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THE CASE FOR DEMOCRACY IN THE
PALESTINIAN NATIONAL NARRATIVE

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The Case for Democracy in the Palestinian National Narrative

I. Introduction

The issue of Palestinian democracy has been a dominant theme in modern Palestinian history, both as an internal aspiration and claim and as an external demand or pretext. However, the case for Palestinian democracy remains one of the most contentious, complex, and unconventional pursuits, defying easy definitions or static yardsticks.

On the whole, most arguments about the desirability or threat of democracy tend to focus either on the one-size-fits-all argument or the universality and desirability of democratic values and practices on the one hand, or on issues of culture bias/relevance, evoking systems of belief, tradition, cultural identity, and social cohesion on the other. In this context, questions about a society's need for "rehabilitation" or its "readiness" to absorb or adapt to the requirements of democracy are raised by outside sources, while internally the defensive wall of "taboos" and charges of neocolonialism are used to fend off the onslaught of "imported" ideas.

Whether it has intrinsic value or is a technical system of representational governance, democracy is neither absolutist nor static. It must be genuinely embraced as an act of will by the people themselves and must evolve to meet their needs and aspirations. To be sustainable, it must be authentic, not externally imposed or manipulated. However, the principles and institutions of democracy have become sufficiently global as to be easily recognizable and implemented. Genuine representation through free and fair elections that recognize the people as the source of all authority; the separation of executive, legislative, and judicial authorities; maintaining the rule of law with full transparency and accountability; safeguarding fundamental rights and freedoms and creating an inclusive system of tolerance and pluralism, as well as political and social mobilization and organization, have all become familiar as the substance of contemporary democracy. Several questions remain, however, as to whether democracy can be measured uniformly or in a vacuum, and whether democracy can flourish in the absence or suspension of freedom and sovereignty. Furthermore, how far the democratic agenda can be pushed in cases of conflict, emergent societies, and societies in transition remains in the realm of rather opaque and subjective judgment. A candid assessment of the case for Palestinian democracy may provide some answers to elucidate these questions.

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II. Historical Overview

The Palestinian experience, however, must be studied in its proper historical context as a unique and distinctive case that defies facile generalizations or simplistic categorization. Its primary disadvantage has been the phenomenon of persistent, though varied, foreign domination that has deprived the Palestinian people of their freedom to control their resources and shape their destiny on their own land. Four centuries of Ottoman rule as part of greater Syria ended with the fragmentation of the Arab world and the imposition of the British Mandate on Palestine in 1920. Rather than fulfill the promise of independence that generated the Great Arab Revolt, the Allied powers imposed the spiteful Treaty of Versailles (June 28, 1919) and transformed the Arab world into entities that were shared by Western powers as the spoils of war. Instead of making the world “safe for democracy,” the war that was supposed to end all wars not only set the stage for the Second World War, but also ushered in a long era of colonialism, conflict, instability, and despotism throughout the region.

Under Ottoman rule, by the end of the nineteenth century, the Palestinians were allowed limited and sporadic democratic practices in the form of local government elections and some representation in the Turkish parliament from major Palestinian cities such as Jerusalem and Jaffa. With the interim Egyptian rule of Muhammad Ali and his son Ibrahim (1831-1840), Palestine saw the introduction of missionary schools and other forms of Western influence and trade. The return of the Ottomans, aided by Western powers (the British, Austrians, and Russians), saw the promulgation of land laws encouraging private property and the extension of Ottoman judicial, educational, military, and municipal systems to Palestine. Since all powers were concentrated in Istanbul, Palestine was unable to develop any independent national institutions or systems, although it continued to develop a national identity that allowed for religious and ethnic tolerance, diversity, and pluralism.

When the League of Nations formally placed Palestine under the British Mandate in 1922, Palestinians were denied any form of majority rule or national representation. Instead, the British sought to enact the promise of the Balfour Declaration of November 2, 1917, to establish a homeland for the Jews in Palestine, who at that time were a distinct minority of 16 percent of the

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population as opposed to the Arab majority. As they set up their administration to replace the crumbling Ottoman system, the British, like their predecessors, turned to the elite class or prominent families to act as their agents on the ground. They further exploited tribal loyalties in rural areas to select their “sub-contractors” and maintain control over the local population. The more significant institutions were Islamic organizations like the Supreme Islamic Council and the office of the Grand Mufti of Jerusalem, whose heads were appointees of the British, including Hajj Amin Al-Husseini.

Nevertheless, this period also witnessed the rise of political parties and popular organizations as the Palestinian population mobilized against British collusion with the Zionist movement and against rising Jewish immigration and gang violence. The formation of the High Arab Committee in 1936 provided the resistance movement with a more comprehensive national address, and the great uprising of 1936-1939 produced the militant and rebel leadership that gained its legitimacy through armed struggle. At the same time, ironically, the rise in literacy and education, as well as relative economic prosperity, contributed to the gradual formation of a distinct middle class and civil society. Thus, professional and trade unions emerged alongside women’s charitable organizations and urban cultural clubs. Hence, even in the darkest days of British colonial repression and Zionist terrorism, the democratic impulse could be discerned within Palestinian society.

III. The Creation of the State of Israel and Its Impact on Modern Palestinian Realities

When the newly-formed United Nations (UN) adopted the plan for the partition of Palestine in 1947 as presented by the United Nations Special Committee on Palestine with minor modifications, and with the passage of General Assembly Resolution 181, Palestine was thrust into a new era of war and dispossession. The partition plan granted the Jewish population of Palestine—which had grown to 30 percent of the population by then, owning close to 7 percent of the land—56 percent of historical Palestine. The hasty and disorganized withdrawal of the British in 1948 also contributed to the violence and instability as the Arab armies came to the “rescue” of the Palestinians, with the ensuing war leading to the collective trauma (al-nakba or catastrophe) that has shaped Palestinian realities and attitudes until today. Seven hundred and

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fifty thousand Palestinians were forcibly expelled or terrorized into fleeing by Jewish forces, and Israel managed to conquer and annex another 22 percent of the land. Thus began the plight of the Palestinian refugees that became the largest and longest standing refugee problem in contemporary history. The creation of the state of Israel on Palestinian land constituted a major historical injustice to the Palestinians, whose suffering, yearning for return, and quest for historical redemption shaped their endeavors and ethos alike, and has had a significant impact on regional and even global realities until today.

The remaining Palestinian lands were divided, with Gaza placed under Egyptian administration and the West Bank (including Jerusalem) later annexed to the Hashemite Kingdom of Jordan on December 1948. In 1951, the West Bank Palestinians were granted Jordanian citizenship, and they took part in the Jordanian parliamentary elections that united both banks of the Jordan until the “disengagement” of 1988. Jordan’s laws and system of government prevailed in the West Bank, while in Gaza the Egyptian administrative system was applied, although the Palestinian Constitution that was drafted by the British during the mandate exclusively for Gaza remained in effect. When in 1967 Israel occupied these two remaining segments constituting 22 percent of historical Palestine, it imposed a harsh and repressive system of control through military orders that deprived the Palestinians of all rights and freedoms and violated international humanitarian law, particularly the Fourth Geneva Convention.

The emergence and perpetuation of Palestinian dualism were rooted in these historical developments. On the one hand, dispossession and displacement created a population of refugees and exiles; on the other hand, a population remained on its own land under non-Palestinian rule. Even there, two different national systems were in effect, the Jordanian and Egyptian systems, which had a dual impact on social, cultural, educational, and even political patterns of behavior, thus contributing to the rift and civil war of 2007. Although the Israeli military occupation imposed the same system of control, it still maintained the divide, and with the imposition of the tightening siege in 1993 it augmented the geographical separation of Gaza and the West Bank with a demographic divide.

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Under occupation and in exile, the most significant dualism crystallized in the form of a culture of civil, largely peaceful, popular resistance culminating in the intifada of 1987; and the culture of revolution and armed struggle with the emergence of militant factions or freedom fighters, and the transformation of the PLO as the address and leadership in exile for all the Palestinian people. Neither situation lent itself to the establishment of an ideal democracy, yet both components of contemporary Palestinian reality found creative, and often unorthodox, means of signaling their commitment to democracy and of circumventing major obstacles in its exercise. Thus began the dichotomy of a nation under occupation and a leadership in exile, going largely separate ways under different influences, to be united in 1994 after the signing of the Declaration of Principles (DOP) on interim self-government arrangements in September 1993, with serious problems of adjustment and even rehabilitation.

IV. The PLO Experience (or “Democracy in the Jungle of Guns”)

The decision to set up the Palestine Liberation Organization (PLO) stemmed from an Arab League summit meeting in January 1964 at the urging of regimes in Egypt, Jordan, Syria, and Iraq, who feared the consequences of rising Palestinian nationalism and the expanding refugee population on their own stability and longevity. Historically, since its creation in 1945, the Arab League had insisted on maintaining separate membership for Palestine (despite the British mandate), and continued this practice after the creation of Israel in 1948 with Moussa al-Alami, Ahmad Hilmi Abd el-Baqi, and Ahmad al-Shuqairi successively representing Palestine.

