
**U.S. Foreign Policy
and the Israeli-Palestinian Conflict
A View from Palestine**

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Introduction

In the near 20 years since the Oslo peace process began Palestinians have had to confront an extremely adverse reality marked by continued loss and dispossession of land and other resources. This is seen most dramatically in the massive expansion of Israeli settlements and infrastructure and the building of the separation barrier; territorial and demographic fragmentation, cantonization and isolation; and economic fracture and decline. More than anything, these factors reflect the continued failure of the political process and the American-led negotiations which largely define them. This in turn has given rise to some new and unprecedented strategies and policies, both at the official level and at the level of civil society in Palestine that should be understood not as a coup or revolution but as a transformational and evolutionary model.

It should be said at the outset that the situation within Palestine is uncertain and at times, internally contradictory but it is dynamic in a way it has not been since the first Palestinian uprising in 1987 and, arguably, since 1967. The terrain is undeniably changing although the future is unclear and impossible to predict. What follows is a brief examination of some key dynamics and changes.

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Establishing a New Framework: The End of Negotiations as Defined by the U.S. Under Oslo— From Negotiable to Non-Negotiable Rights First

The failure of the US-led political process and the illegitimacy of the Palestinian political system were powerfully underlined by the release of the Palestine Papers, which some observers regard as a critical turning point in Palestinian politics. These documents underlined the bankruptcy of the negotiation process as it had existed since the Oslo period (characterized by open-ended negotiations with no terms of reference; no conditions; and no neutral referee; and in which the Palestinian side offered concessions that went well beyond the national consensus and were rejected by Israel).¹ The Oslo negotiation model focused on *negotiable* rights i.e. borders, land, water (issues of statehood) before addressing *non-negotiable* rights i.e. right to work, travel, move, build a house, market goods, and plant a tree, which were largely ignored under the Oslo framework.² Furthermore, negotiable rights such as land were gradually reframed and redefined in adverse ways.

The post-2006 split between the West Bank and Gaza, eventually pitting Fatah and Hamas against each other, introduced yet another complication: the negotiation process as defined by Oslo would not proceed should the two factions reconcile. In this way political negotiations precluded inter-Palestinian reconciliation and were actively positioned against it, further delegitimizing the US-led negotiation model over time. As Prime Minister Netanyahu recently stated, “The Palestinian Authority [PA] has to choose between peace with Israel and peace with Hamas.”³ According to Professor Joel Beinin, Netanyahu “seems incapable of understanding that in addition to responding to popular Palestinian and regional Arab pressures, it

¹ Dr. Husam Zomlot, “A Paradigm Shift: The Arab-Israeli Conflict and Regional Transformation,” Lecture, Center for Middle Eastern Studies, Harvard University, March 23, 2011, Cambridge, MA.

² Ibid.

³ Ethan Bronner and Isabel Kershner, “Fatah and Hamas Announce Outline of Deal,” *New York Times*, April 27, 2011.

was necessary for Abbas to seek an agreement with Hamas because the Palestinian Authority could not reach a peace agreement with Israel on terms any Palestinian would accept.”⁴

Given the enormous losses incurred over the last 18 years and the corruption of the political process and those engaged in it, the Oslo model of “partners” around the negotiating table has been largely if not totally discredited especially following the release of the Palestine Papers. Simply put, “[e]ven those Palestinians most supportive of American-led negotiations with Israelis cannot bring themselves to negotiate anymore while Israel builds settlements.”⁵ There is a growing consensus that absent a new strategy for securing their rights, Palestinians will be consigned to a form of indefinite occupation. Hence, it was impossible for the political leadership in the West Bank to reengage Israel through the existing negotiation structure and be seen as legitimate. Even before the revolutions in the Middle East, it was extremely unlikely that the Palestinian people would have accepted such a re-engagement.

As articulated to the author by some Palestinian officials and analysts there appear to be two new and complimentary strategies taking shape among Palestinians—one at the level of civil society and the other at the official level—in their renewed struggle for independence.

⁴ Joel Beinin, *Fatah-Hamas Reconciliation and Palestinian-Israeli Peace*, May 11, 2011, <http://jewishvoiceforpeace.org>.

⁵ Yousef Munayyer, “Will a Palestinian Autumn follow an Arab Spring?” *Palestine Center Brief* No. 211, Washington, DC, April 22, 2011.

Civil Society: A Rights-Based Approach – The unity of people over unity of land

The shift in strategy from negotiable to non-negotiable rights can be seen at the level of civil society. Even before the March 15 demonstrations in Gaza and the West Bank—which called for popular unity and the end of internal divisions—Palestinian civil society organizations had embraced a new strategy informing the popular struggle against occupation that had as its core imperative the unity of people over the unity of land (the latter being a practical impossibility at least in the near term). There has been a growing consensus that as long as the Palestinian struggle for independence remains focused on land—which of course remains important—it cannot be won (particularly given the gross asymmetries in power between Israelis and Palestinians and the latter’s virtual abandonment by the U.S. and other members of the international community).

According to this argument it is not a state per se that Palestinians should be fighting for but their rights within that future state—human, political, economic, social, and civil—rights, which others, Israelis and Americans among them, possess. The assumption informing this strategy assumes that occupation will remain, precluding the establishment of a Palestinian state in the short- to medium-term. This strategy does not require a political movement but smaller, more decentralized groups that organize around specific issues—such as housing rights or access to international markets—attempting to forge linkages and alliances with Palestinians inside the West Bank and Gaza, with Palestinians and other groups regionally and internationally, and with Israeli forces who support the Palestinian struggle.⁶

⁶ Mushtaq H. Khan, “Learning the Lessons of Oslo: State Building and Freedoms in Palestine,” Paper presented at a closed meeting, Jerusalem, December 2010; and Zomlot lecture at Harvard, op cit. With regard to the last point about engaging Israelis—an approach with a long history but one that seems to have renewed emphasis—growing numbers of Palestinians are aiming, through more directed, structured and coordinated action, to identify and work directly with those groups in Israel—across all sectors—who support the Palestinian struggle. As one official put it, “We will fight only with those Israelis [who want] to end the structures that hurt both peoples.”

