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February 2, 2009

Congressional Research Service

Report R40092

*Israel and the Palestinians: Prospects for a Two-State
Solution*

Jim Zanotti, Analyst in Middle Eastern Affairs

December 10, 2008

Abstract. This report reviews the prospects of a two-state solution in the context of possible signs of progress and doubts raised in U.S., Israeli, and Palestinian circles during the Annapolis process (including questions of urgency). After outlining possible alternatives to a two-state solution, the report analyzes the policy challenges facing either an urgent or a more deliberate U.S. approach to promoting a two-state solution—including implications for Congress on matters such as foreign aid, security assistance, Israeli settlements, and the treatment of Hamas (a militant Palestinian group that is a U.S.-designated Foreign Terrorist Organization, or "FTO").

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Congressional Research Service

7-5700

www.crs.gov

R40092

CRS Report for Congress

Prepared for Members and Committees of Congress

Summary

One year after the formal renewal of direct talks at the November 2007 Annapolis Conference, Israel and the Palestine Liberation Organization (PLO) have been unable to come to terms on a final-status peace agreement, despite possible signs of progress. Differences between the two sides continue over core issues such as borders, security, settlements, the status of Jerusalem, refugees, and water rights, despite their mutual acceptance of the concept of a negotiated “two-state solution” that would establish a Palestinian state alongside Israel in the West Bank and the Gaza Strip pursuant to the principle of “land for peace.”

Previously when talks have faltered, the parties eventually returned to the negotiating table. Yet, there are a growing number of key actors and observers expressing doubts that the very concept of a negotiated two-state solution can survive a process in which talks are put on hold and resumed an indefinite number of times without finality. Some observers dismiss these doubts as mere tactics meant to prod either or both parties to action. Prospects for a two-state solution appear more tenuous given uncertainties that a consensus supporting the peace process will hold in the face of upcoming leadership transitions in the United States and Israel and conflicting claims to Palestinian leadership.

In addition to wavering confidence in the peace process, changes with respect to geopolitics, demographics, violence between Israelis and Palestinians, factionalism among Palestinians, Israeli settlements, and other impediments to Palestinian movement and territorial contiguity may have significantly altered the likelihood of reaching a two-state solution since the signing of the Oslo Accord in 1993.

Decreased hope in the viability of a two-state solution has led to openness among some Israelis and Palestinians to alternative solutions that appear to be contrary to U.S. policy. These alternatives, each of which is the subject of considerable debate among and between Israelis and Palestinians, include a “one-state solution,” a “Jordanian” or “regional option,” or other, unilaterally-imposed outcomes. Continued failure to reach a two-state solution, combined with lack of consensus on any of the alternatives, may also mean that the status quo in the West Bank and Gaza could continue. As the presidential administration of George W. Bush prepares to transition into that of Barack Obama in January 2009, interest in obtaining a two-state solution to the Israeli-Palestinian conflict remains a major feature of U.S. policy in the Middle East. There are advocates both for an urgent and for a more incremental U.S. approach to the peace process. The United States could face significant policy challenges on matters such as foreign aid, security assistance, Israeli settlements, and the treatment of Hamas. For more information on the Israeli-Palestinian conflict and peace process, see CRS Report RL33530, *Israeli-Arab Negotiations: Background, Conflicts, and U.S. Policy*, by Carol Migdalovitz. This report will be updated periodically to reflect further developments.

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Issue Overview

One year after the formal renewal of direct talks at the November 2007 Annapolis Conference, Israel and the Palestine Liberation Organization (PLO)¹ have been unable to come to terms on a final-status peace agreement, despite possible signs of progress. It has now been 15 years since the two sides agreed to the 1993 Oslo Accord, and the peace that many observers expected to result from it has still eluded them. A negotiated “two-state solution”—establishing a Palestinian state alongside Israel in the West Bank and the Gaza Strip pursuant to the “land for peace” principles of United Nations Security Council Resolutions 242 and 338—is the declared goal of both the current Israeli government and the PLO. Yet, differences between both sides over core issues, such as borders, security, settlements, the status of Jerusalem, refugees, and water rights, have not been overcome, despite the third-party involvement of various international actors—the United States, in particular.

Previously when talks have faltered, the parties eventually returned to the negotiating table. Yet, there are a growing number of key actors and observers expressing doubts that the very concept of a negotiated two-state solution can survive a process in which negotiations are put on hold and resumed an indefinite number of times without finality. These doubts have been exacerbated by geopolitical changes and by realities on the ground—including demographics, violence, Palestinian factionalism, Israeli settlements, and other impediments to Palestinian movement and territorial contiguity—that appear to sustain tensions between Israelis and Palestinians.

Decreased hope in the viability of a two-state solution has led to openness among some Israelis and Palestinians to alternative solutions that appear to be contrary to U.S. policy. These alternatives, each of which is the subject of considerable debate among and between Israelis and Palestinians, include a “one-state solution,” a “Jordanian” or “regional option,” or other, unilaterally-imposed outcomes. Continued failure to reach a two-state solution, combined with lack of consensus on any of the alternatives, may also mean that the status quo in the West Bank and Gaza could continue indefinitely.

As the presidential administration of George W. Bush prepares to transition into that of Barack Obama in January 2009, interest in obtaining a two-state solution to the Israeli-Palestinian conflict remains a major feature of U.S. policy in the Middle East, though it is uncertain how vigorously it may be pursued. This report reviews the prospects of a two-state solution in the context of possible signs of progress and doubts raised in U.S., Israeli, and Palestinian circles during the Annapolis process (including questions of urgency). After outlining possible alternatives to a two-state solution, the report analyzes the policy challenges facing either an urgent or a more deliberate U.S. approach to promoting a two-state solution—including implications for Congress—on matters such as foreign aid, security assistance, Israeli settlements, and the treatment of Hamas (a militant Palestinian group that is a U.S.-designated Foreign Terrorist Organization, or “FTO”).

¹ The PLO is the internationally-recognized representative of the Palestinian people, empowered to negotiate and enter into international agreements, while the Palestinian Authority (PA) is the governing organ set up to administer Palestinian self-rule in the West Bank and the Gaza Strip under various agreements entered into between Israel and the PLO. Mahmoud Abbas is both President of the PA (since January 2005) and Chairman of the PLO Executive Committee (since Yasser Arafat’s death in 2004). He is also the leader of the Fatah political party, the most prominent party with membership in the PLO.

Figure 1. Map of Israel, the West Bank, and the Gaza Strip



Source: Congressional Research Service

Current Status

Evaluating the Annapolis Process: Signs of Progress or of Setbacks?

As the timeline contemplated for the Annapolis process by the Bush Administration comes to an end, observers are divided over whether this past year's Israeli-Palestinian talks have moved the parties closer to or farther from a final resolution. Meaningful progress in confidential negotiations between Israeli and PLO representatives appears to be on hold at least until the fluid Israeli leadership picture solidifies following elections scheduled for February 2009.

Some supporters of a two-state solution argue that, despite the likelihood that the current Annapolis process will fall short of its declared goal—achieving a final-status agreement by the

end of 2008²—the Annapolis process has generated real progress and has demonstrated the flexibility of the two-state framework. Failures thus far, they say, may be less indicative of a “problem with the solution” than of insufficient Israeli, Palestinian, and/or U.S. political will to take action.³

Secondly, the Annapolis Conference, along with subsequent efforts led by the Middle East Quartet (the United States, the United Nations, the European Union, and Russia), has demonstrated to some that robust international support still exists for a two-state solution. Various mechanisms have been established or revitalized—programs to reform and strengthen the Palestinian economy and the Palestinian Authority (PA) law enforcement and security apparatus in the West Bank, continued humanitarian and civil society assistance, Egyptian-brokered efforts to minimize disruptions from (and possibly even work out coexistence arrangements with) Hamas.⁴ As imperfect as these mechanisms may be, it is possible that they could help create an environment in which Israel and the Palestinians are sufficiently motivated to conclude and implement a final-status agreement.