The League then entrusted Shuqairi with the task of setting up a representative Palestinian body that would safeguard Palestinian interests, lead the struggle for the liberation of Palestine, and act in accord with the Arab countries. Shuqairi toured the Arab countries and consulted with the major Palestinian expatriate and refugee communities, and with their help he set up preparatory committees and drafted the proposed Charter and Basic Law for the PLO. The First Palestinian National Congress convened in Jerusalem (May 28-June 2, 1964) with the participation of 397 delegates and declared the creation of the PLO. It passed the 29 articles of the Charter and the 31 articles of the Basic Law along with the bylaws of the Palestinian National Fund and the Palestinian National Council (PNC), the PLO’s legislative body. It also elected Shuqairi to be the

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first chairman of the Executive Committee (EC) of 15 members, and declared the participants as members of the first Palestinian Council of the PLO. Despite the Arab patronage at its inception and the far from perfect conditions of the process of its creation, the PLO attempted from the beginning to maintain democratic structures and practices as a legally constituted body with executive, legislative, and financial institutions, and with elected officials representing a pluralistic and diverse constituency, albeit dispersed throughout the region and the world.

After the 1967 war, the Palestinian military factions joined the PLO in 1968 and constituted most of its membership, with Fatah enjoying the lion's share. With the resignation of Shuqairi one year later, Yasser Arafat—who was one of the founders of Fatah in 1965—moved from heading an underground commando faction to become chairman of the PLO, and later the general commander of Palestine forces in 1971. Thus began the “Palestinization” of the PLO (often referred to as the “independence of Palestinian decision making”), as it moved away from Arab control and focused on armed resistance and revolutionary struggle. In 1974, the Arab summit in Rabat, Morocco, recognized the PLO as the “sole legitimate representative of the Palestinian people,” a mantra that became the national refrain in the face of Arab intervention, Israeli assaults, and any attempts at creating an “alternative leadership.”

Structurally, the PNC reflected this transformation and seats were allocated to armed resistance groups or military factions on the basis of their membership and the success of their military operations—hence the emphasis on the legitimacy of sacrifice and the gun. In addition, elected representatives from Palestinian unions all over the world gained PNC seats, including the General Union of Palestinian Women, GUP Students, GUP Workers, Teachers, Lawyers, Engineers, Medical Professions and the Red Crescent, Writers and Journalists, and Revolutionary Youth; seats were also reserved for independents on the basis of merit and national service or prominence, as well as for Christian (and later Jewish and Samaritan) representation.

Since Israel declared the PLO with all its factions and institutions illegal, the organization drew its membership from refugees and exiles, and declared itself the “center of decision making” as opposed to any leadership that may arise under occupation. When Israel exceptionally allowed

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the holding of municipal elections in 1976, the Palestinians overwhelmingly voted in all PLO supporters and handed a resounding defeat to the “dignitaries” and traditional leadership that had allegiance to Jordan or that cooperated with Israel. Palestinian women, who had been given the vote for the first time, were credited with the results of these elections, as they had begun to mobilize under occupation and developed various forms of defiance. The Israeli occupation subsequently banned any elections; three of the elected mayors were wounded in Israeli terror attacks and were then deported by the military government. All deportees automatically became members of the PNC, and some were elected to the Executive Committee.

Although the PLO maintained diversity and open debate, its focus on armed struggle took precedence over democratic commitment. By definition, a revolution functioned in secrecy and had structural and operational imperatives that were irreconcilable with democracy. Furthermore, as a quasi-government in exile, it had limited direct contact with its people (particularly those under occupation). As a result, it often sought to create a “surrogate” constituency as it did in south Lebanon, creating economic, health, and educational institutions to provide services to the local community, as well as to the refugee population. Its exile status also placed it at the mercy of host countries and Arab regimes, particularly the “ring” countries neighboring Israel whose proximity was essential for the launching of operations into Israel and the occupied territories. To protect themselves, some Arab regimes formed and backed armed factions that owed them loyalty. The Palestine Liberation Army (PLA) was also perceived as owing loyalty to its various host countries; other regimes found in financial assistance a way of fending off interference in their domestic politics.

All were particularly relevant in view of the debate among factions as to whether the road to the liberation of Palestine went through regime change in the Arab world (as advocated by the Popular Front for the Liberation of Palestine [PFLP], for example), as these regimes were responsible for the loss of Palestine or were accused of being reactionary agents of the West. Although Fatah was the major advocate of non-interference in Arab affairs, it repeatedly made the mistake of challenging the authority of the regime and meddling in domestic politics. The confrontation with the army and with King Hussein of Jordan led to outright fighting in 1970 (known as Black September) and to the subsequent expulsion of the PLO to Syria and Lebanon.

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In Lebanon, the different factions got embroiled in domestic Lebanese politics and later took sides fighting with different Lebanese groups during the civil war in the mid-1970s. With the Israeli war on Lebanon and Ariel Sharon's incursion as far as Beirut, the PLO reached an agreement with the United States to leave Lebanon; the fighters were grouped in different Arab countries while the political leadership found a home in Tunis until their return to the West Bank and Gaza following the signing of the Declaration of Principles in September 1993 and the formation of the Palestinian National Authority (PNA) in 1994.

The PLO experience in the Arab world shaped many of its attitudes and perceptions on systems and institutions of government that were largely centralized and far from being democratic. Nevertheless, it maintained a pluralistic system of diverse factions and ideologies as well as an institutional structure of representation, albeit flawed by its circumstances and conditions. The various "departments" of the Executive Committee were designed to provide services to the Palestinian people at large whenever and however possible. Convening the PNC whenever possible, the PLO also tolerated open debate and a certain degree of accountability, and carried out internal elections for executive office, however restricted. Its open advocacy of democracy and oft-repeated support of the "democracy of the jungle of guns" served both to alarm some Arab governments and to comfort the Palestinians under occupation who were literally dying in defense of their outlawed "sole and legitimate representative." The most significant PLO tribute to democracy and nation-building was the Declaration of Independence. Drafted by the Palestinian national poet Mahmoud Darwish and the top Palestinian intellectual in exile Edward Said, the Declaration was passed by the PNC in its landmark 1988 Algiers meeting in which the Palestinian parliament in exile declared its acceptance of the two-state solution and declared statehood. The document has remained one of the most moving and unifying forces in the collective Palestinian ethos, articulating those principles, rights, and aspirations of the Palestinian people that collectively shape Palestinian identity and future.

V. The Palestinians Under Occupation: Versatility and Steadfastness

The June 5, 1967, war ended with the Israeli army wresting the Gaza Strip and Sinai Peninsula from Egypt, the West Bank from Jordan, and the Golan Heights from Syria. Following the initial

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shock of coming under Israeli military occupation, the Palestinian people in Gaza and the West Bank underwent a national awakening of historical proportions. First, they experienced an ironic “reunion” of sorts, with the West Bankers and Gazans gaining access to each other by virtue of their shared captivity. Then, they began their re-acquaintance with the Palestinians in Israel who had become Israeli citizens after a long military rule, but who had maintained a strong sense of identity and cohesion.

Thus, the three segments of the Palestinian people who had remained in historical Palestine and who had led entirely separate lives under three different rules since 1948 began a process of mutual recognition and identification. Having gained access to each other, albeit temporary, they were now entirely cut off from the Palestinian refugee and exile population, and most decisively from the PLO, by force of Israeli law and military orders.

From the Palestinians in Israel, the Gazans and the West Bankers learned methods of survival under a ruthless military regime of occupation and discrimination. They also studied different methods of mobilization as well as social and political organization in which the Communist Party and the Abna’ al-Balad Movement played a decisive role. With the rise of the PLO and the fedayeen as freedom fighters, all Palestinians underwent a resurgence of national pride and assertion of identity. Actually, it was the Palestinians in Israel that first articulated this message in what came to be known as the “Literature of Resistance,” and that formed a running and unifying motif in all subsequent cultural and artistic expressions of Palestinians everywhere. In addition, the Palestinians studied firsthand the rather bizarre experience of Israeli democracy at work from a disadvantaged point of view. They witnessed how Israel attempted to maintain an exclusive and selective democratic system whereby the Jewish population enjoyed distinctive rights and freedoms guaranteed by law within an active and pluralistic representative political system while continuing to exercise a complex system of discrimination and exclusion against its Palestinian Arab population (largely Muslim and Christian with Druze and Circassian minorities). The Palestinians in the occupied territories, of course, never became citizens of Israel, remaining under military orders—many of which dated back to the British mandate—and gradually losing their land and livelihood while being transformed into a reservoir of cheap labor for Israel. Thus began the transformation of a largely farming community and peasant society

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into one with a defined working class and a captive consumer society for Israeli goods and products.

Although it has become convenient to credit their exposure to Israel as the source of the Palestinians' commitment to democracy, there were other and more significant determining factors. Education has always been a major driving force in Palestinian society, particularly after the nakba of 1948. It is regarded as a value that provides skills, status, and security—all qualities and tools that can neither be confiscated (like the land) nor left behind as a result of expulsion and exile. The establishment of missionary and parochial schools and colleges in the nineteenth century and throughout the region contributed to the rise of a well-educated elite that formed the core of the urban middle class as well as the leadership of the future. Exposure to Western democracy came not only through education, but also gradually as a result of the colonial experience, however repressive, that transferred some of the discourse and institutions of the home country. The resistance impulse, or the drive to organize and empower society to remain steadfast on its land and to resist the oppressive measures of the occupation, also contributed to the improvisation of homegrown representative institutions and democratic practices.