This points to another critical strategic component that has taken root in Palestinian civil society: the adoption of peaceful non-violent resistance as the dominant Palestinian strategy for dealing with Israel going forward (which aims to reframe the conflict on the same terms that brought down Ben Ali in Tunisia and Mubarak in Egypt). Although this strategy has a long history among Palestinians, it gained renewed momentum in 2005 with the emergence of the Boycott, Divestment and Sanctions (BDS) movement. This movement arose in response to world inaction around enforcement of the 2004 International Court of Justice decision on the illegality of the West Bank Wall.

Massive nonviolent resistance explicitly rejects continued accommodation to the status quo in favor of peaceful confrontation and has assumed a prominent role in the collective struggle. This was clearly seen on Nakba Day when hundreds of unarmed Palestinians in the West Bank, Gaza, Lebanon and Syria approached the border with Israel; in the Syrian case, many actually crossed the border and “without so much as a sidearm, penetrated farther into the country than any army in a generation.”⁷ When the Palestinian Authority goes to the UN in September in its bid for statehood and membership, thousands of Palestinians are planning peaceful marches to Israeli settlements, checkpoints and the Wall.

⁷ Karl Vick, “Palestinian Border Protests: The Arab Spring Model for Confronting Israel,” *Time Magazine*, May 16, 2011. See also “Here comes your non-violent resistance,” *The Economist*, May 17, 2011; and Rami G. Khouri, “A New Palestinian Strategy Unfolds,” *Agence Global*, June 29, 2011. Even the Palestinian Authority in Ramallah, which never officially embraced nonviolent resistance as a policy (nor has the Hamas-led Authority in Gaza), has now adopted nonviolence as part of its state-building efforts, arguing that the promotion of internal Palestinian security and calm is linked to security for Israelis, which serves the Palestinian national cause.

Official Level: Recognition of a Palestinian State on 1967 Borders and UN Admission as a Member (or Non-Member) State

The shift to non-negotiable rights in Palestinian strategic thinking is also reflected in changing policies at the official level. This fall will mark the 20th anniversary of failed Israeli-Palestinian negotiations.⁸ In a conversation I recently had with one Palestinian official, he captured the bankruptcy of the political process for Palestinians: “We already have two states,” he said, “Israel within 1967 borders, and a state of settlers with Palestinian cities on the periphery.” Since the Oslo period Palestinian officialdom has sought international political legitimacy, which lead to continued losses, greater disenfranchisement, and deepening defeat. According to Professor Mushtaq Khan, “The Oslo Accords were based on the assumption that Israel’s self-interest would rapidly result in the creation of a viable Palestinian state. But the accords bound the Palestinians to agreements, which significantly reduced their bargaining power vis-à-vis Israel and allowed the creation of new Israeli facts on the ground after the signing of the Accords. This resulted in a vicious cycle of diminishing legitimacy of the Palestinian leadership, their diminishing ability to deliver vital ‘state’ functions like security, which in turn allowed Israel to create further facts on the ground and increase its bargaining power in successive rounds of negotiations. The ultimate result was the rupture of the Palestinian movement in 2007-08.”⁹ And in all this, the US played a direct role.

Indeed there are specific factors which have weakened the US position among Palestinians over time and they all emanate from the almost seamless fusion of the Israeli and American positions: the insistence on the Oslo “peace process” framework of open-ended, bilateral negotiations which defer final status issues to some indeterminate point; the argument that the Palestinian bid for statehood on 1967 borders is illegitimate while refusing to acknowledge Palestinian losses; and the unwillingness to accept a reconciliation agreement between Fatah and Hamas by insisting that there be no Palestinian

⁸ Munayyer, op cit.

⁹ Khan, op cit.

unity government unless Hamas agrees to renounce violence, recognize Israel as a Jewish state, and abide by previous agreements.

Furthermore, the February 2011 American veto of the UN Security Council resolution condemning Israeli settlements as illegal—a veto of its own official position and the only “no” vote cast—only underscored the futility of continuing to participate in a US-led process. With this veto the US strikingly demonstrated that it is unable to deliver a just solution to the conflict. The US veto, the author was told repeatedly, was a defining event in official Palestinian thinking. One highly placed Palestinian official close to the leadership confided that the US—while the vital political actor—is increasingly regarded by the Palestinian leadership as handicapped (for structural reasons) unable to implement its own policies, having nothing to offer but a diplomatic dead end.

Consequently, the Palestinian leadership decided to pursue an alternative strategy that appears to be informed by two key factors: an acceptance that the US will not abandon Israel whose interests are paramount; and a change in strategy from acceding to US partisanship to challenging it. This new strategy appeals to international institutions rather than to Israel and the US primarily, adopting a multilateral approach, and is seen in the upcoming UN initiative for “international recognition of the State of Palestine on the 1967 border” and admission “as a full member of the United Nations.”¹⁰ This new strategy, in effect, aims to set “borders of a two-state solution along internationally recognized lines and determines the endgame for a political resolution of the conflict.”¹¹ It seeks international *legal* (not just political) legitimacy, an “internationalization of the conflict as a legal matter”¹² that will establish a term of reference that will improve Palestine’s bargaining position.

According to Michael Sfard, who is the legal advisor for the Yesh Din human rights group in Israel: “The significance of a Palestinian state joining the UN is that, for the first time, it will be the Palestinians who will decide what the international legal framework is that is binding in their territory.” Sfard demonstrates that a UN acceptance will create the legal jurisdiction of a sovereign, what he calls a “legal tsumami”:

If indeed Palestine is accepted as a full member of the UN in September, the button controlling jurisdiction over events that will

¹⁰ Mahmoud Abbas, “The Long Overdue Palestinian State,” *New York Times*, May 16, 2011. There is some confusion over the actual request to be made to the UN, what is in fact possible and the appropriate legal strategy. See for example, Camille Mansour, “Palestinian Options at the United Nations,” Institute for Palestine Studies, <http://palestine-studies.org/column/details.aspx?t=2&id=34>; Akiva Eldar, “The battle for September,” *Ha’aretz*, June 5, 2011; Lamis Andoni, “Palestinian Statehood and bypassing Israel,” *AlJazeera.net*, June 16, 2011; and Rema Rahman, “Palestinian leaders weigh U.N. options,” *United Press International*, July 13, 2011.