Other observers believe that the Annapolis process has not generated significant progress, and may even represent a step backward for chances at Israeli-Palestinian peace. Some assert that the parties remain stalemated on the core issues of the conflict (particularly Jerusalem, settlements, and refugees), and that the situation on the ground with regard to these disputed issues has become more entrenched.⁵ They view the most recent round of talks—and the accompanying international pledges of support—as little or no different in substance from other failed negotiating cycles from the Oslo era. Another argument is that the Annapolis process may not have been primarily intended to facilitate Israeli-Palestinian peace, but to advance other U.S., Israeli, and Sunni Arab geopolitical goals—such as consolidating support for stability in Iraq⁶ or possibly making diplomatic overtures to Syria in order to isolate Iran.⁷

Debate Over the Urgency of Reaching a Two-State Solution

Several U.S., Israeli, and PLO leaders appear to be aware of the possibility that waning confidence in the prospect of a two-state solution could fuel desire for other options. In testimony before the House Committee on Foreign Affairs on October 24, 2007, U.S. Secretary of State Condoleezza Rice stated:

² See Glenn Kessler, “No Mideast Deal Under Bush, White House Says,” *Washington Post*, November 7, 2008.

³ See Marwan Muasher, “Bolstering the Arab Center,” *Los Angeles Times*, July 23, 2008; Henry Siegman, “Can the Next U.S. President Rescue a Two-State Solution to the Israel-Palestine Conflict?” *Al Hayat*, November 13, 2008; Summary of remarks by Martin Indyk, “Rethinking the Two-State Solution,” Washington Institute for Near East Policy *PolicyWatch #1408*: Special Forum Report, October 3, 2008. According to Indyk, “The more doubts that are raised and the more alternatives that are offered, the better the two-state solution looks...this is not the moment to abandon the two-state solution: It is time to inject the effort with greater urgency.”

⁴ See The World Bank, *Palestinian Economic Prospects: Aid, Access and Reform: Economic Monitoring Report to the Ad Hoc Liaison Committee*, September 22, 2008; International Crisis Group, *Ruling Palestine II: The West Bank Model?* Middle East Report No. 79, July 17, 2008; Summary of remarks by Glenn Robinson, “The Strategic Implications of the Israel-Hamas Ceasefire,” Center for Strategic and International Studies Middle East Program, October 2, 2008.

⁵ See Ashraf Khalil, “Uncertainty Over Future of Israeli-Palestinian Talks,” *Los Angeles Times*, November 10, 2008.

⁶ See Recommendations 13 and 14 of *The Iraq Study Group Report*, December 2006.

⁷ See Robin Wright, “Iran: The Uninvited Wildcard in Mideast Talks,” *Washington Post*, November 27, 2007; Herb Keinon, “Analysis: Syria Becomes the Annapolis Prize,” *Jerusalem Post*, November 20, 2007.

Our concern is growing that without a serious political prospect for the Palestinians that gives to moderate leaders a horizon that they can show to their people that, indeed, there is a two-state solution that is possible, we will lose the window for a two-state solution.⁸

In line with the concerns expressed by Secretary Rice, senior PLO negotiator and former PA Prime Minister Ahmed Qurei asserted in August 2008 that “if Israel continues to oppose making [a Palestinian state within the 1967 pre-war borders of the West Bank and Gaza] a reality, then the Palestinian demand for the Palestinian people and its leadership [would be] one state, a binational state.”⁹ A month after Qurei’s remarks, outgoing Israeli Prime Minister Ehud Olmert said, in recommending a *negotiated* (as opposed to a unilateral) Israeli withdrawal from most of the West Bank and East Jerusalem, “Time is not on Israel’s side. I used to believe that everything from the Jordan River bank to the Mediterranean Sea was ours.... But eventually, after great internal conflict, I’ve realized we have to share this land with the people who dwell here—that is, if we don’t want to be a binational state.”¹⁰

Several government advisors, think tanks, academics, and media commentators in the United States, Israel, the Arab world, and elsewhere also have expressed doubt that the two-state solution can be pursued indefinitely without finality, and have indicated that the failure of the negotiations restarted by the Annapolis process may lead to the end of the two-state solution idea.¹¹ The Reut Institute, an Israeli national security strategy think tank that provides its services pro bono to the Israeli government, issued a report in August 2008 warning that the Palestinians could abandon the two-state solution as soon as the end of 2008.¹²

⁸ Testimony of Secretary of State Condoleezza Rice, Hearing of the House Foreign Affairs Committee, October 24, 2007.

⁹ “PA Negotiator: Israel May Make Two-State Solution Impossible,” *Reuters*, August 11, 2008. Qurei’s comment was hardly the first Palestinian reference to a possible one-state or binational outcome (nor for that matter, was it the first such public reference made by Qurei himself). The idea of a single, democratic state for Jews and Arabs alike was one of the core principles of the PLO before it began moving toward recognition of Israel’s right to exist. In fact, the debate over partition and two- and one-state models date back to the time of the British Mandate in Palestine. Prior to the adoption of the 1947 U.N. partition plan (General Assembly Resolution 181), the majority report from the U.N. Special Committee on Palestine supporting partition of the British mandate into separate Jewish and Arab states was opposed by a minority report proposing a federation of Jews and Arabs. Palestinian calls for a “one-state solution” never completely subsided following the PLO’s recognition of Israel’s right to exist (which was formally declared by then-PLO Chairman Yasser Arafat pursuant to the “Letters of Mutual Recognition” of September 9, 1993, although controversy remains over whether the PLO charter has been amended to accommodate this recognition). These calls, some of which criticized the merits or the practicability of a two-state solution as well, became more frequent and less confined to Palestinians following the outbreak of the Second Palestinian *Intifada* in 2000, but were made even during the initial 1993-2000 Oslo period. See, e.g., Edward Said, “The One-State Solution,” *New York Times*, January 10, 1999.

¹⁰ Scott MacLeod, “Olmert’s Lame-Duck Epiphany About Palestinian Peace,” *Time*, September 30, 2008.

¹¹ See Brent Scowcroft and Zbigniew Brzezinski, “Middle East Options for Jan. 21,” *Washington Post*, November 21, 2008; Steven A. Cook and Shibley Telhami, “Addressing the Arab-Israeli Conflict,” *Restoring the Balance: A Middle East Strategy for the Next President*, Brookings Institution and Council on Foreign Relations, 2008; Richard N. Haass, “The World That Awaits,” *Newsweek*, November 3, 2008; Summary of Remarks by David Makovsky, “Prospects for the Bush Administration’s Unfinished Business in the Middle East,” *Proceedings of the 2008 Soreff Symposium*, Washington Institute for Near East Policy, May 29-30, 2008; Sari Nusseibeh, “The One-State Solution,” *Newsweek*, September 29, 2008. A March 2008 poll taken by Zogby International indicated that 86% of people in six Arab countries consider the Palestinian question to be one of their top three priority issues, and 55% said that if prospects for a two-state solution collapse, it would lead to a “state of intense conflict for years to come.” See Shibley Telhami, *Does The Palestinian-Israeli Conflict Still Matter? Analyzing Arab Public Perceptions*, The Saban Center for Middle East Policy at the Brookings Institution *Analysis Paper No. 17*, June 2008.

¹² Reut Institute, “Fundamental Early Warning: The Final Act of the Two State Solution?” August 2008.

Some, however, are less driven by feelings of urgency. They identify more closely with the view expressed in September 2008 by Yossi Alpher, former special advisor to former Israeli Prime Minister Ehud Barak and former director of the Jaffee Center for Strategic Studies in Tel Aviv, who said that failure today does not mean that “tomorrow we cannot try again to arrive at a two-state solution, which remains the best option for all.”¹³

It remains to be seen whether warnings by supporters of the two-state idea about its precariousness can be effective in prodding the parties to act with greater immediacy. Some might say that the peace process needs to be imbued with a sense of urgency before either side is willing to make the difficult concessions that may be necessary in order to reach a compromise—in essence, they believe that hopes for a resolution require setting a deadline, perhaps even an artificial one. Others might counter that indeterminate warnings or arbitrarily chosen deadlines regarding the continuing availability of a two-state solution have been voiced for several years and have lost credibility because multiple resumptions of negotiations could indicate that neither Israel nor the PLO truly believes that a mutual determination to negotiate can be foreclosed by the passage of time.

See “Alternatives to a Two-State Solution” below for further analysis of the issues raised by the debate described above.

“Windows of Opportunity” for Consensus on the Peace Process

One reason that proponents of the peace process might believe that immediate action is necessary is their concern that the current political consensus favoring the peace process within Israeli, Palestinian, and U.S. circles is tenuous—particularly in light of upcoming leadership transitions in the United States (January 2009) and Israel (February 2009) and conflicting claims between PA President Mahmoud Abbas and Hamas to Palestinian leadership.¹⁴ With the rise of Hamas’s influence in Palestinian affairs, difficulties in maintaining strong consensus for negotiations in Israel, and challenges in getting top U.S. leaders to make sustained efforts to confront the many thorny issues that divide Israelis and Palestinians, the coming to power of a peace process skeptic among any of the three principal sides could stall negotiations for years.