Given their history, and the absence of an official leadership structure on the ground, the Palestinians evolved different underground leadership formations based on political representation, service, and sacrifice instead of the trimmings of power, privilege, or prestige. Members of the first National Front (1972-73), which was largely formed by the Communist Party, were arrested and deported by Israel, many of whom joined the PLO Executive Committee in exile. The second National Front (1976-1981) was comprised of representatives of different factions that were all outlawed by Israel and that were operating in a clandestine manner. Having come into existence in the context of the 1976 local government elections, this Front formed the core of the National Guidance Committee that functioned in a semi-public manner, setting up branch committees in different areas and recruiting its membership from among elected officials such as mayors and trade and professional union leaders, as well as prominent independent personalities. In 1980-81, Israel stepped up its efforts to find a local leadership that would be an alternative to the PLO to negotiate on behalf of the Palestinians. When members of the National

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Guidance Committee refused to join the Egyptian-Israeli talks in Mina House, declaring their allegiance to the PLO, Israel declared the committee illegal and deported many of its members.

Having failed to create a quisling alternative leadership, Israel engaged in a systematic policy known as the “political decapitation” of the Palestinian people. Palestinian leadership under occupation meant taking the risk of being assassinated or maimed by Israeli terror groups, being arrested and detained for long periods of time, often without charge (administrative detention), or being deported without notice to a neighboring Arab country. Belonging to a faction or party, engaging in union elections, or participating in any protest activity meant any number of punitive measures by Israel that ranged from detention to deportation. Activism and leadership produced a grassroots leadership that was closely tied to the people and that acted and took risks on their behalf. This leadership commanded allegiance, loyalty, and respect as being genuinely of the people in a bottom-up democracy. All Israeli attempts at creating a collaborator regime, such as the notorious Village Leagues, never took off despite the fact that such groups were given favors (such as permits and passes) to dispense among a genuinely deprived population. Here, legitimacy came from authenticity, resistance, and national service and sacrifice rather than from Israeli collaboration or ties that were a source of discredit and shame.

Sumoud, or steadfastness, was the most basic means of resistance and a major objective of social organization and mobilization. Desperate to avoid the tragedy of expulsion and dispossession, as had been the plight of the refugees of 1948, the Palestinians were determined to stay on their land even at the cost of death. Social symbiosis and the creation of support systems served the cause of steadfastness in the same way that institution-building became the driving force of self-empowerment. The emergence of civil society institutions such as nongovernmental organizations, universities, charitable organizations, trade and professional unions, women’s groups, cultural/literary/artistic/dramatic movements and clubs, clandestine political parties/factions and their public sectoral and relief organizations were all part of a system of collective governance in the absence of an indigenous government. The absence of freedom and rights led to the establishment of numerous human rights and legal aid groups throughout the West Bank and Gaza.

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The occupied territories had no legislative or judicial authorities since Israeli military orders and some resuscitated British administrative orders were superimposed on Egyptian laws in Gaza and Jordanian laws in the West Bank. No national or legislative elections were permitted or held, and with a nationwide strike by the union of legal professions while Palestinians were being tried in Israeli military courts, it was impossible to speak of anything remotely connected to rule of law, democracy, or justice. Thus while the PLO evolved a system of “revolutionary justice” primarily of a military nature, including the notorious “national security law,” the Palestinians under occupation were forced to resort to “tribal” or “community” systems of arbitration, and later evolved their own system of revolutionary justice during the breakout of the 1987-1993 intifada or uprising.

VI. The Intifada: Popular Democracy

By the end of 1987, the Palestinians under occupation felt that they had undergone a baptism by fire for two decades in which censorship, curfews, detentions and arbitrary arrests, torture, deportations, house demolitions, and closures of educational/cultural institutions became the major tools of Israeli military control or enslavement of a nation. With the PLO expelled from Lebanon, the center of decision making began a gradual shift to the “inside” leadership. On the one hand, people maintained a strong allegiance to their national leadership as a key to legitimacy and self-determination, and constantly resisted forming any alternative local leadership to replace it; on the other hand, the people under occupation felt the need for their own institutional support systems and organizations, with a tangible leadership on the ground that shared and understood their plight and needs. The tension between loyalty to the PLO while regarding any alternative leadership as some form of treason, and the drive for democratic representation and the peaceful transfer of authority lasted well beyond the establishment of the Palestinian National Authority. Much of the sense of entitlement of the older leadership and the reluctance of the younger leadership to present a real challenge can be attributed to this tradition.

A distant and weakened PLO, an indifferent Arab leadership whose summits ignored the occupied territories, and an international community that was either in collusion with Israel or that was incapable of enforcing its own laws, all led the Palestinians to the conclusion that they

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had to take matters into their own hands. Thus the eruption of the intifada in November 1987 was a genuinely spontaneous outbreak of a people who were determined to “shake off” a brutal and oppressive military occupation that was stealing their land and their rights. Rather than looking outward for assistance, the Palestinians simultaneously turned inward and toward each other, and generated a collective spirit of self-reliance and popular resistance. An unarmed civilian population took on the strongest army in the region in what can only be called a battle of wills.

The Palestinian intifada was a combination of largely nonviolent means of resistance and civil disobedience in the form of commercial strikes, protest marches and sit-in strikes, boycotts, and refusal to cooperate with or obey any Israeli orders. From stone-throwing confrontations with the Israeli army to adamantly insisting on a different Palestinian daylight saving time, the Palestinians insisted on asserting their own will in defiance of the occupation. A new graffiti culture with political slogans and calls to action defied Israeli censorship, while underground leaflets communicated the latest developments and weekly schedule of activities. Most significantly, the Palestinians organized into neighborhood and popular committees with elected leaders in order to provide services and protection to the population at large. With the resignation of the police force, these committees would organize traffic, guard against vandalism of shops forcibly opened by the Israeli army, and provide early warnings as they monitored the movement of settlers and the army. Neighborhoods also elected educational committees that provided underground schooling in homes, backyards, and abandoned buildings when Israel closed down Palestinian schools and universities. Health committees also mapped out their neighborhoods, typing blood and monitoring any special needs or illnesses and injuries. Victory gardens flourished in all neighborhoods and produce was shared according to need, as were family incomes. Institution-building became not only a form of resistance but also an assertion of identity in preparation for nation-building and self-determination.

In addition to the neighborhood and popular committees, the national leadership of the intifada took the form of a political and diplomatic committee made up of representatives from all factions and a few independent figures. The Unified National Leadership of the Intifada (UNLI), composed of factional activists, was in charge of drafting and distributing the underground leaflets. The Political Committee would hold secret meetings to come to a consensus on broad

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policy issues, and many of its members would meet publicly with visiting foreign envoys and diplomats to present the Palestinian perspective. It maintained contact with the PLO by circuitous means, but kept a margin of independence to be able to respond to the needs and conditions of people on the ground. Israel banned all committees and all political activism, thus most members of these committees found themselves in prison at one time or another. Nevertheless, it was the intifada with its sense of courage, self-confidence, and defiance that provided the necessary impetus for the peace initiative of November 15, 1988, in which the PLO declared independence and officially accepted the two-state solution, or the partition of historical Palestine.

It was at that time, March 1988 to be exact, that the Islamic Resistance Movement, or Hamas, was publicly declared an offshoot of the Muslim Brotherhood. Although a minority at the time, Hamas was given special treatment by the Israeli authorities, who saw in it a potential rival of the PLO and a possible alternative leadership to weaken the Organization. With the failure of the tribal or localized alternative, Israel turned to the religious or Islamist alternative in a shortsighted “divide and rule” colonial exercise. Although initially small and weak, Hamas gradually gained support from the public with the failure of the peace process and the subsequent decrease of support for the more secular national camp represented by the PLO factions. However, it was the national leadership with its popular committees and presence on the ground that drafted the Palestinian peace initiative, became the core of the team for the Madrid Peace Conference and the subsequent Washington negotiations, and later ran for office when the Palestinian National Authority was established.

VII. The Declaration of Principles and the PNA: Peace Making vs. Nation Building

The preparatory negotiations for the peace process launched in Madrid in 1991 were conducted by the “inside” leadership, although in close coordination with the “outside.” The administration of George H. W. Bush had adopted the Israeli conditions of excluding the PLO and forming a delegation from the occupied territories under the “Jordanian umbrella.” Secretary of State James Baker, in the aftermath of the Gulf War and in response to an urgent need to stabilize the region, conducted intensive talks with all parties except the PLO. The Palestinian delegation, although

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non-PLO members in the literal sense, were all PLO supporters who throughout maintained their allegiance to their exiled leadership and sought to gain it recognition and a place at the table.

Following the Madrid Conference, bilateral negotiations on all tracks moved to Washington, D.C., and for the next two years were conducted at an excruciating pace and with painful maneuvers. By 1993, back channel talks between Israeli academics and PLO officials under Norwegian sponsorship were proceeding in secret and producing a document that came to be known as the Declaration of Principles or the Oslo Agreement. The then-Israeli prime minister, Yitzhak Rabin, was persuaded to accept the talks with the PLO and their outcome, as the “outside” leadership had proved to be more flexible and conciliatory than the “insiders.” Thus in exchange for the recognition of the Organization and its status, and as part of a deal to allow the leadership to return to the West Bank and Gaza, the PLO recognized the state of Israel and signed a flawed and phased agreement that proved to be extremely problematic both in its implementation and omissions.