¹¹ Ahmad Khalidi, “A West Bank Anachronism,” *The Guardian*, April 19, 2011.

¹² Abbas, op cit.

take place in the West Bank and Gaza Strip will, to a large extent, be transferred from Jerusalem to Ramallah, from Benjamin Netanyahu to Mahmoud Abbas – because the significance of accepting Palestine as a member of the UN is that the new member will be sovereign to sign international treaties, to join international agreements and to receive the jurisdictional authority of international tribunals over what happens in its territory.”¹³

Palestinian officials are well aware of the problems surrounding this policy (particularly American and Israeli objections which argue that such a move undermines peace negotiations, which should only occur between the two parties¹⁴) but view it as a necessary though insufficient step in the process of liberation. It will not end the occupation nor create a viable state but it is hoped that it will create a new basis for negotiations characterized by greater parity with Israel in a state that is internationally recognized.

Reflecting Israeli concerns, Barak Ravid of *Ha'aretz*, writes, “The Palestinians are hoping that if the General Assembly votes in favor of a Palestinian state in the 1967 borders, they will then be able to take up a seat as a full member of the United Nations. This will change the situation into a conflict in which Israel is occupying another country, which may result in severe international sanctions against Israel.”¹⁵

The concern in Israel also extends to the fear that the Palestinian state, post-reconciliation, would be a Hamas state. The Israeli analyst Ami Isseroff writes that the declaration of a Palestinian state is more serious than a settlement freeze because the “Palestinians would be free to pursue the “liberation” of *Palestina irrendenta* with the blessings of Mr. Solana and the UN, since East Jerusalem as well as all settlements would be considered “occupied territory” and an incursion into the territory of the Palestinian state. Both rockets and UN resolutions initiated by the Palestinian state would rain down on Israel, until Israel was forced to bow to all Palestinian demands including “return” of refugees. At the very least, the plan is a device to force Israel to agree to all Palestinian demands, since almost anything is less bad than a unilaterally declared state that has no treaty of any kind with Israel.”¹⁶ Netanyahu also has questioned whether Hamas will take control over the West Bank as it did Gaza.¹⁷

¹³ Michael Sfard, “The Legal Tsunami is on its way,” *Ha'aretz*, April 29, 2011; and *Ibid*.

¹⁴ See, for example, Ron Kampeas, “Jewish groups debate ways to thwart U.N. recognition of ‘Palestine’,” *Jewish Telegraphic Agency*, April 15, 2011.

¹⁵ Barak Ravid, “Netanyahu mulling West Bank pullout to stave off ‘diplomatic tsunami,’” *Ha'aretz*, April 12, 2011.

¹⁶ Ami Isseroff, “Unilateral Palestinian state declaration-More important than settlement freeze,” September 14, 2009, <http://www.zionism-israel.com/log/archives/00000713.html>.

¹⁷ Bronner and Kershner, *op cit*.

Ravid, quoting sources close to the prime minister, further reveals that Netanyahu is worried about Israel's isolation and delegitimization that could result from the impending declaration but still: "is not willing to negotiate on 1967 borders with exchange of territory, and in the end he will be faced with a UN decision on a Palestinian state in the 1967 borders, without territorial exchanges."¹⁸

The unilateral declaration of statehood via the UN also has its Palestinian critics and their criticism focuses on the fact that the occupation will remain as will the siege of Gaza and could generate even more frustration and anger among people if expectations remain unmet.¹⁹ They argue that the UN strategy represents an act of desperation from a leadership that has lost its legitimacy with an attendant risk that the leadership will not pursue the initiative seriously. Consequently, what does it mean to recognize a Palestinian state under continued Israeli occupation where the PA does not have control over most of the West Bank or Gaza (despite an uneasy and troubled reconciliation) or its presumed capital in East Jerusalem?

These critics argue that certain individuals and classes will have their power protected and solidified while the majority of Palestinians will continue to suffer under the occupation. Borders may continue to be violated without much international condemnation. Settlement expansion and land confiscations can be expected to continue under an Israeli threat of de jure annexation.²⁰ Rather, Palestinians will remain financially and politically dependent on the good will of the international community, particularly the US and EU, and will find it extremely difficult to resist external pressure. Indeed a UN resolution will likely force the US to oppose it (economically as well as diplomatically) particularly in an election year and will provoke Israeli responses on the ground.²¹ Furthermore, the rights of Palestinians outside the West Bank and Gaza are entirely neglected.²² Indeed there is criticism from diaspora Palestinians who fear that the declaration of a state in the UN "limits Palestinian aspirations to the West Bank and Gaza Strip and excludes their voices from Palestinian political decision-making."²³

¹⁸ Ravid, op cit.

¹⁹ For example, see Ali Abunimah, *Recognising Palestine? The efforts of the Palestinian Authority to push for statehood are nothing more than an elaborate farce*, April 13, 2011 and Dr. Salman Abu Sitta, "The PLO is to "liberate" not to legalise partition," <http://australiansforpalestine.com>, July 2011.

²⁰ Ibid, Abunimah.

²¹ Aaron David Miller, "The Palestinians' mistake in seeking statehood from the U.N.," *The Washington Post*, April 14, 2011, http://www.washingtonpost.com/opinions/the-palestinians-mistake-in-seeking-statehood-from-the-un/2011/04/12/AFIW08eD_story.html.

²² Abunimah, op cit.

²³ Beinon, op cit.

Official Level: Fatah-Hamas Reconciliation- The Agreement on Unity

Another critical dynamic reshaping the Palestinian political landscape is a stated commitment to Palestinian unity. There can be no doubt that the uprisings in the Middle East and popular pressure demanding unity as seen in the March 15th movement played a critical role in pushing both sides to an agreement to form an interim government,²⁴ which was also propelled by the September 2011 deadline for Prime Minister Fayyad's state-building program.²⁵ The unity agreement caught the Obama administration by surprise while Netanyahu stated that it will end the Israeli-Palestinian peace process. The Egyptian government played a crucial interventionist role in the unity talks.