Going Forward from Annapolis

In the aftermath of the initial timeline for the Annapolis process, proponents of the two-state idea might argue that it would be better to strengthen existing political will for a two-state solution than to spend time and resources building a new consensus for one or more alternative solutions. A quest for alternatives might more accurately reflect a “grass is always greener” mentality than a qualitatively superior approach to resolving the conflict. On the other hand, opponents of the two-state idea might argue that recycling a framework that has fallen short for over a decade is unwise and that something new should be tried instead of sinking more political capital into what could be an irredeemably failed idea.

¹³ Yossi Alpher, “A One-State Solution in Palestine Is Patently Unrealistic,” *Daily Star* (Beirut), August 20, 2008. See also David Newman, “There Is No Solution Other Than a Two-State Solution,” *Arab World Geographer*, Vol 8, No 3, 2005; Indyk, op. cit.

¹⁴ “Middle East Politics: Prolonging Abu Mazen,” *Economist Intelligence Unit*, November 28, 2008.

Changes Since Oslo

In addition to wavering confidence in the peace process, changes with respect to geopolitics, demographics, violence between Israelis and Palestinians, factionalism among Palestinians, Israeli settlements, and other impediments to Palestinian movement and territorial contiguity may have significantly altered the likelihood of reaching a two-state solution since the signing of the Oslo Accord in 1993.

Middle East Geopolitics

At the time of the Oslo Accord in 1993, geopolitical conditions seemed well-suited to support a resolution of the Israeli-Palestinian conflict. The Cold War had ended, the United States had assembled a broad regional and international coalition that defeated and confined Saddam Hussein in Iraq, and many significant actors in the Middle East and worldwide had accepted U.S. influence in the region as a stabilizing factor. The PLO and Jordan were both looking for opportunities to rehabilitate their images and regain influence within the region after having supported Saddam Hussein against the U.S.-led coalition in the Gulf War. Bill Clinton and Yitzhak Rabin, elected to power, respectively, in the United States and Israel in 1992, both indicated a willingness to move forward with the Arab-Israeli peace process that was formally restarted at the 1991 Madrid Conference by their predecessors George H.W. Bush and Yitzhak Shamir. While the Oslo process with the Palestinians proceeded, albeit with delays, Israel made peace with Jordan in 1994, negotiated with Syria, and made withdrawals from Lebanon in 2000.

Since then, things have changed considerably. After Oslo, Hamas has become a much more significant Palestinian actor—gradually throughout the 1990s with violence aimed at derailing the Oslo process, and then breaking to the fore during the Second Palestinian *Intifada* (“shaking off” or “uprising”), also known as the al-Aqsa *Intifada*, (which began in 2000 and lasted, by most accounts, until 2006) and with its electoral victory in 2006. The militant Lebanese Shia (or Shiite) group Hezbollah similarly grew in influence during the 1990s in its national sphere.

Various developments since September 11, 2001 have challenged U.S. economic and geopolitical supremacy in the Middle East. Iran has been bolstered by the progress of its nuclear program, the U.S.-led removal of Saddam Hussein from power in Iraq, and perhaps, some might argue, by the attention it received from being so closely targeted as a member (along with Iraq and North Korea) of President George W. Bush’s “axis of evil.” Consequently, Iran’s profile within the region—particularly with Hamas and in Iraq, Syria, and Lebanon—has grown, compelling the traditional Sunni-led Arab states (Egypt, Jordan, Saudi Arabia, and the smaller Gulf states) to scramble to preserve their own regional prestige by countering Iranian military, political, economic, and ideological influence.

This changed Middle East environment makes the Israel-Palestinian peace process more unpredictable and raises questions over whether the prospect of peace with the Sunni-led Arab world remains as powerful an incentive for Israel to engage in the peace process as it was at the time of the Madrid Conference. Some foreign policy analysts believe that the increased willingness of Sunni-led Arab states to support the two-state solution in recent years is reflective of an interest shared by these countries, the United States, and Israel in aligning to counter rising Iranian and Shia influence in the Middle East, rather than an interest in solving the Israeli-Palestinian conflict for its own sake. Some analysts, as mentioned above, have even speculated that countering Iran was the primary purpose of the Annapolis Conference held in November

2007. A renewed emphasis in late 2008 by Arab leaders on the Arab Peace Initiative (API),¹⁵ along with indications from top Israeli leaders from the left and the center of the political spectrum (including Foreign Minister Tzipi Livni, Defense Minister Ehud Barak, and President Shimon Peres) of a willingness to consider the API a possible basis for discussion, could signify continuing interest in an alignment to counter Iran. Whether these geopolitical motives can sustain the various parties' commitment to the resolving the disputed issues that divide Israel and the PLO remains uncertain.

Demographic Concerns—Arabs to Outnumber Jews?

Led by the late Prime Minister Yitzhak Rabin, Israel agreed to the Oslo Accord in 1993 at least partly due to demographic considerations. Many projections conclude that the Arab population within the combined area of Israel, the West Bank, and the Gaza Strip will outnumber the Jewish population in coming years.¹⁶ According to July 2008 estimates from the U.S. Central Intelligence Agency's *World Factbook*, Arabs (approximately 5.3 to 5.5 million) might already outnumber Jews (approximately 5.4 million—including Jewish settlers in East Jerusalem, the West Bank, and the Golan Heights).¹⁷ Rabin then, just as Ehud Olmert and Tzipi Livni now (see "Debate Over the Urgency of Reaching a Two-State Solution" above), wanted to come to an arrangement with the Palestinians on the West Bank and Gaza in order to avoid the situation of ruling as a numerical minority over a numerical majority, and thus the conundrum of having to choose between giving up Jewish primacy or facing accusations that Jewish rule in the combined area is undemocratic and contrary to the principle of self-determination.

Violence and Palestinian Factionalism

How Violence Has Complicated the Peace Process

The likelihood of a negotiated two-state solution appears to have been adversely affected by the violence that has jarred both sides' optimistic expectations of the Oslo process and has increased, rather than resolved, tensions between and among Israelis and Palestinians. After they committed to peaceful negotiations, the onset and upsurge of attacks on both sides increased resentment. The intensity of the violence peaked during the Second *Intifada*.

¹⁵ See Avi Isaacharoff, "Saudi Official Presents New Israeli-Palestinian Peace Plan," *Ha'aretz*, October 20, 2008; Marwan Muasher, "The Initiative Still Stands," *Ha'aretz*, August 15, 2008. The Arab Peace Initiative is a Saudi proposal for a two-state solution approved by the Arab League in Beirut in 2002 and re-adopted in Riyadh in 2007 that promised a comprehensive Arab peace with Israel if Israel were to withdraw fully from the territories it occupied in 1967 and agree to the establishment of a Palestinian state with a capital in East Jerusalem.

¹⁶ See Cook and Telhami, op. cit. However, some projections carried out by parties associated with the right of the Israeli political spectrum have claimed that the population estimates and projections for Palestinians are vastly overstated. See Bennett Zimmerman, Roberta Seid, and Michael L. Wise, *The Million-Person Gap: The Arab Population in the West Bank and Gaza*, The Begin-Sadat Center for Strategic Studies, Bar-Ilan University, February 2006. This study claimed that, as of mid-2004, there were approximately 1.34 million fewer Arabs in the West Bank and Gaza than claimed by most estimates that rely on the Palestine Central Bureau of Statistics. Thus, the study estimated that there were approximately one million fewer Arabs than Jews in Israel, the West Bank, and Gaza.

¹⁷ See Central Intelligence Agency, *The World Factbook*: "Israel," "West Bank," "Gaza Strip," <https://www.cia.gov/library/publications/the-world-factbook/>. According to figures provided by the Factbook, the Arab population breakdown is as follows: approximately 2.4 million in the West Bank, 1.5 million in Gaza, and 1.4 to 1.6 million in Israel.