In October 1993, the PLO’s Central Council, on behalf of the Palestine National Council, approved the DOP and established the Palestinian National Authority (PNA) as a system of government in the West Bank and Gaza that was responsible to the PLO. The first PNA “cabinet,” established in 1994, was mainly from the Executive Committee and some members from the “inside.” In their selection, President Arafat took into account geographic and political distribution rather than professionalism and credibility, as some had advocated. Thus began the first signs of tension between the political dimension or the peace process versus the civil or nation-building process, and between factionalism and meritocracy. In addition, other competing strands began to emerge: the “returnees” or the “Tunis crowd” versus the “insiders” or the “intifada people”; and the “authority” versus civil society. This dualism was further augmented by the generational tension between the “old guard” and the “young guard,” and the cultural as well as territorial divide between Gaza and the West Bank that came to a head with the Hamas-Fatah confrontation in 2006-2007, which led to a political, demographic, and institutional rift.

The two political cultures, though not mutually exclusive, coexisted in an uneasy pattern of adjustment, with the official leadership displaying patterns of authority reflecting standard Arab

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practice, while civil society and community leaders sought to protect their rights and terrain. It did not take long for the Authority to develop a system of political patronage, self-interest, economic privilege, and disregard for the law, as well as a sense of entitlement. Palestinian civil society, and the public as a whole, already traumatized by their ordeal under Israeli occupation, were suspicious of any overt expressions of control and resisted any hint of abusive or oppressive practice. Those who had emerged from Israeli prisons and joined the security forces resorted to the methods practiced on them by the Israeli military, while those who were members of militant groups outside were neither prepared nor trained for their role in society as agents of the law. Both managed to lose sight, however temporarily, of the fact that they were still under occupation and that the Israeli army and occupation authorities were still in control and exercised overall authority under the guise of security. Inherent within the DOP, as well as in the international community's willingness to collaborate, was the emphasis on security arrangements (primarily guaranteeing Israeli security) while disregarding issues of human rights and good governance. Internal inconsistencies and dualism presented the first challenge for the newly formed Authority.

In anticipation of such developments, and with the knowledge that an untried leadership was about to exercise executive authority without a legislative system of oversight and accountability, a few activists took the initiative of drafting a proposal for the establishment of an ombudsman/human rights institution, and in October 1993 they persuaded Arafat to sign a decree sanctioning its structure and its mandate. With the birth of The Palestinian Independent Commission for Citizens' Rights (later to become the Independent Commission for Human Rights), the Arab world saw the first legally empowered independent watchdog authority. Other NGOs that had been active under occupation continued to function in areas such as medical services and community health, as well as agricultural, educational, and social welfare services. Superstructure NGOs in the fields of democracy and good governance, human rights, and women's rights also maintained and developed their work. Thus began a competition for resources, credibility, and constituency between the PNA and civil society, with mutual accusations of corruption and reliance on foreign donors.

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The women's movement that began organizing in the 1970s, also as part of the grass roots democratization and resistance mobilization, developed its own dynamic and institutions, and articulated a national gender agenda. Women, who had been at the forefront of the intifada and struggle for freedom, turned their attention to issues of social justice and good governance. Some organizations began to lose their grass roots base, while most found themselves outside the political system; with ruthless competition among the male leadership for position and power, the women were on the whole pushed aside and a traditional male-dominated political culture was reinstated. It took years for the women's movement to begin regaining some of its lost ground, although in later elections, specifically in 2006, it was the Islamic women of Hamas who had the greater impact on the outcome. It is noteworthy that not until August 2009 was the first woman actually elected to the PLO Executive Committee.

Although Israel had initially attempted to keep the Palestinian Council as one executive body, it finally agreed to the election of an 88-member Legislative Council separate from the administrative branch. January 1996 saw the first direct legislative and presidential elections in modern Palestinian history, under the direction of an independent Central Elections Council, and with the supervision of the international community. Yasser Arafat was challenged by a woman, Samiha Khalil, president of a charitable society called In'ash al-Usra, and a longtime activist in national politics. He was elected with an 87 percent majority (or less if the blank ballots were counted), and always declared that he was the only Arab president who was challenged by a woman, who did not receive 99.9 percent of the vote, and who did not come to power on the back of a tank. The Palestinian Elections Law of 1995 adopted the electoral districts system, fragmenting the West Bank and Gaza into 16 geographic constituencies in which Palestinian candidates competed individually or in lists for a specified number of seats in each district. Although in some districts, the law specified a number of seats for Christians, there was no attempt to institute any form of affirmative action for women. Out of 17 candidates, only five women won seats to the first PLC—two independents and three on the Fatah lists. Although the law (and the PLC term) was supposed to last only for the interim period, or five years, until the establishment of the Palestinian state, the next legislative elections took place only in 2006, while the presidential elections were held in 2005 following the passing of Yasser Arafat. Needless to say, the independent Palestinian state was never established, and the legal and

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political ramifications of the Israeli disregard for signed agreements continued to plague both Palestinian nation-building, as well as the credibility of the peace process and its advocates.

The 1995 law worked against the interests of genuine democracy and women's empowerment. It narrowed down constituencies to areas in which families, clans, or tribes wielded power and thus gave them authority on the selection of their candidates—which tended to be male. Rather than reinforce democratic systems and pluralistic representation, the law buttressed traditional norms and tribal community hierarchies and power systems. Not only did women suffer as a result, but the up-and-coming young leadership found themselves excluded in favor of more traditional leaders. Another major disadvantage was the fact that the Islamist movements (Hamas and the Islamic Jihad) boycotted the elections, as did the left-wing PFLP as part of its protest against the Oslo Agreement. The other factions failed to win seats, which all resulted in a PLC made up primarily of Fatah members, albeit different currents within the Movement, and a minority of independents. Nevertheless, the Council was not entirely monolithic, as the independents could count on some alliances with one strand or another within Fatah; although they could not challenge Fatah numerically, they succeeded in exerting a substantive influence on both the legislative and oversight process.

Quite often, though, there was an unhealthy intermingling between the legislative and the executive authorities, including the appointment of a large number of PLC members to ministerial positions, the participation of the speaker himself in negotiations with Israel, the appointment of other members to security and quasi-governmental bodies, and the participation of many members in leadership meetings and structures—mainly by virtue of their party affiliation. In addition, the executive branch proved to be resentful of oversight and resistant to accountability; this applied both to the security forces and to presidential institutions, both of which indulged in abuses and violations. At one point, PLC members themselves were subject to violence and ill treatment by some security branches, and many laws and resolutions went entirely unheeded by the Executive. The fact that the president himself was directly elected by the people also gave him an added sense of power and immunity from legislative oversight.

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Corruption became the major charge that undermined the standing and credibility of the PNA, and of Fatah in particular. Ironically, the first corruption report was issued by the Fatah-dominated PLC in 1997, with demands for the resignation of the implicated ministers and for overall reform. Civil society institutions played a major role in calling for reform and democracy, culminating in the formation in 2000 of The Coalition of Accountability and Integrity—AMAN, later to become the Palestinian branch of Transparency International, an international organization dedicated to curbing corruption. Several reform committees were formed by the PNC and by the PNA as a whole; while the first PNC plan was adopted but never implemented, the National Committee was totally undermined by its incorporation into the executive branch—an action that led to the resignation of its steering committee. The last PLC committee met with President Arafat a few months prior to his death in 2004 with a clear list of demands for the reform of the whole political system, starting with the original PLC plan. The list included scores of major cases of corruption that were prepared by the PLC and other public institutions and individuals, and were still not followed up by the attorney general. Part of the problem was the fact that the attorney general reported directly to the president and refrained from pursuing any case unless given the green light by him. Given the fact that many of those who did abuse their position and the public trust were within the president's political circles, judicial (or even political) accountability proved to be a difficult task indeed.

The overloaded court system, the lack of qualified judges, the disparity in the two legal systems in the West Bank and Gaza (let alone Jerusalem that was illegally annexed by Israel), the slow pace of legislation, the intrusive activities of the State Security Court and other military courts, and the persistent disregard for the rule of law by the security forces all contributed to the abysmal state of the judiciary. Under the overall control of the Israeli occupation, lacking necessary resources, and restricted by signed agreements, including the PNA's security responsibilities, the Palestinians found themselves in a surrealistic legal and judicial terrain whose features were often harsh and unpredictable. Thus began the gradual, and rapidly escalating, erosion of the public confidence in the PNA and Fatah. That, along with the failure of the peace process and persistent Israeli violence and violations, led to the election of Hamas in 2006.

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One of the major achievements of the PLC was the passing of the Basic Law in 1997, which was not ratified by the president until 2002. It was later amended substantially in 2003 and minimally (to accommodate changes in the elections law) in 2005. Intended as a transitional Constitution, the Basic Law attempted to reconcile the impossible realities of the interim period: first, as temporary arrangements requiring Israeli approval, under Israeli security control, and governed by flawed agreements; second, as a legal system attempting to regulate the different branches of authority (applicable only in the West Bank and Gaza and excluding Palestinian exiles and refugees) without any type of sovereignty or freedom (i.e., all the responsibilities of statehood without the necessary rights or full jurisdiction, whether on the land or the people). Ironically, lacking the status of statehood, all statements of commitment to international covenants, charters, agreements, and principles of human rights and good governance remained just statements of intent, as the PNA was barred from official membership. The Palestinian people, however, took these rights and freedoms seriously and continued to challenge their leadership and hold it accountable. The Basic Law and the Declaration of Independence both formed the legal and conceptual foundations of Palestinian democracy.