Critically, the PA's continued failure to reach an agreement with Israel and most importantly, the US's failure to promote serious two-state negotiations converged with internal popular pressure, compelling the parties to seize the initiative and compromise because "the alternatives were worse . . . and nothing is guaranteed anymore."²⁶ "The region will not reverse itself," said a Fatah official, "and this is a new and constant variable"²⁷ that greatly influenced political thinking regardless of US or other reactions. There also can be no doubt that for Abbas and the Ramallah PA the removal of Mubarak was a loss of an important patron and source of support.

²⁴ More specifically, this includes a technocratic government representing all factions, security arrangements, reconstitution and revitalization of the PLO to allow Hamas membership, a tribunal for general elections, and a date for elections within a year of the signing of the final agreement.

²⁵ See Palestinian National Authority, *National Development Plan 2011-13: Establishing the State, Building our Future*, April 2011; Office of the UN Special Coordinator for the Middle East Peace Process, *Palestinian State-Building: A Decisive Period*, Brussels, April 13, 2011; The World Bank, *Towards a Palestinian State: Reforms for Fiscal Strengthening*, Washington, DC, April 13, 2010; idem, *The Underpinnings of the Future Palestinian State: Sustainable Growth and Institutions*, Washington, DC, September 21, 2010; International Monetary Fund, *Macroeconomic and Fiscal Framework for the West Bank and Gaza: Seventh Review of Progress*, Staff Report for the Meeting of the Ad Hoc Liaison Committee, Brussels, April 13, 2011; and Reuters, "Palestinians ready for statehood now, says Fayyad," *Ha'aretz*, April 11, 2011.

²⁶ Analyst, Gaza, email communication, April 28, 2011.

²⁷ Political official, Ramallah, telephone communication, May 18, 2011.

The pressures on Hamas were similarly strong. For example, Hamas has come under enormous pressure from its population in Gaza for its economic and political failures including: the futility of armed resistance and the firing of rockets; the loss of 1400 lives during Israel's 2008-09 assault; the lack of economic improvement, change or reconstruction; the continued siege and sealing of the borders; rising unemployment now approaching 50 percent and unrelieved impoverishment with 80 percent of the population still dependent on humanitarian assistance to survive; and the lack of political legitimacy domestically and internationally. Hamas cannot continue to rule Gaza indefinitely under a state of constant siege.²⁸ Similarly, the turmoil in Syria has placed Hamas in an increasingly tenuous position (see below). In fact, the Syrian regime apparently demanded that Hamas take a position on the political turmoil in Syria. The international Muslim Brotherhood (MB) apparently came out in support of the protestors while Hamas kept silent, which did not satisfy the Syrian government.²⁹

A Palestinian colleague and analyst from Gaza who recently met with the leadership in Ramallah and Gaza and the Egyptian Ambassador to the PA about the reasons for the reconciliation wrote the following after his meetings:

"It was clear that the three bodies . . . involved (Egypt, Fatah and Hamas) [were] bored by the lack of progress on the reconciliation file. The internal and external factors which pushed both parties to reach an agreement in a few hours while they spent [over] 1500 hours of talk throughout the past three years [include the following]: The PA and president Abbas have become hopeless with [i.e. lost hope in] Israel and the US [with] regard to the peace talks. For four years, [the] PA got nothing from Israel except more settlements and roadblocks [among other restrictions]. The US veto at the UN [over the settlement resolution] made Abu Mazen [even more] disillusioned with US mediation. [Also] the new regime in Cairo wants to get rid of this file as it doesn't have the luxury to [enter] into [an] endless process of talks and mediation.

[Furthermore], [the Cairo government] wanted to increase its popularity among the Egyptians by solving this hard file and to prove that the previous regime of Mubarak wasn't sincere in its efforts to finish this file. Hamas, the youth movement, the growth of Salafist groups in Gaza, the development[s] in Syria and the rise of the Muslim Brotherhood in Egypt created new elements and [additional sources of] pressure on Hamas, [pushing it toward] compromise. A key Hamas leader said to me, "We cannot neglect the new developments in the Middle East. We are part of this world [and] we should understand the new reality." The Hamas leadership in Syria is [not] in a good position these days due to the Syrian revolutions.

²⁸ Analyst, Gaza, email communication, May 17, 2011.

²⁹ Political official, Ramallah, telephone communication, May 18, 2011.

There [is] some news that [the] Hamas leadership was asked to leave Damascus and to find [a] new place, either Jordan, Qatar or even Gaza."³⁰

What is particularly intriguing about this assessment is the role of the Muslim Brotherhood in Egypt as a source of pressure on Hamas. This was intriguing because weeks before various Palestinian analysts were predicting that Hamas would not enter into any reconciliation with Fatah because Hamas believed that the forthcoming Egyptian elections would bring the MB to power and thereby strengthen Hamas's position vis-à-vis Fatah in any future reconciliation negotiations. When the author queried her informant more on this point he said that the Egyptian Muslim Brotherhood played a vital role in pushing Hamas toward reconciliation. With their decision to form a political party and become part of the political system, the Egyptian MB argued that Hamas, as a branch of the MB, must do the same. The first step toward this end was to reconcile with Fatah and prepare for elections within the year. Hamas was told that it could no longer ignore changing developments in the region, meaning it must seek other, new alliances that would mitigate its dependency on Syria and Iran.³¹

The unity agreement also is seen as a victory, albeit a cautious one, for all sides of the Palestinian equation. For Hamas, its survival and continued role as a political actor able to impose some of its key conditions is regarded as a significant achievement given ongoing attempts to destroy it. For Fatah, the victory lies, at least for now, in the fact that it is challenging its manipulation and co-optation by Israel or the US. For the Palestinian people victory lies in the fact that the unity agreement addresses, in some measure, one of the most formidable internal crises confronting their struggle for freedom.³² And despite the many obstacles to unity and challenges that remain to be overcome, a key feature of the unity agreement is the return of Gaza to the conflict, to the struggle and to the Palestinian cause after five years of separation and isolation.