While Israel's ongoing construction of a West Bank "separation barrier" and measures implemented by the Israeli Defense Forces (IDF) have, in the short-term, reestablished security for most of Israel's civilian population, many Palestinians perceive these measures to be unjustifiably oppressive, and lingering resentment could lead to a future resumption of violence. Despite the heavy Israeli security measures, Hamas rocket attacks from Gaza led Israel to indirectly negotiate (through Egyptian mediation) a *tahdiya*, or temporary cease-fire, with Hamas in June 2008. Nevertheless, occasional rocket attacks from Gaza still take place (most of which were attributable to non-Hamas militant groups before November 2008¹⁸) and recent attacks on Israeli civilians by Palestinian Jerusalemites and Arab Israelis show that it is unlikely that security measures can be fully effective at calming Israelis' fear for their well-being. There also has been a recent upswing in Israeli settler violence against Palestinian civilians in the West Bank, such as that which, according to *Newsweek*, has been perpetrated by Jewish residents of the northern West Bank settlement of Yitzhar (near the Palestinian city of Nablus).¹⁹

The Rise of Hamas and Divided Rule in the West Bank and Gaza

During the time of Oslo in the 1990s, a vast majority of the Palestinian people in both the West Bank and the Gaza Strip clearly accepted Yasser Arafat and the PLO as their legitimate representatives. Problems with internecine violence, divisiveness, and popular discouragement stemming from perceptions of widespread political corruption existed from the beginning of self-rule in the West Bank and Gaza Strip, but with Arafat's death, the failure of the peace process until now, and the rise of Hamas, these problems have worsened. Although PA President Mahmoud Abbas has taken Arafat's place, his legitimacy as a leader of the Palestinian people is not comparable, and the Fatah party he leads is riven by internal divisions. In light of Hamas's rise, some wonder if the pragmatic secular nationalistic positions Fatah claims to take, including support for a two-state solution, have a political future.²⁰

Hamas, despite and perhaps because of its role in perpetrating much of the violence on the Palestinian side, has greatly increased in power and influence. It now controls the entire Gaza Strip, maintains a majority in the currently-sidelined Palestinian Legislative Council (PLC),²¹ has

¹⁸ The uptick in IDF-Hamas fighting near the Israel-Gaza border and Hamas rocket and mortar attacks (including the firing of Soviet-designed Grad-style Katyushas at the Israeli city of Ashkelon) that began in November 2008 is thought by some to represent jockeying by both parties for more favorable renegotiating positions as the term of the current cease-fire nears its December 2008 expiration. See Karin Laub, "Analysis: Hamas, Israel Trying to Rewrite Truce," *Associated Press*, November 17, 2008.

¹⁹ See Kevin Peraino, "A Piece of the Peace," *Newsweek*, October 13, 2008.

²⁰ Marwan Barghouti, age 49, is arguably the leader with the greatest personal legitimacy among Palestinians. Barghouti comes out of the "young guard" of the Fatah movement (as opposed to the "old guard" of Fatah represented most prominently by Abbas and Ahmed Qurei) and ostensibly supports a two-state solution, but has also advocated violent resistance in some cases (he claims to condemn violence against Israeli civilians, but in some contexts has not completely ruled it out), including as a leader of the Fatah armed group Tanzim during the Second *Intifada*. Since 2004, Barghouti has been serving multiple life sentences in an Israeli prison for murder convictions stemming from his alleged involvement in various killings during the Second *Intifada*, but he might be freed in the near future either as a goodwill gesture to Abbas or as part of a prisoner exchange with Hamas. See Joshua Gleis, "The Lesser of Two Evils," *Jerusalem Post*, December 2, 2008. Even if he were released, Barghouti's ability to impact political developments after several years in prison, given the current political polarization among Palestinians and assertions from some quarters that the "young guard" is no longer young nor likely to generate momentum for significant change, could be difficult to assess.

²¹ The PLC is currently sidelined because several of its Hamas members were imprisoned by Israel in 2006 in response to Hamas's role in the capture of Israeli soldier Corporal Gilad Shalit, depriving the PLC of a quorum necessary under Palestinian law to transact legislative business. (The de facto Hamas regime in Gaza passes off its version of the PLC (continued...))

a well-organized and well-armed fighting force that appears to be supported by Iran,²² runs several patronage networks, and has loyalists within certain parts of the West Bank (particularly Hebron—the largest city in the West Bank, not counting East Jerusalem) and among the Palestinian diaspora. Without some sort of political arrangement incorporating both the West Bank and Gaza that either integrates Hamas into the governing Palestinian order or that Hamas agrees not to actively oppose, Abbas may be insufficiently legitimate—both in the eyes of the Palestinians and in the eyes of Israel—to conclude and implement a negotiated agreement.²³

A Palestinian unity arrangement, however, could indefinitely delay the peace process because of Israeli and U.S. objections to recognizing the legitimacy of Hamas or any governing coalition including Hamas as long as Hamas withholds recognition of Israel's right to exist, insists on its own right to perpetrate violence (what it deems resistance), and does not consider itself bound by previous Israeli-PLO agreements.²⁴ Another possible way to end divided rule among the Palestinians would be for the IDF to invade Gaza in hopes of wresting control from Hamas and perhaps eventually handing it over to Abbas.

Impediments to Palestinian Territorial Contiguity and Movement

Changes in realities on the ground since the signing of the Oslo Accord—particularly in terms of their effect on Palestinian territorial contiguity, movement, and access—could affect the likelihood of a negotiated two-state solution. In a September 25, 2008 hearing on the Israeli-Palestinian peace process he chaired for the Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs, Senator John Kerry made the following statement in an exchange with U.S. Assistant Secretary of State for Near Eastern Affairs C. David Welch:

But this notion that everybody has decided they want two states doesn't satisfy anybody anymore in terms of an accomplishment or a big change. I mean, that's six years, eight years

(...continued)

as legitimate by ignoring the law's provisions and allowing the jailed members to be represented by proxy.) See "Jailed Hamas' PLC Speaker Entered Prison Hospital," *Xinhua*, November 3, 2008.

²² Remarks by Jonathan Schanzer, Shmuel Bachar, and Matthew Levitt at the Hudson Institute, Washington, DC ("Iran, Hamas, and the Palestinians"), November 19, 2008. See also David C. Isby, "Iran Trains Hamas Rocket Producers," *Jane's Missiles & Rockets*, May 2, 2008. Khaled Meshaal (alternate spelling: "Mish'al," "Mashaal," or "Meshal"), who heads Hamas's "politburo" from Damascus, Syria, has denied that Iran provides military aid to Hamas. See Transcript of Interview of Khaled Meshaal by euronews, November 6, 2008.

²³ Abbas has spoken of submitting a negotiated agreement with Israel to a popular referendum among Palestinians in order to give it legitimacy (although the logistics of holding such a referendum appear uncertain given the current situation of divided rule). Former U.S. President Jimmy Carter has said that Hamas leader Khaled Meshaal told him (Carter)—during Carter's April 2008 visit to Meshaal in Damascus—that Hamas would accept an Israeli-Palestinian peace agreement—even one that it disagreed with—if the Palestinian people accepted it in a referendum in a free vote and if the vote were preceded by reconciliation between Fatah and Hamas. According to the Israeli newspaper *Ha'aretz*, Meshaal said that Hamas would be willing to live in peace with Israel if Israel withdrew to its pre-1967 borders. Although Hamas would not formally recognize Israel, Meshaal said it would declare a *hudna* (or 10-year truce) as "proof of recognition." See Barak Ravid, "Meshal Offers 10-Year Truce for Palestinian State on '67 Borders," *Ha'aretz*, April 21, 2008. See also Benjamin Tua, "On the Brink of Peace in the Middle East," *Foreign Policy in Focus*, August 21, 2008. Additionally, Hamas members held in Israeli prisons participated with other Palestinian prisoners in the drafting of a 2006 "Prisoners' Document" that some say implicitly recognizes Israel's right to exist. Those skeptical of Hamas's intentions might say that implicit recognition is no recognition at all, and that the *hudna* Meshaal proposes would simply allow Hamas to await a more propitious moment for a Palestinian/Islamic takeover of Israel.