Institutions of good governance and democracy—including the Arab Thought Forum, Muwatin, and Miftah; human rights organizations such as al-Haqq, Mezan, and the Palestinian Center for Human Rights; the ongoing reform and accountability initiatives and organizations; and trade and professional unions, as well as women’s organizations—all formed the powerful collective force and voice of civil society. Uniquely, particularly in contrast to the rest of the Arab world, the PNA enjoyed the least degree of sovereignty or control, but had the most intrusive and vibrant forms of constituency oversight and popular accountability. Caught between a dysfunctional and implosive peace process on the one hand, and a seriously impaired nation-building process on the other, the PNA was primed for a decisive test of survival.

In addition, the major national factions comprising the PLO found themselves caught between their primary strategy of national liberation and the imperatives of the phase of establishing a democratic system of governance. In attempting to reconcile the irreconcilable, they began losing much of their constituency and glamour. It became evident that underground action, secrecy, armed struggle, cell-structures, and total lack of public accountability clashed with all the

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democratic requirements of transparency, accountability, social responsibility, rule of law, and the adoption of negotiations as a means of conflict resolution. They largely resisted all legislation to regulate the powers and responsibilities of political parties on the basis of their definition of their primary identity as part of a national liberation movement, yet they all recognized the need for a multiparty democracy and professional state-building institutions. Here, too, the multiple tasks and requirements of liberation, nation-building, and peacemaking managed to blur the national agenda and its priorities.

The establishment of the PNA clearly weakened the PLO and its institutions that were gradually being subsumed by the new authority. In the aftermath of the Gulf War of 1991, it became evident that the international community wanted to see the last of the PLO while encouraging the emergence of a substitute leadership. After the Oslo Agreement, most of the Executive Committee membership, the PLC, factional leadership, and military heads chose to join the various institutions of the PNA. This left a vacuum at the top and drew the weight of the Palestinian political system to the inside. It was no surprise, then, for funding, recognition, and legitimacy to shift to the directly elected political system that was providing services and leadership to the West Bank and Gaza. Since the DOP also postponed the issue of Jerusalem, Israel not only illegally annexed the city but also began a repressive process of isolation, strangulation, and demographic evacuation. The Jerusalemites, as well as the Palestinian refugees and exiles, felt abandoned by the PLO, whose jurisdiction began to narrow down to part of the people on part of the land for a temporary period of time, and only through the PNA. Despite the fact that the PLO was the only body empowered to sign international agreements or to have international diplomatic representation, the cabinet ministries began to encroach on those areas with tacit external approval. Even the National Fund of the PLO found itself emptying out as the “liberation tax” was no longer levied or transferred by the Arab governments, and all donations were earmarked for specific projects within the peacemaking agenda.

The rivalry and PLO enfeeblement continued with official Palestinian tacit approval until the election of Hamas in 2006 and the open clash with Fatah in 2007, which led to the violent takeover of Gaza. It became evident then that the PLO was facing a serious existential threat as the “sole legitimate representative” of the Palestinian people. Hamas had rapidly moved to fill

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the political and institutional void left by the PLO with the outside Palestinians and began claiming its constituency. On the inside, Hamas, untainted by self-interest or corruption, presented a different model of volunteerism and service provision with almost unlimited funds. Additionally, the failure of the peace process and the intensification of Palestinian suffering under occupation gave the hitherto untried Hamas a boost at the expense of the more secular national camp.

VIII. Lethal Convergence: Breakdown of Talks, Breakout of Violence, and “The War on Terrorism”

By the end of President Bill Clinton’s term in office, conditions in Palestine had deteriorated to such a degree that they threatened to blow up at any moment. In the summer of 2000, the Labor-led Israeli coalition government of Ehud Barak was on the verge of collapse; both Clinton and Barak had postponed any substantive engagement on peace while conditions on the ground continued to deteriorate with settlement expansion, continued annexation and transformation of Jerusalem, closures, and detentions. In a last ditch effort to rescue Clinton’s legacy and Barak’s coalition, they decided on a trilateral summit, despite Palestinian protests that conditions were not ripe and the meeting was premature. In August 2000, Yasser Arafat and his team were dragged to Camp David for a period of intensive trilateral negotiations on permanent status issues: Jerusalem, Palestinian refugees, boundaries, settlements, water, and regional security.

Despite the myth of the “generous offer,” the Israeli negotiators embarked on a journey of exploration, presenting different oral proposals at various times and relying on the Americans to do their persuasion for them. Having decided that they would annex the major settlement clusters of Ariel, Ma’ale Adumim, and Gush Etzion, they proceeded to negate the right of return for the Palestinian refugees and to demand portions of East Jerusalem and the “holy basin.” The talks went nowhere, and despite a promise by Clinton and Secretary of State Madeleine Albright that Arafat would not be faulted, the Americans and Israelis publicly blamed the Palestinians for rejecting a nonexistent offer on inconclusive talks.

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The fact that both the Clinton Initiative and the Taba talks later went further than the Camp David “generous offer” did not dispel the myth or undo the damage of the blame. Even more accurate accounts by American participants such as Rob Malley, who was Clinton’s special assistant on Arab-Israeli affairs, could not withstand the Israeli-American spin machine version.

By that time, the Palestinian territories were like a powder keg ready to explode at any spark. The deliberate provocation of Ariel Sharon’s incursion into al-Haram al-Sharif on September 27, 2000, was precisely that spark that served to ignite a very volatile situation. A massive popular protest was immediately met with live ammunition and unbridled army violence that claimed hundreds of lives. Thus began what has become known as the second intifada or al-Aqsa intifada. The Palestinians, particularly the young and the militant groups, were drawn into the violent situation and began to respond using firearms themselves. The ensuing Israeli escalation was not only unprecedented but was so extreme as to change the whole dynamic and to unleash disproportionate violence that plunged the West Bank and Gaza into total chaos and misery. Already besieged and defenseless, the Palestinians under occupation were subjected to shelling and bombardment by the Israeli army, even though the Labor-led coalition government was still in place. When the Likud-led government under Sharon took over after the Labor defeat, it not only intensified the assaults, but habitually justified its excesses by citing the Labor precedent.

In April 2002, the Israeli army began a series of massive military incursions, reoccupying Palestinian towns, cities, and villages, and imposing the most stringent and destructive system of military domination and control. Apache and Cobra gunships would shell civilian populated areas, followed by F-16 bombings that terrorized the whole population. Internationally funded projects, ranging from police and security headquarters, prisons, and government offices to cultural and educational centers, were destroyed. Israeli tanks went on a systematic rampage throughout the territories, flattening cars, digging up roads and tearing down trees, electricity pylons, and telephone poles. Most of the infrastructure and institutions that the Palestinians had painstakingly built were wantonly destroyed. With their political, economic, legal, and social systems entirely immobilized, the Palestinians could only watch helplessly as Israeli tanks moved to the presidential headquarters (known as the muqata’a) and laid siege to the whole compound. Gradually, the security offices, the guards’ quarters, the prison, and the president’s

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staff offices were all shelled, bombed, and finally blown up, leaving President Arafat trapped and isolated in the dark and within the confines of a few rooms amidst the rubble. Sharon had physically carried out his plan for the deconstruction of Palestine and the dismantlement of Palestinian realities and rights, as he also sought to delegitimize and destroy the leadership. Having declared President Arafat “irrelevant,” Sharon suspended all talks and any implementation of previously signed agreements.

In the aftermath of September 11, 2001, and the ensuing American “war on terrorism,” the administration of George W. Bush began an era of total collusion with, and unquestioning support for, the Israeli occupation, accompanied by a total disregard for international law or Palestinian rights. The simplistic polarization of the world into devils and angels, the adoption of the strategic doctrine of preemptive strikes, the unholy alliance between the Christian/Zionist right and the neoconservative ideologues, the resurgence of reductive theories on the clash of civilizations, and the ensuing mentality of extremism, unilateralism, and militarism all played into the hands of the hard line government in Israel. The ABC (anything but Clinton) policies of the Bush administration created a Clinton-Bush dichotomy in the handling of the Palestinian question and the requirements of peace.

The former administration, although belatedly, had considered the peace process of paramount importance, focusing on political issues and security concerns while paying scant attention to human rights and democracy. It was also drawn into the micromanagement of negotiations at the expense of the larger picture and requirements of peace. Thus the Declaration of Principles and the Clinton Initiative both failed to address the requirements of Palestinian empowerment and nation-building. In practice, American engagement then rendered the “peace process” an end unto itself, and was often quite willing to disregard human rights abuses and rule of law violations, even corruption, by the Palestinian Authority in the nascent Palestinian entity in favor of top-heavy negotiations and security arrangements. Seeking to buttress the PLO leadership, the Clinton administration gauged their usefulness primarily in their willingness to safeguard Israeli security and to deliver their obligations toward the peace process as defined by the United States.

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The American approach contributed to Israeli noncompliance and violence, and led to weakened support for the largely secular Palestinian leadership. As a result, the Islamic movement Hamas gained power and won a majority of parliamentary seats in the 2006 elections. Instead of maintaining legitimacy by democratic means—through building a system of good governance, rule of law, genuine representation, and accountability—the Palestinian leadership made the mistake of other post-colonial movements and looked outward for Western (largely American) approval as a source of legitimacy and power. Needless to say, among the Palestinian public, confidence in the peace process and in an evenhanded U.S. role also dissipated, giving rise to greater extremism and violence.