However, given past failures and the clear lack of confidence and trust among Palestinians in their leadership and political system, popular skepticism remains high particularly with regard to reforming institutions such as the security forces and those classes and elites who have benefited greatly from existing divisions and stand to lose from any reform. Other problems include: freeing of political detainees, reopening of closed (social and political) institutions, and reinstating human rights and civil liberties. Half of Palestinian society is said to belong to either Fatah or Hamas while the other half is not mobilized³³ leading some Palestinians to ask whether the

³⁰ Analyst, Gaza, email communication, May 1, 2011.

³¹ Ibid, May 17, 2011.

³² Analyst, Gaza, email communication, May 11, 2011.

³³ Zomlot, Lecture at Harvard, op cit.

reconciliation agreement aims to unify two political factions or all segments of the Palestinian people?

It is important to understand that people are truly fatigued and fragmented and less able to be spontaneous than in other Arab countries where there are no viable political parties or movements.³⁴ They are also angry and frustrated. The majority of young Palestinians in the West Bank have never been to Gaza and their counterparts have never been to the West Bank let alone anywhere outside these territories. There is no exposure and no mixing.

This leads to another emerging and critical dimension of change particularly at the civil society level (and a potential source of conflict with the leadership): the revitalization of a common national identity and “reunified body politic with representative mechanisms and political and intellectual pluralism”³⁵ that aims to incorporate all sectors of Palestinian society including Palestinians citizens of Israel and the refugee communities outside of Israel/Palestine. As one Palestinian activist explained,

Our roof is the occupation and our floor, the political factions. In Gaza, nearly all political demands have been associated with one party or the other. If you demand elections you are accused of supporting Fatah and if you support ending Oslo you appear to be supporting Hamas. So, in order to maintain neutrality and establish a popular position, we have demanded an end to the division.³⁶

Popular pressure, particularly among Palestinian youth, is building and being mobilized around demands that transcend borders as seen in a renewed campaign around the refugee right of return, publicly demanding “a right that is recognized under international law and by U.N. resolutions but has not been implemented for 63 years;”³⁷ and in calls to hold elections for the Palestinian National Council in order to “reconstruct a Palestinian national program based upon a comprehensive [and nonviolent] resistance platform.”³⁸ The aim is not only to “memorialize the past but also to demand a new future”³⁹ that is characterized by the absence of factionalism and incorporates the “entirety of Palestine before 1948.”⁴⁰

³⁴ Ibid.

³⁵ Jamil Hilal, “Palestinian Answers in the Arab Spring,” *Al Shabaka Policy Brief*, May 2011. See also Jeff Halper, *The Palestinian Authority’s Historic Mistake—and Opportunity*, June 24, 2011, <http://icahdusa.org/2011/06/the-palestinian-authority’s-historic-mistake-and-opportunity>; and Khalidi (op cit).

³⁶ Noura Erakat, “Palestinian Youth: New Movement, New Borders,” *Al Jazeera*, May 4, 2011, <http://english.aljazeera.net/indepth/features/2011/05/201153101231834961.html>.

³⁷ Nadia Hijab, “Just as well that Obama had no details about Middle East peace,” *The Hill’s Congress Blog*, May 19, 2011, <http://thehill.com/blogs/congress-blog/foreignpolicy/162395>.

³⁸ Erakat, op cit.

³⁹ Ibid.

⁴⁰ Khalidi, op cit.

Despite the emerging potential for real change, a critical and more immediate question remains: How can a joint Palestinian government function without Israeli and US cooperation? Historically any agreement with Hamas would have threatened if not ended American (and European) funding. In fact, on July 7, 2011, the US House of Representatives “overwhelmingly passed a resolution . . . urging . . . Obama to consider suspending economic aid to the Palestinian Authority if it continues to pursue statehood outside of direct negotiations with Israel.”⁴¹

⁴¹ Rahman, op cit.

Is US Policy Becoming Less Relevant? A Changing Paradigm

According to Geoffrey Aronson of the Foundation for Middle East Peace in Washington, the almost two year diplomatic effort on the part of the Obama administration “to build a solid foundation for final status negotiations by winning meaningful concessions from Israel on settlement expansion has now been declared a failure by the administration itself.”⁴² In December 2010 Hilary Clinton called for the resetting of US policy away from temporary reductions in settlement expansion toward final status issues despite Netanyahu’s reluctance to engage in a process that addresses final status issues.

Aronson further argues that the administration has been unwilling to meaningfully confront Israel on the issues of settlements, notwithstanding the 10-month settlement construction moratorium that ended in September 2010. Since the end of the moratorium, Israel has begun construction on 1,500 new settlement units in the West Bank on both sides of the separation barrier. Although East Jerusalem was not included in the moratorium, the government announced last November that it would begin construction on additional 2,085 new housing units.⁴³

Furthermore, Netanyahu’s rejection of the US’s “unprecedented package of incentives aimed at moving diplomacy beyond a short-lived settlement moratorium,” effectively forced the US to declare an end to the settlement freeze initiative, which is no longer a “key weapon in the arsenal of American and international peacemakers.”⁴⁴ On December 7, 2010, President Obama decided to abandon his policy, suspending American efforts to resume direct negotiations between Israel and the PA. The Palestinians remain opposed to restarting direct negotiations as long as Israel continues to build settlements and as long as the construction moratorium excludes East Jerusalem.

According to Fayyad, “Each one of these guarantees and undertakings [offered by the US] is more dangerous and worse than

⁴² Geoffrey Aronson, “Back to Square One –The Obama Administration Resets U.S. Policy,” *Report on Israeli Settlement in the Occupied Territories*, Volume 20, No. 6, November-December 2010, p. 1.

⁴³ *Ibid.*, p. 4.