²⁴ See Matthew Levitt, "Legitimizing Hamas," *The Daily Standard*, April 16, 2008.

old. The debate now is over how Swiss cheesy is this state going to look. And what sort of rights and access are going to go with it, et cetera, and what happens to the settlements and so forth.²⁵

Israeli Settlements and Infrastructure

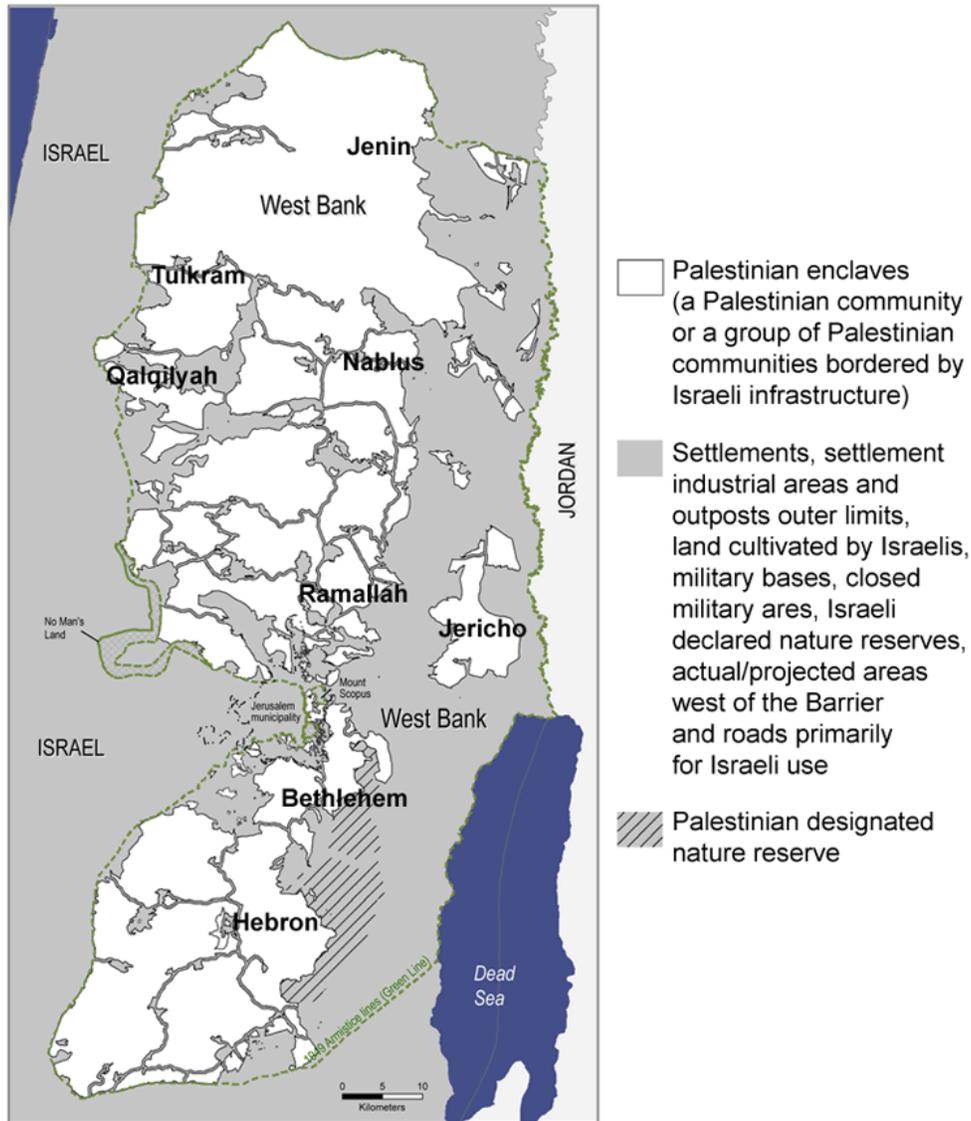
Many observers assert that the existing division of the West Bank into separate enclaves by the presence of Israeli settlements, infrastructure, and other areas of control impedes the development of a future Palestinian state **Figure 2** below).²⁶

<http://wikileaks.org/wiki/CRS-R40092>

²⁵ Remarks by Sen. John Kerry, Hearing of the Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs, September 25, 2008.

²⁶ See United Nations - Office for the Coordination of Humanitarian Affairs (OCHA), *The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank*, July 2007. According to the U.N.-OCHA report, as of July 2007 approximately 38% of the West Bank was off-limits or severely restricted with respect to Palestinians—consisting of settlements, outposts, military bases and closed military areas, Israeli-declared nature reserves, and related infrastructure.

Figure 2. Map of Palestinian West Bank Enclaves Surrounded by Israeli Settlements, et al. (as of July 2007)



Sources: UN-OCHA and CRS

The extensive Israeli construction of settlements and infrastructure in the West Bank and East Jerusalem, which started before the 1990s but continued rapidly after Oslo,²⁷ could be seen as an attempt to establish facts on the ground that increase Israeli bargaining leverage in negotiations with the Palestinians or as an attempt to establish an irreversible Israeli presence that could lessen Palestinian sovereign control of the West Bank under an eventual two-state solution. A major question that follows from the current realities on the ground is whether and to what extent these realities might remain a part of the West Bank following a final-status agreement. If most of the

²⁷ See U.N.-OCHA, op. cit., which says, “Since the beginning of the Oslo Accords period in 1993, which left the issues of settlements to final-status negotiations, the total settler population has increased by 63% (an absolute increase of more than 163,000 settlers between 1993 and 2004).”

settlements and infrastructure were dismantled, then their current presence, while perhaps problematic under international law and for humanitarian reasons, might not necessarily harm prospects for a negotiated two-state solution.²⁸ One might counter, however, that physical separation—even if only temporary—could eat away at the sense of Palestinian political, economic, and cultural identity, and at the morale and cohesion, seen by some as important to building a state.²⁹

Exacerbation of the West Bank/Gaza Divide

Concerns over a lack of contiguity within the West Bank are exacerbated by the fact that the Palestinians already face the challenge of governing two noncontiguous territorial entities—the West Bank and the Gaza Strip. Moreover, since June 2007, these two entities have been controlled by two different regimes (Abbas and the PA in the West Bank, and Hamas and a version of the PA it represents to be legitimate in Gaza). Without reconciliation between Hamas and Abbas's Fatah party soon, the different patterns of life and administration that are being consolidated in the Gaza and the West Bank, respectively, could make it difficult to bring the two territories under a single governing structure in the future, even if Israel and the PLO reach a final-status agreement that provides a strip of land or transportation access rights linking the West Bank and Gaza.

Economic Effect of Movement Restrictions on Palestinians

The imposition of significant restrictions on the crossing of people and goods between Israel, the West Bank, and Gaza, is another major change from the time of Oslo, and even from Clinton-era attempts at a final-status agreement in 2000-2001. Lacking a self-sufficient private sector, Palestinians have historically depended on easy entry into and exit out of Israel for their workers and goods. Since the outbreak of the Second *Intifada*, Israel began construction of the West Bank separation barrier, increased security scrutiny at crossing points and in the process of issuing permits, and, in many cases, halted the flow of people and goods altogether.³⁰ For most of the time since Hamas's forcible takeover of the Gaza Strip in June 2007, most of Gaza's border crossings have been closed to everything but a minimum of goods deemed necessary to meet humanitarian needs. As a result, the Gazan economy has been brought to a virtual standstill. The Palestinian Federation of Industries estimates that 98% of Gaza's industrial operations are now inactive.³¹ Even if Israel agrees to Palestinian sovereignty over Gaza and the West Bank, there are no guarantees that Israel will allow Palestinians and their goods access to Israeli jobs and markets. The alternatives for the Palestinians would likely be: to attract investment and build a self-sufficient economy, which is probably years, if not decades, away; to look to neighboring

²⁸ See U.N.-OCHA, op. cit. Of the approximately 450,000 Jewish settlers in the West Bank (including East Jerusalem), between two thirds and three quarters live on the "Israeli" side of the current and proposed route of the separation barrier. The relatively low settler population on the "Palestinian" side of the barrier could ultimately lead to Israeli acceptance of the dismantlement of most or all of the settlements on that side that are scattered throughout the West Bank (as problematic as such a dismantlement might turn out to be), thus removing many of the impediments to Palestinian contiguity and movement (such as the so-called "bypass roads") in the event a final-status agreement is reached. See also Akiva Eldar, "Let Them Stay in Palestine," *Ha'aretz*, August 25, 2008.

²⁹ See Leslie Susser, "One Land: How Many States?" *The Jerusalem Report*, April 14, 2008.

³⁰ See U.N.-OCHA, op. cit.

³¹ The World Bank, op. cit.

Egypt and Jordan (who struggle with their own economic problems) for economic integration; or to depend indefinitely upon external assistance.

Alternatives to a Two-State Solution

As warnings have grown more frequent and emphatic that the window of opportunity for a two-state solution might be closing, several proposals for other ways to address the future of the Palestinian territories have surfaced from both the Palestinian and the Israeli sides. Some of these proposals are not altogether new, but rather existed in some form before a two-state solution became the official Israeli and PLO line. Now, in a recent spate of editorials, position papers, and reports, these ideas are being brought back into the mainstream to fit the current situation.³² Some analysts suggest that raising alternatives is a time-honored tactic employed to jumpstart or to galvanize negotiations. Others perceive that the recent advent of alternative proposals reflects a shift in fundamental realities underlying the public discourse on the peace process that makes a two-state solution less likely as time passes. Lack of Israeli-Palestinian consensus on any of these alternatives may mean that the status quo in the West Bank and Gaza could continue.