With the Bush administration, the pendulum swung to the other extreme and the peace process all but disappeared in favor of a single-minded drive toward reform and democracy. The neoconservative agenda as the driving force behind the “war on terrorism” succeeded in short-circuiting the peace process, giving Israel both the space and license to destroy the very foundations of the “two-state solution” and, hence, of peace. The “democracy first” argument advocated by Israeli hardliners such as Benjamin Netanyahu during his first term as prime minister (1996-1998) and by Nathan Sharansky while a member of Ariel Sharon’s Kadima-led government was echoed by the Bush administration almost verbatim. In a July 24, 2002, speech, George W. Bush clearly articulated this shift in policy and demanded that the Palestinians change their leadership, draft a new constitution that would guarantee a parliamentary democracy, carry out free and fair multiparty elections, implement a full financial and institutional reform plan, reform the judiciary, and work out an overall system based on the separation of powers.

Following that speech, and making use of the UNDP Arab Human Development Reports of 2002 and 2003, the Bush administration launched its agenda for the whole region as the Greater Middle East, and subsequently the Broader Middle East and North Africa Initiative (to be distinguished from the later New Middle East of Condoleezza Rice during the Israeli war on Lebanon in 2006). The United States redefined and expanded the region to include the non-Arab countries of Afghanistan, Pakistan, Iran, Turkey, and Israel, despite glaring disparities. It also concluded that the problems of instability, violence, and extremism are all attributed to the three

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deficits identified in the AHDR—freedom, knowledge, and women’s empowerment. Rather than address the core problems of the region, particularly the continued Israeli occupation of Arab lands and the persistent injustice suffered by the Palestinians under Israeli occupation and in exile, as well as the later American invasion and occupation of Iraq, the United States went off on a tangential pursuit of a blueprint democracy, ignoring all the injustices and grievances that had de-democratized the region and held back its development. Rather than recognizing the fact that peace with justice is the key to stability and democracy, the Bush administration defined democracy not only as a prerequisite for peace, but also as a magic panacea for all the region’s ills.

However, as a nod to the Arab countries and to the international community, the United States agreed to the formation of the Middle East Peace Quartet to indicate a multilateral approach to peacemaking following persistent criticisms of its failed policies (or lack thereof). In 2002, the partnership of the United States, Russia, the European Union, and the United Nations was announced in Madrid as a mechanism for the collective pursuit of peace in the Middle East. Following the appointment of a series of envoys and the convening of numerous meetings, the Quartet succeeded in issuing several statements and declarations, but not much else, having accepted a U.S.- leading and decision making role. The Quartet’s major achievement was a road map to Middle East peace, officially known as A Performance-based Road Map to a Permanent Two-State Solution to the Israeli-Palestinian Conflict. Issued on April 30, 2003, after a long period of consultations and arguments, the road map sought to establish the Palestinian state in 2005, following a three-phase negotiating process. While the Palestinians accepted it and pushed for its implementation, the Israelis typically imposed fourteen reservations on the basic content, rendering it inoperative. Needless to say, it still remains to be implemented, in spite of the fact that it has become a major component of the peace discourse.

On the ground, unilateralism continued to be the name of the game. Hundreds of checkpoints fragmented the West Bank and surrounded Jerusalem, isolating it from the rest of Palestinian lands; land confiscation and settlement expansion continued, and a lethal dynamic of daily incursions, assassinations, and abductions generated a cycle of revenge and suicide bombings of horrific proportions. On June 16, 2002, Israel began work on the wall of annexation and

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separation (euphemistically called “separation fence” by the Israeli spin machine) that became one of the most visible expressions of injustice and oppression. Built on Palestinian land, and largely made from 25-foot concrete slabs, it was projected to extend 750 kilometers and isolate/imprison whole communities and villages. Under the pretext of security, Israel managed to transform the West Bank into a massive prison and to unilaterally impose what it conceives to be the final borders of the Palestinian state.

The most blatant political unilateralism was Sharon’s plan for unilateral disengagement from Gaza. According to this plan, Israel would withdraw its forces and settlers from Gaza but maintain overall control over its airspace, territorial waters, land crossing points, and security. The Israeli occupation, thereby, managed to reinvent itself into a system of total control without any responsibility. Furthermore, it managed to do so unilaterally without engaging the Palestinian side in any negotiations or consultation to ensure the smooth operation of the withdrawal and to place it in a political context. This played into the hands of Hamas, which claimed the disengagement a victory for its armed resistance, as opposed to the failed political negotiations of the PLO and the national moderates. The United States attempted the impossible task of persuading the Palestinians that the disengagement was part of the road map, knowing full well that it was Sharon’s way of circumventing it and, along with the wall, of imposing a unilateral solution on boundaries while getting rid of a demographic and security threat then exacting a price in the West Bank.

The Palestinians were totally traumatized, caught between Israeli violence and unilateralism on the one hand and Hamas’ suicide bombings and competing agenda on the other. With the United States echoing Israeli demands and excuses, they were now being asked to undergo a total democratic reform regimen. Having convinced the Bush administration that a constitution under occupation is unworkable and unfeasible, the PLC went to work to amend the Basic Law to accommodate the role of prime minister and to begin the transition toward a parliamentary, rather than a presidential, democracy. On March 18, 2003, the PLC passed the amended Basic Law, which was designed to reduce the powers of the president and transfer much of his authority to the prime minister. Under siege and constant attack, President Arafat then appointed Mahmoud Abbas (Abu Mazen) as prime minister to begin the process of reform. Facing

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opposition from within his own Fatah party and accusations of undermining the president at the behest of the Americans, Abbas submitted his resignation that same year and was replaced by the speaker of the PLC, Ahmad Qurei' (Abu Ala'). By that time, Salam Fayyad had been brought into the system in 2002 as Minister of Finance to carry out the financial and institutional reform that had become imperative. In that context, two schools of thought had begun to clash on the issue of reform and democracy: genuine reformers and civil society leaders who had been advocating good governance all along wanted to press ahead with the agenda regardless of external interference; other, primarily political, circles had become suspicious of the American agenda and saw the drive for reform as capitulation to American and Israeli dictates. It became evident that external intervention and negative pressure backfired and impeded authentic, homegrown initiatives for reform and good governance.

On November 11, 2004, after spending more than two years under siege in his bombed-out headquarters, isolated, ostracized, and failing in health, Yasser Arafat died in a French military hospital. Although the cause of death was never ascertained, or also because of it, most Palestinians believe that the Israeli government had found a way of enacting its decision to terminate him. His body was brought back to Ramallah where he received a tumultuous welcome and a hero's funeral. Arafat's passing signaled the end of a long era dominated by larger-than-life figures and national symbols. Although his transition from revolutionary to statesman had been difficult and flawed, Arafat nevertheless managed to manipulate and control all strands of political power and rivalry and to maintain a one-man show throughout. The challenge was not to replace him with another larger-than-life leader (which in any case was not an available option), but to create a system of institutions and laws that would mark a new phase of nation-building. Although the initial transition went smoothly and in accordance with the law, with the speaker of the PLC taking over the presidency until the Central Elections Commission prepared for extraordinary presidential elections within 60 days, the Palestinian political system had undergone a sudden and disruptive blow that would leave its mark for some time to come.

On January 9, 2005, seven candidates ran for the office of president, and Fatah's candidate, Mahmoud Abbas, won by a comfortable majority of 62 percent. The Basic Law was amended to accommodate the change in the elections law as a result of Arafat's death and to reflect the

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March 17, 2005, Cairo Agreement arrived at by all political factions to hold legislative elections in July that same year. The amended law adopted the “mixed model” approach, with half the candidates individually elected by the sixteen districts and the other half elected from competing lists or blocs in a national proportional representation system. The number of seats was raised to 132, and for the first time Hamas and all factions, with the exception of Islamic Jihad, participated in the elections. Following the lead of affirmative action for women in local elections, the legislative elections also adopted a formula for women’s participation in the national lists, and maintained the earlier practice of reserving seats for Christians.

On January 25, 2006, and under international supervision and monitoring, the Palestinians held their second legislative elections since the signing of the Oslo Agreement. Israel attempted to exclude Jerusalemites and Hamas members from participating but faced with Palestinian persistence and American pressure, finally conceded. Three hundred and fourteen candidates from 11 electoral lists and 414 candidates from 16 districts competed for 132 seats. A strongly polarized political system resulted in 76 seats for the Change and Reform bloc (Hamas), 43 seats for Fatah, four seats for Hamas-supported independents, and nine seats for four blocs of left-wing factions and independent blocs. The decisive Hamas victory was due not only to Hamas’ institutional success and reputation for honesty, as well as its successful mobilization of women, but also due to the electorate’s rejection of Fatah and its abuse of power. To a large degree also, the Palestinian public had lost confidence in the peace process and diverted its vote to those who could respond in kind to Israeli violence and extremism. Thus Hamas got the angry vote, the protest vote, and the revenge vote, as well as the ideological and reform vote.