⁴⁴ *Ibid.*

the issue of settlements. . . Let us consider the issue of keeping an Israeli security presence in the Jordan Valley: The Israelis want to keep their army in that area for decades. What sovereignty would a Palestinian state enjoy when it is hemmed in by Israeli troops on all sides? What is even more serious is that these U.S. guarantees are preventing us from internationalizing the problem, which is one of the few tools we have in our hands. . . All these guarantees were given in the hope that Netanyahu would extend his moratorium by two months, which in any case does not include Jerusalem or the major settlement blocs. This is nonsense and we reject it completely.”⁴⁵

The paradigm appears, in fact, to be changing. American power (and unilateralism) to shape regional events in its own interests is weakening particularly with regard to preventing outcomes the US government does not want. This is seen, for example, in America’s failure to secure a settlement freeze from Israel even with the offer of incentives and the inability to coerce Palestinians to the negotiating table without preconditions.⁴⁶ The Palestinian and Arab peoples are not willing to rely as heavily on the US as they once did or take their lead from the US, another sign, perhaps, of declining influence. How will the US respond to, and deal with this new, emerging sense of political empowerment?⁴⁷

⁴⁵ Ibid.

⁴⁶ Interview with Professor Shibley Telhami and Robert Malley, National Public Radio, May 19(?), 2011.

⁴⁷ Ibid.

President Obama's Speech of May 19, 2011

In his speech, Obama made it clear that the US role will remain largely unchanged. A transformed role would have included, for example: ending a policy of double standards regarding sanctions; ending America's military, economic and diplomatic support for Israel's occupation; support for popular, grassroots based democratic initiatives throughout the Arab region; and respect for local decision making.⁴⁸

Rather, Obama embraced the same two-state formula of direct, bi-lateral negotiations that proved such a failure for the last 20 years despite a more explicit and firm reference to 1967 borders in his speech, which is fundamentally in line with the US position since the 1990 Madrid peace process. The entire post-Madrid process was explicitly based on UN Resolution 242 (land for peace), which does not reference 1967 borders explicitly but territories acquired in the 1967 conflict; both Clinton and Bush referenced 1967 borders/1949 armistice lines (albeit accounting for current realities).

Furthermore, in calling for a resumption of the peace process based on US diplomacy and Israeli demands as a formula for negotiations—which should also be understood as an attempt to derail the UN initiative in September—Obama failed to break any new ground and perhaps most important of all, did not reflect in any measure the repressive reality on the ground for Palestinians let alone offer any practical recommendations for addressing it. In fact, “the illegitimacy of Israel's repression of [Palestinian] basic human rights never enters Obama's lexicon”⁴⁹ nor does Israel's well-documented obstructionism of earlier negotiation efforts. This is particularly striking for another reason: by invoking a new peace process in terms that remain unchanged, the President is situating Israeli policy toward Palestinians and Palestinian nonviolent challenges to that policy *outside* the revolutionary changes taking place in the region. In effect, the US is saying that it will not hold Israel accountable to the

⁴⁸ Phyllis Bennis, *On the Eve of Obama's Middle East Speech*, Institute for Policy Studies, http://www.ipsdc.org/blog/on_the_eve_of_obamas_middle_east_speech.

⁴⁹ Josh Ruebner, “The two speeches of Barack Obama,” *The Hill's Congress Blog*, May 20, 2011, <http://thehill.com/blogs/congress-blog/foreignpolicy/162387>.

standards demanded of other countries in the region, placing it in a category of exceptions reserved for Saudi Arabia and Bahrain.⁵⁰

Obama's address was problematic in some other important respects. First, references to the 1967 borders with territorial swaps (which is not new) likely translates now, as before, into an acceptance of Israeli settlement blocs and Israeli control over vast swaths of West Bank lands unilaterally determined by Israel. Now as before, this reduces the Palestinian state to a group of disconnected territorial enclaves. Second, Hamas remains excluded from the process, a tacit rejection of the recent Fatah-Hamas unity agreement, which is essential if the Palestinian side is to deliver meaningful change. Third, calls for a demilitarized Palestinian state is how Obama defines a viable Palestinian state. The only reference in his speech to security was for Israel not Palestine. Obama did call for a contiguous state, a call made by previous American presidents which continues to ring hollow given US acquiescence to Israeli settlement expansion. Fourth, silence about the illegality of Israeli settlements is tacit acceptance of their presence. Fifth, deferral of Jerusalem and refugees rights—perhaps the most contentious issue of all—to a later stage reveals the same lack of seriousness and commitment to a fair resolution of the conflict that characterized the Oslo process. For one thing it ignores the fact that Netanyahu's Israel has refused even to discuss final status issues until his list of preconditions (e.g. recognizing Israel as a Jewish state) is met in full. And sixth, implying equivalence and parity between Israel and the Palestinians (a characteristic feature of the Oslo negotiations) as Obama did, is seriously flawed and misleading given the gross asymmetries in power between the two actors. Such equivalence assumes, as it long has, that the Palestinians are terrorists and the Israelis require security to protect them from Palestinian terrorism.

⁵⁰ Ibid.

Some Reflections on the US Position

The paradigm for negotiations since 1967 has been land-for-peace but what happens when there is no land? Because it is becoming less tenable for the US to explain the lack of political progress, the fiction of two states continues to be pursued and in order to pursue it the US emphasizes continued negotiations over real outcomes, which are, in effect, already predetermined—a Palestinian state that is weak and lacking real sovereignty. It is clear that Obama and his administration want to preclude any possibility of a UN vote on Palestinian statehood and admission as a (non-member or member) sovereign state. An informant who is a high level State Department official stated that American officials are “besides themselves” with worry and concern about the impending vote.

A United Nations vote on Palestinian statehood and admission would isolate the US and Israel, and humiliate the US especially in a changing regional context where Arab peoples are fighting and dying daily for their freedom and liberty, further eroding America’s public image if not its influence.⁵¹ But there is another, less obvious but critically important dimension to the US position, one that is characterized by anger over losing control of the political process. In some private meetings between US and Palestinian officials, the Palestinians expressed their desire to pursue a more autonomous policy as seen in the UN initiative, and engage more directly with other actors be they regional, European or multilateral. They were met with considerable hostility from some (but not all) American officials.

The impression that one high level Palestinian negotiator was left with was described as follows: the US wants to maintain control over, and leadership of, the process and should a void be created as it now has, it will be filled with more process since no credible alternative to the status quo was presented. Any attempt by the Palestinian leadership to break out of the US-defined framework will be opposed if not punished.⁵² It was also made clear to the author that key members of the Palestinian leadership are now unwilling to tolerate

⁵¹ Not only does the US face the declaration of a Palestinian state on 1967 borders and its admission to the UN in some legal form, it must respond to the end of Fayyad’s two-year development/economic/institution building plan, in which the US has made enormous financial and political investments.