“One-State Solution”

The One-State Argument

The so-called “one-state solution,” also known as the “binational state” outcome, is the alternative that Israeli and Palestinian leaders and third-party observers have probably referred to most frequently when speculating about the possible failure of the two-state solution (see “Alternatives to a Two-State Solution” above). The predominant discourse surrounding the one-state solution, which would bring Israelis and Palestinians in Israel, the West Bank, and the Gaza Strip under a single sovereign umbrella, imagines a governing principle of “one-person, one-vote” on the model of post-apartheid South Africa.³³ Outgoing Israeli Prime Minister Ehud Olmert, while serving as Ariel Sharon’s deputy prime minister, expressed recognition of a shift in many Palestinians’ attitudes toward the struggle with Israel away from “an Algerian paradigm [favoring separation and the establishment of an independent Palestinian state] to a South African one; from a struggle against ‘occupation,’ in their parlance, to a struggle for one-man-one-vote. That is, of course, a much cleaner struggle, a much more popular struggle—and ultimately, a much more powerful one.” Polls show that Palestinian support for a one-state solution remains in the minority (around 25%), but leading Palestinian pollster Khalil Shikaki has stated that this support could balloon “overnight if a credible mainstream leader were to adopt the one-state

³² It is impractical to discuss every alternative that has been proposed—this report will focus on the most prominent and commonly-discussed alternatives in mainstream and leadership circles. Alternatives that will not be discussed in further detail include the “Kosovo model,” which proposes that an international trusteeship be established over the West Bank and Gaza, and/or that the PA declare independence unilaterally for the West Bank and Gaza. See Palestine Strategy Study Group, *Regaining the Initiative: Palestinian Strategic Options to End Israeli Occupation*, August 2008; Susser, *op. cit.* Other alternatives include a “three-state solution,” in which the West Bank and Gaza become separate independent states; one-state or binational options that eschew a “one-man, one-vote” approach in favor of an identity group power-sharing approach (based on existing models in Belgium, Lebanon, or Iraq); and population transfer or expulsion.

³³ See Interview with Eyad Sarraj, “Time to Change Strategy,” *bitterlemons.org*, August 18, 2008; Said, *op. cit.*

approach. 'If [jailed "young guard" leader] Marwan Barghouti or [Damascus-based Hamas leader] Khaled Mashaal was to come out in favor, the consequences could be dramatic.'"³⁴

Confidence in the strength of a unified Palestinian resistance strategy based on gathering international public support by means of non-cooperation and advocacy campaigns appears to have been the foundation for an August 2008 report by the Palestinian Strategy Study Group (PSSG) entitled *Regaining the Initiative: Palestinian Strategic Options to End Israeli Occupation*.³⁵ The "smart resistance" advocated in the PSSG report could attempt to block Israel from imposing a solution unilaterally,³⁶ and to shame Israel into accepting a one-state solution by threatening it with international political and economic isolation (e.g., suspension of diplomatic ties, economic sanctions and boycotts, divestment campaigns) for its supposed disregard of Palestinian rights.

Many believe that the end of a Zionist Israel in the face of Arab numerical superiority is tantamount to the end of Israel. A single democratic state for Jews and Arabs that guarantees all citizens equal rights to civil liberties and political participation could conceivably come about through modification of the governing structure of the existing state of Israel. This makes the idea superficially different from the one-state solution generally advocated by Hamas, which insists upon the elimination of the state of Israel and the establishment of Palestinian and Islamic primacy over all of pre-1948 historic Palestine.³⁷ Whether the two are different in real terms is open to debate.

Israeli Jews' strong objections to the one-state argument as a direct threat to the fundamental nature of Israel are the foundation for Israel's firm unwillingness to accept or even to entertain the notion of a one-state solution.³⁸ Statements from Olmert (see above) and other Israeli leaders acknowledging the danger of a binational outcome do not translate into acceptance of such an

³⁴ Susser, op. cit.

³⁵ See Palestine Strategy Study Group, op. cit. The work of the PSSG, which was made up of several current and former Palestinian leaders, was reportedly assisted by the Oxford Research Group and financed by a European Union grant. See Isabel Kershner, "Support for 2-State Plan Erodes," *New York Times*, September 3, 2008.

³⁶ Palestinian Strategy Study Group, op. cit. Although the PSSG report does not rule out violent resistance, it implies that violence, and particularly violence against civilians, is to be avoided if at all possible.

³⁷ See Text of 1988 Hamas Charter (English translation from the original Arabic accessed via Palestine Center website): "Israel will rise and will remain erect until Islam eliminates it as it had eliminated its predecessors.... There is no solution to the Palestinian problem except by Jihad. The initiatives, proposals and International Conferences are but a waste of time, an exercise in futility." See footnote 23 for indications that Hamas might be willing to accept a Palestinian state confined to the West Bank and the Gaza Strip.

³⁸ See "Endless Occupation?" *The Nation*, June 17, 2007. "Put simply," Yossi Alpher has said, "the vast majority of Israeli Jews would not agree to live in a binational Israeli state." Alpher, op. cit. Partly because the state of Israel does not have a formal written constitution, there is no single source that authoritatively defines the fundamental principles on which the state is based. Even though over 20% of Israel's citizens are Arabs, the historical core of Israeli Zionist society and the Jewish diaspora overwhelmingly agrees that historical, customary, and even religious reasons dictate that Israel is and should remain a democratic state that is distinctly Jewish (although the characteristics of its Jewishness are not defined with precision and consequently are subject to wide interpretation—are the national Jewish characteristics ethnic, cultural, legal, political, religious, or some combination of these various types?). Perhaps this consensus reflects a shared conviction that Israel fulfills an important function by providing a homeland and safe space for Jews, and that this haven can only survive if it is predominantly led by Jewish people and guided by Jewish principles. Needless to say, an Arab-majority democratic state organized under the principle of "one-man, one-vote" would not be seen by most Israeli Jews as "Jewish." Many Jews and non-Jews struggle with the interrelated questions of whether Israel's Jewish nature can be reconciled with democratic principles in the face of demographic realities, and whether a choice might eventually need to be made between Jewishness and democracy, either on principle or in the face of outside pressure.

outcome. Given that Israelis are averse to a one-state solution, and that Western governments may not be likely to embrace the Palestinian strategy of ascribing pariah status to Israel,³⁹ it is often unclear whether Palestinian arguments promoting this outcome are being forwarded because of a genuine strategic preference for this option, or are being used tactically—as a threat to prod Israel into agreeing to a two-state solution.⁴⁰

Is It Practicable?

Some proponents of a one-state solution claim that it could satisfactorily resolve all the core issues that currently divide Israel and the PLO because of their belief that problems on those issues—security, settlements, refugees, the status of Jerusalem, water rights—were created by the assumption that borders would eventually separate the two peoples.⁴¹ Take away the borders, proponents might say, and the problems vanish too. Yet, many analysts doubt that the problems surrounding the core issues are likely to vanish inside a single state. Nathan Brown, an expert on Palestinian issues at the Carnegie Endowment for International Peace, has said, “The advocates of a binational state generally fall into the trap of holding out an admirable utopian solution without analyzing what such a state would be like in practice or how entrenched adversaries could ever construct such a state.”⁴²

Israeli Unilateralism

One commonly-articulated alternative to a two-state solution is unilateral Israeli imposition of a solution. The strategy of unilateral disengagement—popularized earlier this decade in the midst of the Second *Intifada*—acknowledged the futility of indefinite Israeli occupation of the Gaza Strip and most of the West Bank, but also held that a negotiated two-state solution was either not possible, not a priority, or not in line with Israeli interests. This stance led then-Prime Minister Ariel Sharon to order the complete withdrawal of all Israeli settlers and forces from the Gaza Strip in 2005. The Gaza withdrawal was a prelude to the declared aim of Sharon and—following Sharon’s incapacitation by a stroke in January 2006—his successor, Ehud Olmert, to withdraw from most of the West Bank after constructing a separation barrier to accommodate Israeli security concerns. The West Bank disengagement plans lost momentum in light of the major security threat that emerged from Hamas following the disengagement from Gaza. Although construction on the separation barrier continues, many Israelis appear to feel that the barrier

³⁹ See also Naomi Shepherd, “One State: A Solution for Israel/Palestine or a Threat?” *guardian.co.uk*, August 22, 2008. Shepherd wrote, “Israel may be unpopular in liberal [W]estern circles, but this has little practical impact. Even in countries overtly hostile to Israel, arms and other deals continue. So if the Palestinians, backed by a substantial number of UN members, were to press for a bi-national state, the US and Europe would certainly block any such resolution.”

