to punitive Israeli measures, such as the withholding of VAT transfers.

While the PA will continue to play an important technical role in terms of service provision and administration, clarified arrangements should be introduced to avoid any doubt that the PLO remains the primary address for all political decision-making, including decisions directly related to any future "State of Palestine". Such a clarification is particularly important within the context of recent Palestinian efforts to achieve UN recognition of a Palestinian state. The creation of a Palestinian state does, after all, remain a central pillar of the PLO's political programme. The PLO Executive Committee could become something akin to a Palestinian government-in-exile, without its role as the representative of all Palestinians being jeopardised. For its part, the EU and its member states should observe and reinforce this division of institutional roles and responsibilities in all of its respective dealings with the PLO and the PA.

Other reforms to the PLO beyond PNC elections could include the establishment of new funding arrangements (such as the possibility of the PLO being allocated set funds via the Arab League) and the relocation of its headquarters outside the OPTs (possibly to Cairo, where the Arab League is located) to minimise the degree to which the occupation can be used to pressure PLO decision-making. The inclusion of Hamas and other Islamist factions into the PLO is also another important reform. This should be accompanied by a review of the PLO Charter to more clearly define PLO internal procedures, including respect for democratic principles and clear guidelines in the event of internal disagreements (for example, Hamas's rejection of democracy in its own party should not be

allowed to impact the democratic principles practised within the PLO).

b) **Hold new elections for the PA** – this continues to be the favoured response of the US, the EU, and its member states to the problems of legitimacy facing the Palestinian leadership. Such a development has some merit, not least because it gives Palestinians living in the OPTs an opportunity to decide who is accountable to them. In particular, the reconvening of the Palestinian Legislative Council would help provide much needed oversight regarding the decisions of the executive and would also help reverse the current concentration of power in the offices of the presidency and prime minister, a trend that makes inclusion of different constituencies harder. Staging successful PA elections will require no small amount of international muscle (particularly European and American) to ensure that Israel allows voting and election campaigning to take place throughout the West Bank, including East Jerusalem, and in the Gaza Strip. Election monitoring will also be crucial.

PA elections in themselves, however, are by no means a panacea for all of the problems identified in this paper. They do not allow for the inclusion of Palestinians living outside the OPTs (undermining the argument that PA elections would (re)empower the Palestinian leadership to make broad decisions on behalf of all Palestinians), nor would they likely provide any real dividends in terms of expanding sovereignty or control of Palestinians over their daily lives (though they give precisely such an impression to an international audience and as such could even be counterproductive). Indeed, elections run the risk of consolidating and prolonging the political status quo and further exacerbating existing political divisions, particularly those between Fatah and Hamas. Any elections that fall short of covering the West Bank, including East Jerusalem, and the Gaza Strip in their entirety also threaten to consolidate the territorial fragmentation of the OPTs.

c) **Party reform within Fatah and Hamas** – for both Fatah and Hamas, the uneasy transition from resistance movement to governing party has been further complicated by the challenges associated with "self-rule" under occupation. Fatah's capacity to rule in the West Bank is severely curtailed by the occupation and interim agreements, while European and American focus on security reform and ensuring Fatah's political primacy at virtually all costs has done little to enhance the party's democratic credentials. For its part, Hamas has sought to consolidate its iron grip in Gaza in response to its continued isolation and Israel's blockade, while internal decision-making and leadership processes remain secretive and subterranean. This is not unexpected given Israel's policy of extrajudicial assassinations and routine harassment and arrests of Hamas members by Fatah in the West Bank. As long as Hamas remains isolated and its leadership targeted, this is likely to remain the case.

Despite predictions of party renewal and reinvigoration, the staging of Fatah's Sixth General Congress, held in Bethlehem in 2009, largely served to rubber stamp both its senior leadership and strategy of bilateral negotiations. Short of internal party reform, Fatah could consider hosting regular public meetings and/or workshops intended to allow core Palestinian constituencies, including youth, to voice their concerns. Much more importance should also be given to showing leadership in those areas of immediate concern to Palestinians both inside and outside the OPTs (such as the plight of refugees in Syria or continued home demolitions and arrests in the West Bank). And greater transparency should be given to the core positions being pursued in negotiations.

d) **Strengthen civil society and public policy** – civil society organisations have a crucial role to play in re-engaging core Palestinian constituencies in the OPTs. In particular, this requires a radical rethink and restructuring of donor funding. The EU, the US, and other donors, including potential newer donors, could prioritise the following in their civil society support programmes:

- i. Consider reducing the complex administrative requirements normally attached to donor funding in the case of grassroots organisations and provide funds intended to empower these organisations consistent with an agreed set of organisational goals and benchmarks (for example, expanding membership) without losing the necessary tools of transparency and financial oversight. Finding a more equitable balance between these types of organisations, and more professionalised and top-down structures, should be a priority.
- ii. Invest in programmes targeting youth participation and youth unemployment. This includes programmes that provide employment skills and training, including the establishment of youth co-operatives that help young people pool their skills and resources to increase their income-generating opportunities and purchasing power, as well as support greater youth involvement in political decision-making, especially at the local council level.
- iii. Continue to support programmes aimed at gender equality and women's empowerment with a particular focus on reducing all forms of violence against women; increasing women's participation and the representation of women's issues in decision making; and advancing equal opportunities for women, particularly with respect to economic participation.
- iv. Support programmes that provide a space for greater public policy dialogue and debate in the OPTs aimed at raising public awareness and understanding of key policy issues. This includes support for public

policy think-tanks and the introduction of related programmes within the PA that aim at greater transparency and encourage respect for political pluralism.

Assess the impact of the possible shift from national liberation to civil rights movement

As public faith in negotiations and the two-state solution continues to fade, more and more Palestinians are looking to other options, including the establishment of a single democratic or binational state for Palestinians and Israelis. Both the US and the EU should seriously assess the impact of such a shift in strategy. Adopting a one-state model would see the Palestinian struggle transformed from a movement for independence to one for equal rights, including the right to vote. Notwithstanding the historical differences, advocates compare this approach to the anti-apartheid movement in South Africa. In particular, they argue that the Israeli political and military leadership alone wields effective power across both Israel and the OPTs, and uses that power to maintain two separate and unequal systems of rule that discriminate between (Jewish) Israelis and Palestinians. Indeed, at least two Israeli prime ministers – namely Ehud Olmert and Ehud Barak – have warned of the dangers of apartheid in Israel should a negotiated two-state solution fail to materialise.

A peaceful struggle for equal rights might move the ball back into the Palestinian court, reuniting two different strands: those who see the two-state solution as increasingly unrealistic due to developments on the ground and those who never saw partition as realistic in the first place. The elaboration of something akin to a new Freedom Charter could leave open the pursuit of their rights either through statehood or through existing (Israeli) state institutions. Possible repercussions include the strengthening of civil society organisations calling for equal rights and the growing marginalisation of political institutions traditionally devoted to two-state negotiations with Israel. This, in turn, could leave traditional interlocutors of the West with diminished clout while new actors, unbeknownst to US and EU policymakers, would gain traction. As such, the EU and the US would do well to engage these actors at this stage, when the pursuit of rights still leaves open the door for a two-state solution.

Conclusions: what if legitimacy is not restored?

Abbas must navigate an increasingly fragmented domestic political landscape, which he can ill afford to ignore, as well as a regional landscape that continues to undergo unprecedented change. In addition to Fatah's rivalry with Hamas, the president faces growing divisions both between PLO factions and within Fatah itself. Fatah and Hamas are not immune to the changes currently reshaping geopolitical dynamics in the region. The unlikelihood of a breakthrough in negotiations in the near future only compounds the challenges Abbas continues to face.

Many fear that the collapse of the PA might result in further fragmentation and demobilisation of the Palestinian National Movement, particularly given their geographical dispersal. Such an outcome is possible, though unlikely. Instead, apathy will continue to spread among many, the threat of violence will likely increase, and the effectiveness of the PA and state institutions will likely deteriorate. This scenario should not only concern Palestinians, but also Europeans: it is hard to think of a results-oriented or even sustainable MEPP without a solid and credible Palestinian National Movement. The status quo will not hold while more urgent matters such as Syria are taken care of. Palestinian politics is about to turn a page: "When Abbas departs", writes the International Crisis Group, "an era will end for the national movement; he is the last leader, of national stature and possessed of historical legitimacy, truly committed to the kind of negotiated settlement the world favours."²⁴

The prospect of a post-Fatah/Hamas political reality is slight at best. Both parties are firmly enmeshed in the very fabric of Palestinian society – through patronage networks, the provision of public sector salaries, service provision, and so forth – even if public faith in their ability to lead is fast dwindling. Perhaps the only possibility of a new Palestinian political party emerging is in the context of a new popular mobilisation. What is certain is that today's deficit in legitimacy could spell potentially dire consequences, particularly if present trends on the ground continue.

It is hard to see how either the Palestinian predicament or the broader MEPP can advance absent a Palestinian strategic vision that is derived from more inclusive institutional politics; one that rearticulates both Palestinian national goals and the means to be pursued in achieving them. Squeezing the last dregs of legitimacy from the existing structures to infuse the existing MEPP with another delay of execution is reaching its endpoint.

²⁴ "Buying Time? Money, Guns and Politics in the West Bank", International Crisis Group, Middle East Report No. 142, 29 May 2013, available at <http://www.crisisgroup.org/en/regions/middle-east-north-africa/israel-palestine/142-buying-time-money-guns-and-politics-in-the-west-bank.aspx>.

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