⁵² Based on interviews with this individual, Spring 2011.

past approaches and are prepared to bear costs and consequences unthinkable just a few years ago. This may, of course, change but for now it appears to be a new and striking dynamic.

While it may be that the US desires a peaceful settlement with security for Israel and a state for Palestinians, US policymakers do not possess the will to do what is necessary to ensure that outcome—i.e., challenge Israeli policies. There are many reasons including the oft-cited influence of the Israel lobby that treats Israel and its security as a domestic (and structural) issue. But as one American official confided, “This explanation, while real, is too simplistic and categorical. It’s like pushing against an open door [which] is characterized by a predisposition toward Israel that derives from sympathy over the Holocaust, the rise of Arab terrorism, and the rise of anti-Muslim sentiment especially after 9/11.”

A State Department official with 15 years of experience working on the Israeli-Palestinian issue, provided the following assessment:

It should come as no surprise that key decision makers and Congress generally find Israeli arguments persuasive and can readily imagine that Israel is dealing with legitimate security concerns such as those they genuinely believe will arise from a unity agreement between Fatah and Hamas. Personal threats to Israel are seen as real and are felt. There is little acceptance that Israel is a large part of the problem and is the stronger party. Similarly, there is a belief that the West Bank territory that Israel wants to retain is not a big deal, poses no serious problem even if it degrades the territorial contiguity of a Palestinian state. The US does not fundamentally understand or care about the issues of injustice that form the Palestinian reality. It does not catch the attention of the US. Like their Israeli counterparts, US policymakers fundamentally believe that the existence of the State of Israel is predicated on the denial of Palestinian nationhood. Palestinians are seen as intruders. Palestinians do not matter and have little to offer the US especially when viewed against our strong alliance with Israel economically, militarily, and politically. They are not respected and are considered weak and reactive, easily pushed around. We can’t move Israel but we can move others.

Despite official rhetoric, the Arab Spring is seen by many inside the administration as a threat to Israel. When Palestinians crossed the Syrian border into Israel, administration officials saw them as barbarians coming over the border. It apparently is a deeply held belief among US policymakers that the Arab people are not mature enough for democracy and there is a real fear that the Muslim Brotherhood will take over in different Arab countries. [Hence, for many inside the administration] Israel is right when they say there is no reliable partner to deal with.⁵³

⁵³ Interview, telephone communication, May 2011.

Eric Cantor, the majority leader in the US House of Representatives, echoed these sentiments in his address to the annual conference of the American Israel Public Affairs Committee (AIPAC) on May 22, 2011: “Sadly, it [Arab culture] is a culture infused with resentment and hatred. It is this culture that underlies the Palestinians’ and the broader Arab world’s refusal to accept Israel’s right to exist as a Jewish state. This is the root of the conflict between Israel and the Palestinians. It is not about the ‘67 lines.”⁵⁴

⁵⁴ Transcript & Video: House Majority Leader Eric Cantor AIPAC Speech May 22, 2011 [Update: Cantor Expresses Disappointment in Obama’s Mideast Speech-Text], <http://ironicsurrealism.com/2011/05/22/transcript-house-majority-leader-eric-cantor-speech-at-aipac-may-22-2011>; and Lamis Andoni, “Kindly remain seated,” AlJazeera.net, May 27, 2011. Former US president Jimmy Carter offers a different view in Jimmy Carter, “Support the Palestinian Unity,” The Washington Post, May 3, 2011.

A Changing Discourse around 1967 Borders in Israel

In calling for a return to 1967 borders, the Palestinian leadership is not without its supporters in Israel. It is also important to highlight the changing dialogue around 1967 borders within Israel itself, which opposes Netanyahu's position.⁵⁵ Strikingly, key figures in Israel's security establishment including former chiefs of Israel's main security services—Mossad, Shin Bet and the Israel Defense Forces (IDF)—are calling for a two-state agreement with the PA based on 1967 borders similar to the 2002 Arab League peace initiative, in addition to ending all calls for an attack against Iran. In fact on May 6, 2011 Shaul Mofaz, a former IDF chief and ex-defense minister (and now Chairman of the Knesset's foreign affairs and defense committee) called for an immediate recognition by Israel of a Palestinian state “followed by negotiations between the two states over borders [and] security arrangements.” He also stated that the unity pact between Fatah and Hamas was an “opportunity” for Israel, “predicting that if Israel seized the initiative now, it might well push Hamas into accepting Israel and swearing off terrorism.”⁵⁶

Furthermore, on April 1, 2011 there was a petition signed by the so-called Israel Peace Initiative consisting of Israeli notables—former security officials, ex-diplomats, academics, artists, celebrities, and business leaders (including Yitzchak Rabin's children who are part of the Initiative's leadership)—supporting a two-state solution based on the 1967 borders (with mutually agreed upon adjustments), which is more significant than it may first appear.⁵⁷ For years talk of returning to the 1967 borders has been unacceptable in the general discourse (except for the extreme left) but it is increasingly becoming the norm in certain social and political sectors in Israel. Similarly, the

⁵⁵ Netanyahu described his foreign policy position as follows: “The demand that Palestinians recognize Israel as the national homeland of the Jewish people; a commitment to end the conflict; a solution to the Palestinian refugee issue that did not require absorption within Israel's borders; the establishment of a Palestinian state only in accordance with a peace deal that did not infringe on Israel's security; that said Palestinian state be demilitarized; the preservation of large settlement blocs within the West Bank; and the insistence that Jerusalem remain the undivided capital of Israel.” “Netanyahu: Israel willing to ‘cede parts of our homeland’ for true peace,” *Ha'aretz*, May 16, 2011.

⁵⁶ J.J. Goldberg, “Israel's Security Elite Joins the Opposition,” *The Forward*, May 11, 2011 (issue of May 20, 2011), <http://forward.com/articles/137697>.