⁴⁰ See Nusseibeh, *op. cit.*; Ali Abunimah, “A New Palestinian Strategy or the Same Failed One?” *Electronic Intifada*, September 9, 2008; Palestine Strategy Study Group, *op. cit.*; Shepherd, *op. cit.*; Susser, *op. cit.* In the event the PLO embraces or continues discussing a one-state solution, its efforts at maintaining and gaining further international public support could backfire significantly, particularly if the PLO is seen as unreasonable, manipulative, or deceptive in the methods or tactics it uses—for example, if the timing of its abandonment of the two-state solution could be portrayed as arbitrary or as having given insufficient notice or opportunity to the Israelis; or if the PLO and its leaders say one thing to English-speaking audiences, and another to Arabic-speaking audiences. See “Endless Occupation?” *op. cit.*; Abunimah, *op. cit.* Any resort to violence against Israel in support of a one-state solution is likely to erode international support for the Palestinians very quickly.

⁴¹ See Joe DeVoir, “The Day After Annapolis: Policy Scenario and Options Facing the Palestinian Authority,” Israel/Palestine Center for Research and Information (IPCRI), September 1, 2008; Susser, *op. cit.*

⁴² Nathan J. Brown, “Sunset for the Two-State Solution?” Carnegie Endowment for International Peace, May 2008.

might be insufficient to guarantee security if an Israeli withdrawal led to a West Bank ruled by militants such as Hamas.

Other analysts have contemplated a more nuanced approach to unilateralism, in which physical withdrawal of Israeli settlers and security forces from putatively Palestinian areas is only one of many possible steps Israel could take to “upgrade the PA” (through mutual agreement if possible, but perhaps unilaterally) by bringing its powers and authorities closer to that of a sovereign state.⁴³ Although unilateralism has lost favor over the past three years, it retains political appeal on the Israeli side because it can be promoted as a more efficient, less diplomatically arduous route to a two-state outcome.⁴⁴

“Jordanian” or “Regional” Option

Another commonly-articulated Israeli alternative to the two-state solution is the so-called “Jordanian option,” sometimes also known as the regional option. The regional option is the idea that the Israeli-occupied Palestinian territories should not become an independent state, but rather should unite (or reunite, as the case may be) themselves with Jordan and/or Egypt in some manner, for historical, cultural and geographical reasons.⁴⁵ Jordan administered the West Bank and East Jerusalem from 1948-1967, annexing them in 1950 (although only the United Kingdom and Pakistan recognized the annexation) and granting Jordanian citizenship to West Bank and East Jerusalem residents in 1954 (although the annexation claims and citizenship grants were rescinded in 1988). Egypt administered the Gaza Strip from 1948-1967 but did not annex it or make Gazans Egyptian citizens. A major obstacle to the viability of the regional option is the stated opposition of Jordan and Egypt to assuming responsibility for the Palestinian territories Israel currently occupies.⁴⁶

“Status Quo”

The default option of *not* adopting a proactive alternative to the two-state solution, but rather leaving the current system of Israeli occupation and limited Palestinian self-rule in place, is in itself an alternative. It also could lead to a “one-state reality” (neither a formal two-state nor a formal one-state solution) with far-reaching consequences—possibly solidifying the domination of an Arab majority by a Jewish minority and/or entangling Israelis and Palestinians to such a degree that future separation of the two peoples becomes significantly more difficult to achieve.⁴⁷

⁴³ Reut Institute, “Upgrading the Palestinian Authority to the Status of a State with Provisional Borders,” September 4, 2008.

⁴⁴ See Daniel Levy, “The Alternative to Paralysis,” *Ha’aretz*, October 3, 2008.

⁴⁵ See Giora Eiland, *Rethinking the Two-State Solution*, Washington Institute for Near East Policy *PolicyFocus* #88, September 2008; Ghassan Khatib, “Forcing the Neighbors Into Play,” *bitterlemons.org*, August 18, 2008.

⁴⁶ See Indyk, *op. cit.*, saying, “In terms of the Jordanian option, ultimately no Jordanian government would be willing to take over from Israel the responsibility of policing Palestinians.” Some leaders and analysts believe that a Jordan-Palestine confederation, or even a Jordan-Palestine-Israel confederation, could be possible *after* a Palestinian state has been established. See, e.g., Susser, *op. cit.*

⁴⁷ See Susser, *op. cit.*

Possible U.S. Approaches and Policy Challenges

Debate Over the U.S. Approach

Because some analysts believe that prospects for a two-state solution could decrease as time wears on, some advocate that the United States should engage more vigorously in pushing the peace process forward.⁴⁸ They tend to believe that an urgent approach might be necessary to prevent Israelis and Palestinians from turning to other options. Others, however, believe that a more incremental approach should be taken by the United States because current conditions—particularly the division among Palestinians between Fatah and Hamas—militate against pressuring the two sides to reach and implement a final-status agreement.⁴⁹ An “incrementalist” U.S. posture with respect to the peace process could—by buying time—increase the chances of a propitious alignment of U.S., Israeli, and Palestinian leaders and publics who are willing to conclude and implement a mutually beneficial final-status agreement, or it could squander opportunities and cede the initiative to other parties. In deciding whether to play a more proactive role in the peace process, the U.S. could face concerns over possible joint resistance by Israelis and Palestinians against outside pressure,⁵⁰ offset by concerns that peace might not be possible without considerable third-party intervention.

⁴⁸ Those from this general school of thought include former President Jimmy Carter, former U.S. national security advisers Brent Scowcroft (under Gerald Ford and George H.W. Bush) and Zbigniew Brzezinski (under Jimmy Carter), and former U.S. ambassador to Israel and Egypt Daniel Kurtzer. See Scowcroft and Brzezinski, *op. cit.*; Ben Smith, “Obama Team’s Warring Middle East Views,” *Politico*, December 5, 2008. Many from this school of thought believe that the incremental confidence-building measures of the Oslo paradigm have not worked and that a new approach, in which the United States offers “bridging proposals” and/or uses persuasion or diplomatic pressure to overcome differences between the two sides, is overdue. CRS conversation with John C. Hulsman (a U.S. foreign policy expert currently focusing on transatlantic cooperation in the Middle East at the German Council on Foreign Relations (DGAP) in Berlin, and one of the survey participants in the Terrorism Index (see citation next page in the body of the main report)), October 29, 2008; see Cook and Telhami, *op. cit.*

⁴⁹ According to Dennis Ross—former Special Middle East Coordinator and lead peace process negotiator under President Bill Clinton—“given Hamas’ control of Gaza and other factors, there is currently no prospect for a permanent settlement and consequently the US should focus on improving the situation on the ground through more modest measures such as security cooperation.” Jonathan Rynhold, “President Obama and the Middle East Challenge,” Begin-Sadat Center for Strategic Studies, Bar-Ilan University, *BESA Center Perspectives Papers No. 50*, November 6, 2008. Richard Haass—the president of the Council on Foreign Relations and a former Director of Policy Planning for the State Department—has recommended in the near-term that “[the next president] should be prepared to articulate [his] vision of a fair and stable peace, press Israel to stop settlement activity and push Arab governments and the European Union to do more to raise Palestinian living standards.” Haass, *op. cit.*

⁵⁰ See Quartet Press Statement, November 9, 2008 <http://www.state.gov/t/pa/prs/ps/2008/nov/111664.htm>. At a principals conference in November 2008 in Sharm el-Sheikh, Egypt, PA President Abbas and Israeli Foreign Minister Livni both “stressed that, absent the joint request of the parties, third parties should not intervene in the bilateral negotiations.” See also Barak Ravid, “Livni, After Quartet Meet: I’m Not Repeating Mistakes of Camp David,” *Ha’aretz*, November 10, 2008. One of the reasons for Israeli-Palestinian resistance to a bolder U.S. approach might be that if the approach fails, it could worsen the situation—perhaps leading to greater conflict. Former State Department Middle East advisor Aaron David Miller, who has advocated that the incoming Obama Administration work more urgently toward an Israeli-Syrian peace deal than an Israeli-Palestinian one, has written that the failed efforts by the Clinton-led team (of which he was a part) in 2000 to reach an Israeli-Palestinian endgame proved “costly”—the failed Camp David summit of July 2000 was followed two months later by the outbreak of the Second *Intifada* (and Miller contended that conditions in 2000 were more favorable than in 2008 for an Israeli-Palestinian deal). Aaron David Miller, “Start with Syria,” *Washington Post*, November 26, 2008.