Although the elections were technically “free and fair,” in reality they were tainted by the policies and measures of the Israeli occupation, as well as the international community’s failure to curb Israeli violations or bring about genuine peace. Fatah’s investment in the peace process robbed it of its “resistance” ascendancy, and its failure to deliver on both the peacemaking and the nation-building fronts robbed it of its constituency. Also, its last-minute rivalries and political maneuvers, and its lack of party discipline, led many members to run against each other, thereby canceling the Fatah vote. Up to the last minute, two competing lists (mainly the old guard vs. the new guard) ran against each other and were reconciled only with an exceptional

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reopening of the nomination-withdrawal process. Fatah's airing of its dirty laundry in public, and the internal disgruntlement of many of its members, also contributed to its public humiliation. However, the Israeli occupation's intimidation and checkpoints, its interference in the Jerusalem elections, its ongoing escalation of settlement activities, the building of the wall, the isolation and ethnic cleansing of Jerusalem, and the siege and strangulation of Gaza all strengthened Hamas at the expense of Fatah and the PLO factions.

IX. Subjective Democracy, Wars, and Belated Engagement

The results of the 2006 elections marked a decisive turning point in Palestinian politics in which for the first time in history, an Islamic movement was democratically elected to office. President Abbas asked Ismail Haniyyeh to form a government and present it before the PLC for a vote of confidence. Unable to get any of the national factions on board, Haniyyeh put together a Hamas cabinet which passed a vote of confidence by a Hamas-majority PLC. It did not take long for this one-party domination of the political scene to prove disastrous for the Palestinians. Internally, Hamas felt that its majority in the PLC gave it a mandate to take any decision and to pass any bill regardless of the position of the minority or even the legality of the resolution. Fatah, on the other hand, found it difficult to relinquish power and gradually adopted a disruptive role in the Council. Externally, Canada, the United States, and Europe decided to boycott Hamas and to suspend all cooperation or funding unless Hamas accepted the three conditions (later known as the "Quartet Conditions") of recognizing Israel, relinquishing violence, and abiding by all signed agreements. Hamas' refusal, or inability, to accept these conditions or even the appeal by non-Hamas members to accept the three legitimacies (Palestinian, Arab, and international) led to an impasse both in the political process and in state- building.

The boycott of the Hamas government in effect constituted a sanctions regime against the Palestinian people as a whole; the first victims were members of the civil and security services that were mainly from Fatah and other national factions. More than one and a half million Palestinians found themselves instantly without any income and with no alternative sources of assistance. Hamas and its institutions, which had never relied on the international community for its funding, were largely unaffected as Islamic sources, the Muslim Brotherhood, and countries

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like Iran, Qatar, and Syria stepped in and stepped up their support. The Palestinian people, rather than rising against Hamas, rallied to its defense as the victim of Israel and the West. Having been positioned as the underdog, it gained support as the party that had won “free and fair elections” but was never given the chance to govern.

Once again, misguided Western policies had a devastating effect on Palestinian democracy. Accusations of hypocrisy (democracy is fine provided you can guarantee the outcome of elections) and double standards (Israel had been violating international law for decades with impunity, while the Palestinians under occupation were sanctioned for electing the wrong party) rendered Western calls for democracy rather hollow. Even those secular parties and movements that were ready to stand up to Hamas were deprived of playing their role as the constructive opposition, since any criticism of that movement automatically branded those critics as agents of Israel and the West. To make matters worse, after Hamas abducted an Israeli soldier, Gilad Shalit, on June 25, 2006, the Israelis began systematically abducting and detaining Hamas PLC members. By July, 40 PLC members were in Israeli prisons—36 Hamas, three Fatah, and one PFLP. Having lost its majority, Hamas was resistant to convening the PLC, fearing resolutions or legislation that would be detrimental to its interests. Whenever the rare release of Hamas members would give them a majority, Fatah would not attend the meeting. The resultant impasse meant that the PLC never had a quorum, meeting occasionally to issue general statements, but failing to legislate or carry out any oversight duties.

Tensions between Fatah and Hamas spilled out into the streets between December 2006 and January 2007, with confrontations and outright fighting. In February 2007, King Abdullah of Saudi Arabia invited the factions to Mecca for a meeting of reconciliation, at the end of which they emerged with a signed agreement and a government of national unity. The international community, however, remained adamant about boycotting those ministers who were Hamas members, thereby contributing to the malfunctioning of the national unity government. Finance minister Salam Fayyad’s efforts at creating a professional and transparent fiscal system and developmental economy were thwarted by the donor community that established a Temporary International Mechanism (TIM) for poverty alleviation and emergency relief. Gaza, under siege

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and attacked by Israel, fired homemade primitive rockets at Israel, and with internal violence escalating, resorted to smuggling and an underground tunnel economy.

By mid-June 2007, all-out hostilities had broken out between Hamas and the Fatah-dominated security forces, and Hamas violently took over control of Gaza. President Abbas declared a state of emergency, dismissed Ismail Haniyyeh, and on June 14 appointed Salam Fayyad as prime minister. Hamas rejected the president's decisions, and Haniyyeh refused to step down, gradually appointing his own ministers and replacing the Higher Judicial Council with his own committee of judges while maintaining full security control through the Hamas militia known as the Executive Force.

The rift between Gaza and the West Bank widened despite all efforts by political prisoners and other factions and independents to achieve reconciliation. The PLC in Gaza obtained proxy powers from its imprisoned members and began to convene in Gaza, claiming to be the legitimate Council. In the West Bank, all the other factions and blocs began informal meetings and tried to exercise oversight over the government, and particularly over the decrees issued by the president in the absence of a working legislature. Two separate systems were crystallizing, each oppressing members of the opposing faction under its control, jeopardizing even further Palestinian democracy and rule of law.

Hamas began instituting a closed system of intimidation, repression, and total control, while the government in the West Bank began pursuing Hamas members and institutions for possession of weapons and money laundering, or even just on suspicion of belonging to Hamas. Most were tried in military rather than civil courts, and often rulings by the judiciary were ignored by the security forces. Most of civil society's achievements in the domain of good governance and democracy were being eroded.

Politically, with the Kadima party in power and Sharon in a coma, Israeli Prime Minister Ehud Olmert and Palestinian President Abbas held several meetings in 2007 and even designated their negotiators to discuss permanent status issues. On the ground, conditions continued to deteriorate with over 600 checkpoints in the West Bank, a tightened siege on Gaza and Jerusalem, increased

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settlement expansion (the 100,000 settlers of 1991 had become 500,000), and no positive outcome from the talks. Hamas used this to its advantage, comparing the release of Hezbollah prisoners in exchange for the bodies of two Israeli soldiers with the humiliating inability of Abbas' negotiations to produce any serious achievements. The U.S. administration by this time had finally begun to realize the futility of its policies of inaction and the dangers of non-intervention. Secretary of State Condoleezza Rice openly declared her intention of seeing the establishment of the Palestinian state before the end of President Bush's second term in office, and began an intensive shuttle diplomacy in the region. Having pushed for an armed confrontation between Fatah and Hamas, and having seen the disastrous results of their miscalculations here, in addition to the 2006 elections or even the Israeli war on Lebanon, the United States belatedly decided to engage.

Secretary Rice organized the Annapolis Conference in 2007 and issued invitations to all Arab countries along with the Europeans, the Chinese, the United Nations, and others in order to come up with a new declaration or agreement on principles. President Abbas and Prime Minister Olmert, with President Bush's support, came up with a joint declaration that was nothing more than a statement of intent to pursue negotiations on the two-state solution in order to sign a peace treaty before the end of 2008. As had been the case with all timelines in all previous agreements, the date came and went while Palestinian realities continued to unravel.

By the end of 2008, one of the most horrific chapters in Palestinian history took place. On December 27, Israel launched a massive attack by air and sea, followed by a land offensive on January 3, 2008, against the captive population of Gaza. Using internationally banned weapons (including phosphorous bombs), Israel conducted a ruthless and continuous assault that left over 1440 Palestinians dead, mainly civilians, of whom 437 were children and 115 women. Mosques, public institutions, universities, security headquarters, apartment buildings, UN institutions, hospitals, and health care centers were destroyed along with water purification plants, roads, factories, and power plants. By all accounts, Israel's war on Gaza constituted a war crime of multiple components and enormous proportions whose consequences and ramifications are still being discovered. Hamas' rockets did not stop during the bombing; however, following Israel's unilateral ceasefire on January 17, Hamas implemented its own ceasefire shortly after, declaring

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it to be a victory since Israel had failed to achieve its objective of bringing Hamas to its knees or of rescuing Gilead Shalit. In the meantime, the people of Gaza were terrorized and their livelihood destroyed. Gaza remains under a tight Israeli siege until today, lacking the most basic needs for reconstruction and for leading a productive life with dignity.

X. Dialogue, Elections, and Obama's Promise

The rift in Palestine and the divide in the Arab world mutually reinforced each other. Qatar and Syria, with Iranian support, weighed heavily in favor of Hamas while the “moderate” countries led by Egypt, Saudi Arabia, and Jordan were more supportive of the PLO and Abbas. No longer worried that Palestinian democracy would have a spillover effect in their countries and challenge their regimes, Arab leaders had come to the realization that the absence of a Palestinian state and the constant abuse of the Palestinians by Israel are the major sources of instability, violence, and extremism in the region. To curb the rising tide of anger, political Islam, and violence, Arab leaders needed to deprive their extremists of the Palestinian cause that was their rallying cry and most emotional issue. They also needed to prove that they were capable of influencing developments by pushing forward the Arab Initiative that had been adopted by the Beirut summit in 2002, but had lain dormant for the last six years. The initiative promised Israel recognition and normalization in return for its withdrawal from all the Arab lands it occupied in 1967, the establishment of an independent Palestinian state with East Jerusalem as its capital, and the implementation of a just solution for the Palestinian refugee question based on UN Resolution 194.