⁵⁷ *Ibid.*

Quartet members refer to 1967 borders with increasing frequency as a point of reference and have proposed their own peace plan which consists of “a two-state solution based on the 1967 borders with an exchange of territories; a fair, realistic and agreed-on solution to the Palestinian refugee problem; Jerusalem as the capital of both states; and security arrangements that safeguard Israel while not compromising Palestinian sovereignty.”⁵⁸

Hence, although Israel has succeeded in winning international legitimacy within the 1949 armistice lines it is unlikely that it will win legitimacy—including from a growing segment of Israelis—for the Greater Israel project, despite the facts on the ground and despite US support. Whether one believes the two-state solution is possible or not, there is a strengthening international consensus about the need for a return to 1967 borders as a solution to the conflict.

Will the US continue to remain outside this consensus increasingly alone except for Israel (and despite the tensions between Obama and Netanyahu)? Aaron Miller, former advisor on Arab-Israeli negotiations, answers, in effect, yes: “No matter how artful and skillful the UN campaign is, the United States will almost certainly oppose it. Washington will veto the resolution in the Security Council. While it can’t block resolutions in the General Assembly, the United States won’t concede either the principle of declaring statehood outside of negotiations or marshaling international pressure against Israel. To say that the Obama administration won’t risk spending political capital on an international campaign to isolate Israel in the U.N. General Assembly the year before a presidential election is probably the understatement of the century. And if the campaign pressuring Israel gets serious, Congress will be only too ready to restrict critical aid to the Palestinians and perhaps to Egypt as well if it helps lead the effort.”⁵⁹

⁵⁸ Barak Ravid, “While Netanyahu met Merkel in Berlin, envoys pushed in U.S. for European peace conference,” *Ha’aretz*, April 12, 2011; and *Ibid.*

⁵⁹ Miller, *op cit.*

Is Egypt Becoming More Relevant?

“The raising of the Palestinian flag in Tahrir Square in front of the Israeli embassy in Cairo was an important reason why the recent [March 2011] aggression on the Gaza Strip stopped after it became clear to the Israeli government that Egypt, its leadership and people, reject any Israeli aggression on Gaza. Also the role played by the Egyptian Foreign Ministry in curbing the attacks was very important as well as the decision made by the Arab League asking the UN Security Council for a no-fly zone over Gaza.”⁶⁰ So said a friend of the author’s in Gaza, also a highly respected analyst.

He later wrote that during the latest offensive on Gaza Egypt sent a message to Tel Aviv through the EU, which stated the following: “Gaza is the backyard of Egyptian national security. Therefore we consider any attack on Gaza now as a direct threat to Egypt. We can’t stop any among the 80 million Egyptians from voicing his/her anger against Israel and we don’t have any means to stop any protest in Cairo or anywhere simply because such protests reflect the . . . attitude of the army and the government. War on Gaza is not allowed anymore.”⁶¹

Palestinian officials visiting the Egyptian foreign ministry in March 2011 were told that the siege of Gaza is criminal and will be lifted and those people in the former Egyptian government who participated in it will be prosecuted. Clearly, in deciding its future policy including toward Gaza, the new Cairo government will have to weigh its relationship with Israel and the US and the powerful (military and economic) ties that define it against the need to normalize its border with Gaza and normalize relations with Iran, among other policies. However, unlike its predecessor, the current Egyptian regime appears less concerned that opening a channel to Egypt in the absence of free movement between Gaza and the West Bank will solidify Israel’s separation policy. Indeed, the fact that only 36 percent of Egyptians would maintain Egypt’s peace treaty with Israel and 54 percent want to annul it no doubt influences official thinking.⁶²

⁶⁰ Analyst, Gaza, email communication, April 13, 2011.

⁶¹ Ibid, May 11, 2011.

⁶² Lahav Harkov, “Poll: Most Egyptians favor annulling peace with Israel,” *The Jerusalem Post*, April 26, 2011; and Amira Hass, “Palestinian Reconciliation May Lead to Israel’s Palestinian Separation,” *Ha’aretz*, May 2, 2011. In May 2011, thousands of Palestinian flags commemorating the Nakba were flown in Tahrir Square.

As stated above, the Egyptian government played a critical role in forging the unity/reconciliation agreement between Fatah and Hamas. Indeed in private negotiations, Egypt stated that it would consider opening the Rafah crossing—both for people and goods—if Palestinian reconciliation was achieved; a unity government was created; and Gaza’s special status within the occupied territory was terminated. Perhaps the Egyptians were attempting to catalyze a new Arab-Israeli peace initiative with Palestinian unity as a vital precondition.⁶³ Although the role of the Egyptian government is evolving and is impossible to predict accurately, it appears that it is seeking to reestablish its credibility and legitimacy within the Arab world and possibly reclaim some form of regional leadership. It also is filling a growing void in Palestinian eyes.

⁶³ Internal document from a US institution involved in the reconciliation efforts that I am not at liberty to cite. The document is a draft outline of comments dated May 10, 2011. Although the Egyptians are credited with the success of the reconciliation agreement, the Egyptian Foreign Minister had asked Turkey to participate in reconciliation efforts, which apparently played an important role. Hamas had met with the Turkish Foreign Minister Davutoglu in Damascus prior. Furthermore, President Abdullah Gul’s opinion piece in the *New York Times* telling Israel about the necessity of peace with the Palestinians if Israel is to deal with emerging changes in the Middle East and Turkey’s willingness to assist, suggests a potentially stronger role for Turkey together with Egypt in resolving the Israeli-Palestinian conflict and beyond. See Abdullah Gul, “The Revolution’s Missing Peace,” *New York Times*, April 20, 2011.

A Concluding Thought

The question, of course, remains, how will the US respond to the changing Palestinian and Arab paradigm? Will it try to reduce the deepening gap between American policy as it has historically been defined and new Palestinian and Arab aspirations? Will the US be willing to work with those countries that support policies it does not such as the Fatah-Hamas unity agreement?⁶⁴

And perhaps most importantly, is the US capable of asking, what role do the Arab people want us to play?⁶⁵

⁶⁴ NPR Interview with Telhami and Malley, op cit.

⁶⁵ In this regard see "Clinton's Remarks at the U.S.-Islamic World Forum," *Essential Documents*, Council on Foreign Relations, Washington, DC, April 12, 2011.