To that end, the Arab League assigned a committee from its members to pursue the initiative, and all agreed that Egypt would sponsor the internal Palestinian dialogue and reconciliation. To date, and several meetings and draft documents later, Hamas and Fatah remain far apart in their political positions, as well as in their demands in exchange for an agreement. The remaining unresolved issues include the formation of a temporary unity government (or a government of independents), the reform and reunification of the security forces in Gaza, and the holding of national (legislative, presidential, and National Council) elections in January 2010 on the basis of proportional representation. Egypt has been tirelessly mediating between the parties trying to present bridging proposals for a projected meeting in October. A major legal deadline requires

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that an agreement be arrived at by October 25, 2009, since, by law, President Abbas has to issue a decree for elections at least 90 days before their projected date. If elections are not held simultaneously in the West Bank and Gaza, the rift threatens to become permanent.

In Israel, a hard line coalition government was formed by the Likud leader Benyamin Netanyahu following the February 10, 2009, elections. It became clear from the beginning that the agenda of this extremist government did not include peace. Netanyahu started spouting forth his theory on “economic peace” as a substitute for withdrawal and the two-state solution strongly advocated by the new U.S. administration. His foreign minister and coalition partner with a clearly racist agenda, Yisrael Beiteinu’s Avigdor Lieberman, advocated a population transfer to get rid of the Palestinians in Israel, and then decided that the Palestinian issue was off the agenda and that peace with the Palestinians was not possible in the foreseeable future.

Under pressure from the United States, in a major policy speech on June 14, 2009, Netanyahu finally mentioned a Palestinian state, but added the conditions that it be demilitarized, that Israel would control its airspace and borders, that Jerusalem and the settlements would not be part of it, and that the Palestinians would have to relinquish the right of return and recognize Israel’s right to exist as a Jewish state. He then pressed for normalization with the Arab states as a reward for his generous offer.

In response to persistent American requests that Israel cease all settlement activities, Netanyahu announced on September 6 the building of hundreds of housing units in the settlements, official government approval of previously planned buildings numbering in the thousands, exclusion of Jerusalem from any settlement “freeze,” and the completion of all projects already begun. In a nod to George Mitchell, he announced his willingness to consider a “temporary freeze” and presented Mitchell with a series of demands from the Arab countries, including the opening of trade or representative offices, the use of Arab airspace, granting of visas to Israelis to attend conferences there, and establishing telephone and other forms of communication. Given the fact that settlement activities were antithetical to the requirements of peace and that Israeli colonization of the West Bank was destroying the very foundations of the two-state solution, the Palestinian leadership was unwilling and unable to commence any negotiations. The trilateral

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meeting that President Barack Obama was seeking and his projected peace initiative to be announced at the opening of the UN General Assembly the third week of September 2009 were being undermined by Israeli extremism and hard line politics. This was proving to be the real challenge to the new administration's declared commitments.

Obama had been signaling a clear departure from the disastrous policies of the previous administration. His declared intention to engage immediately in Middle East peace making as a matter of top priority in his foreign policy sent a positive signal to the Palestinians and Arabs.

The early designation of the experienced and respected U.S. senator George Mitchell as his special envoy, and the appointment of a knowledgeable team in the State Department and National Security Council proved that he was acting on his promise. His major policy speech to the Arab and Islamic worlds delivered at Cairo University on June 4, 2009, also resonated throughout the region and gave the Palestinians reason to hope that, at last, there was a president in the White House who understood their plight and was about to do something about it. When Mitchell declared that Israel must cease all settlement activity, including expansion for "natural growth," again they felt that the United States this time meant business.

The West Bank by then was claiming more stability and public order under the second government headed by Salam Fayyad, who made security his first concern, followed by economic prosperity and reform. A well-trained police force and efficient security forces had begun to take over public order and security responsibilities from the Israelis in cities such as Jenin, Nablus, Ramallah, and Jericho. Fayyad was also engaged in building efficient and professional institutions of government, creating systems of transparent and accountable governance. He therefore succeeded in attracting international funding and private sector investment and managed to meet the civil and security service payroll and expenses. His second government saw the appointment of five women ministers, in addition to many women professionals in governorates and other public institutions.

As the West Bank began to experience a sense of security and economic relief, Gaza was sinking deeper into deprivation and despair. With the national dialogue stalled, the divide was

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intensifying, and the funds pledged for the reconstruction of a devastated Gaza did not materialize. Israel tightened its siege on the poverty-stricken and traumatized Strip, allowing only the most basic international humanitarian assistance to go through and transforming Gaza into a charity case entirely dependent on external emergency relief. Hamas and enterprising families and factions turned increasingly to the tunnels to smuggle in from Egypt supplies ranging from livestock to fuel, and from diapers to electronic equipment. Any talk of transparency, accountability, efficiency, institution-building, development, or rule of law was unrealistic at best and tragically cynical at worst.

Given the challenges of internal strife and Israeli oppressive measures, the national factions began to feel the need to reactivate and empower the PLO as their political anchor, particularly given their poor showing in the PLC elections of 2006. The Cairo Agreement of 2005 and the Prisoners' Document (National Accord Document) of 2006, as well as the reform, restructuring, democratization, and expansion of the PLO to include Hamas and Islamic Jihad, were imperative requisites for national dialogue and reconciliation. The Central Council was convened three times, during which it set up a preparatory committee for the convening of the PLC; the council also elected Mahmoud Abbas as president of the state of Palestine, in addition to his post as head of the PNA and chairman of the Executive Committee of the PLO. With the death of its member Samir Ghosheh, the Executive Committee lost its quorum and was in danger of losing its legitimacy if it did not complete its membership. Referring to emergency articles in the bylaws, on August 26-27, 2009, a PLC meeting was convened with available membership, replaced four deceased representatives of factions, and elected the two independent members. That meeting was a historical precedent in that actual direct elections took place (rather than a prearranged factional deal), and, more importantly, a woman joined the PLO Executive Committee (EC) for the first time since its establishment in 1964.

Another significant event had taken place earlier that month that provided the democratic context for the EC election. The last Fatah Congress for the election of the Revolutionary Council and the Central Committee had taken place in exile in 1989, and for the past 16 years the membership was increasingly pressing for new elections. At the national level, it was felt that the reform and democratization of Fatah as the largest national movement would have a positive

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impact on the political scene as a whole in the same way that Fatah's abuse of power and sense of entitlement had undermined it and provided support for Hamas. Tensions between the old guard and the young, the outsiders and the insiders, the security and the political leadership, the Gazans and the West Bankers, as well as political currents cutting across all these, came to a head in the Fatah Congress of August 4, 2009. The torturous period preceding the Congress with all its infighting and tensions threatened to weaken Fatah even further. It became quite evident that the only way to prevent this faction from committing political suicide (and bringing the house down with it) was by holding public elections and putting its own house in order. The new Revolutionary Council (with quite a few insiders and young guard) and the more mixed Central Committee (that failed to elect a single woman) reenergized the Movement and injected Mahmoud Abbas with the confidence that he had badly needed.

Thus the Palestinian national scene entered a new phase that could propel it forward into serious nation-building and peacemaking, or conversely enhance the division and allow conditions to unravel even further. When on August 25, 2009, Salam Fayyad announced his plan to build a de facto Palestinian state as an act of will within two years, some saw it as a positive proactive move that allowed the Palestinians to regain the initiative, especially as an act of defiance in the face of all Israeli impediments. Others saw in it an unrealistic statement of intent that could play into the hands of Netanyahu's "economic peace" or even usurp the role of the PLO. It was, however, a declaration to the rest of the world that the Palestinians are bent not only on survival, but on the embodiment of their national aspirations and rights. The challenge now must be to end the occupation and to enable the Palestinian people to exercise their right to self-determination in dignity and freedom.

However, the rapid settlement expansion and the siege and transformation of Jerusalem are working against the two-state solution. Many Palestinians already believe that it is too late for the two-state solution and that the only available option is the one-state solution—a state on all the territory of historical Palestine for Israelis and Palestinians on the basis of a one person- one vote. While some have embraced this option as a political program to be advocated and pursued, others see in it the de facto outcome of Israel's frenzied settlement activities and other unilateral expansionist measures. If the legal and territorial solution is destroyed, then the demographic,

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long term solution comes into play. Those who advocate the one-state solution see in it the ultimate expression of democracy and equality before the law, simultaneously solving the settlement problem and the refugee question. Others see in it the prolongation of Palestinian suffering under occupation, giving Israeli unilateralism more time to predetermine the core issues at the expense of Palestinian land and rights, and putting on hold the Palestinian right to self-determination and statehood.

With the American promise of a peace initiative by the end of September 2009, with the Quartet poised to follow suit, with the global consensus that all settlement activities must cease and that the two-state solution is an essential requirement for peace, with the Egyptians ready to convene a final Palestinian dialogue in October, and with the deadline for Palestinian elections in January 2010 drawing closer, the next few months will be decisive in determining the course of the future. The conclusion of a just peace is a collective challenge and responsibility and a real test for the global rule of law.