President-elect Barack Obama has signaled that obtaining Israeli-Palestinian peace could be a key factor in advancing U.S. interests throughout the Middle East and the Muslim world—a consideration that could influence perceptions of urgency. In a July 2008 appearance on NBC’s “Meet the Press,” Obama said:

If we can solve the Israeli/Palestinian process, then that will make it easier for Arab states and the Gulf states to support us when it comes to issues like Iraq and Afghanistan. It will also weaken Iran, which has been using Hamas and Hezbollah as a way to stir up mischief in the region. If we’ve gotten an Israeli/Palestinian peace deal, maybe at the same time peeling Syria out of the Iranian orbit, that makes it easier to isolate Iran so that they have a tougher time developing a nuclear weapon.⁵¹

What *level* of priority the incoming Obama Administration might assign to this issue, however—beyond its professed support for the peace process and a two-state solution—remains to be seen. The incoming administration will likely be faced with one of the most daunting arrays of pressing domestic and foreign policy challenges in recent memory. The Terrorism Index compiled by *Foreign Policy* magazine in April-May 2008 (which surveyed more than 100 U.S. foreign policy experts from across the political spectrum) listed the Israeli-Palestinian peace process as only the tenth-highest U.S. foreign policy priority (behind issues such as those involving the economy, energy security, Iran, Iraq, Afghanistan, and Pakistan).⁵² Furthermore, past U.S. efforts at facilitating Arab-Israeli peace agreements—such as those made by the Carter Administration in 1978 and the Clinton Administration in 2000—indicate that success is improbable unless the administration is willing to devote considerable time and energy to the matter.

Policy Challenges

The environment shaping prospects for Israeli-Palestinian negotiations and a two-state solution can influence and be influenced by many factors. Three particularly important aspects of the current situation with possible implications for Congress are—in addition to the U.S. approach taken to facilitate or mediate the negotiations—the role of Hamas, efforts to build the capacities of Palestinian moderates, and Israeli settlements in the West Bank and East Jerusalem.

The Role of Hamas

The role of Hamas may pose the biggest open question under a bolder approach: could Hamas (with which U.S. government representatives are currently prohibited from having contact because it is an FTO), if it so desires, be included (either directly or indirectly) in U.S.-facilitated final-status negotiations? Acquiescing to the inclusion of Hamas in the peace process in some manner could involve its integration or reintegration into existing Palestinian leadership structures such as the PA and the PLO. Among current U.S. restrictions on aid aimed at Hamas and its affiliates is a prohibition on direct aid to any PA government that includes members of Hamas.⁵³ Prospects of Palestinian unity may also lead to calls for a redefinition of the mission of U.S.-assisted PA security force operations in the West Bank that target Hamas members and

⁵¹ Transcript of NBC interview with Sen. Barack Obama, “Meet the Press,” July 27, 2008 <http://www.msnbc.msn.com/id/25872804/>.

⁵² See “The Terrorism Index 2008,” *Foreign Policy*, September/October 2008.

⁵³ See CRS Report RS22967, *U.S. Foreign Aid to the Palestinians*, by Jim Zanotti.

sympathizers for arrest under certain conditions.⁵⁴ Hamas has said that these operations motivated it to pull out of a November 2008 meeting in Egypt aimed at restoring Palestinian unity.⁵⁵

Any possibility of U.S. policy shifts regarding Hamas's role could trigger heated debate. Those opposing policy shifts might say that any move toward legitimizing Hamas could embolden it and other Palestinian militants to use the mechanisms of Palestinian leadership to mount attacks on Israel—either before or after the establishment of a Palestinian state.⁵⁶ Those favoring policy shifts might say that Hamas is less likely to attack Israel if it is made a stakeholder that is accountable to revived Palestinian hopes regarding prospects for a Palestinian state.⁵⁷

Leaving Hamas out of a negotiated outcome could lead the United States to pursue one of the following courses of action. One would be to trust that the Palestinian people would rally to Abbas's support in the event he reaches a final-status agreement with Israel, ratifying the agreement in a referendum or in some other manner regardless of Hamas's objections. Another would be to help the PA and/or Israel prepare for containment of Hamas or for military action against it. It is possible that a combination of both courses of action could be used.

There are several risks involved with both courses of action. Entrusting the fate of a final-status peace agreement to a divided Palestinian public after so many years spent striving for resolution could lead to an unpredictable and perhaps demoralizing result (along the lines of the 2006 PA elections that brought Hamas to power).⁵⁸ Even if the Palestinian public backs Abbas, Hamas could seek to nullify the popular will through force. Containment of or military action against Hamas could backfire, leading Hamas to broaden and/or deepen its control of Gaza and possibly also the West Bank. Even military success could come at great cost, given Hamas's entrenchment in Gaza and its possible attack capabilities against Israel (either with rockets or through direct attacks on IDF personnel or civilians). By supporting the use of force against Hamas, the U.S. could also open itself up to charges that it is the primary aggressor, possibly eroding the U.S.'s international credibility as an "honest broker" and guarantor with regard to the peace process. If any of these risks materialize, Congress could face requests for heightened economic and security assistance in a climate in which discerning whether potential aid recipients and their actions are hospitable to U.S. interests might become increasingly difficult.

Capacity-Building for Palestinian Moderates

The current Annapolis process is largely faithful to the gradual approach to the peace process established by the Oslo Accord in 1993 and reinforced by the Quartet in 2002-2003 with its Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (the "Roadmap"). Advocates of this approach tend to believe that diplomatic endgames

⁵⁴ See "'Israel Has Agreed to Allow PA Troops Into Hebron,'" *Ynetnews.com*, October 7, 2008.

⁵⁵ "Officials Deny Bethlehem Sweep Will Target Hamas," *Agence France Presse*, November 12, 2008.

⁵⁶ These opponents might assert that Hamas should be dealt with only after it is marginalized. Israel did not agree to formal negotiations with Yasser Arafat of the PLO or with other historical Arab adversaries of Israel—such as former Egyptian President Anwar Sadat and King Hussein of Jordan—until it had established a position of strength relative to each of them. Some might say that doing this helped lead to diplomatic breakthroughs in each case.

⁵⁷ See Robinson, op. cit.; Joshua Mitnick, "As Peace Talks Sputter, Israelis and Palestinians Eye Plan B," *Christian Science Monitor*, September 15, 2008.

⁵⁸ But see Scrowcroft and Brzezinski, op. cit.: "[I]f the peace process begins to gain momentum, it is difficult to imagine that Hamas will want to be left out."

are premature without first implementing measures that build the capacity of Palestinian moderates relative to Hamas and others who, through their words and/or deeds, appear to reject peace.⁵⁹

These capacity-building measures include the internationally and congressionally supported programs of PA security and economic reform and assistance that were relaunched in conjunction with the Annapolis process in 2007.⁶⁰ Since mid-2007, the United States has appropriated approximately \$720 million in support of these programs, including \$300 million obligated in direct budgetary assistance to the PA and \$160 million (toward training, equipment, facilities, strategic planning, and administration) appropriated to strengthen and reform the PA National Security Forces and Presidential Guard.⁶¹ U.S. Security Coordinator Lt. Gen. Keith Dayton has consulted with PA leaders and the IDF in the West Bank with respect to the deployment of these PA security forces—which have shown some signs of success—in cities such as Nablus, Jenin, and Hebron.⁶²

A reason for skepticism regarding these measures could be the so-called “chicken-egg” security dilemma—that Israel might not leave the West Bank to PA security forces until they have the capacity and willingness to suppress attacks on Israel, but that the PA forces cannot develop the necessary capacity and willingness while Israeli occupation forces stir Palestinian resentment and undermine the PA forces’ legitimacy and ability to take independent action.⁶³ Opponents of an emphasis on capacity-building measures might also argue that efforts to bolster Palestinian moderates in the 15 years since Oslo have appeared to make Hamas stronger, not weaker. If this trend continues, their argument might go, Hamas might even attempt a takeover of the West Bank, either through the PA electoral process (both presidential and legislative elections are scheduled to take place no later than January 2010) or through force (as it took over the Gaza Strip in 2007). In such a situation, the future existence and/or posture of the PA and its security forces (on which millions of dollars and thousands of man-hours have been spent through U.S.-sponsored programs) could be thrown into doubt.⁶⁴

Another reason some might oppose an emphasis on capacity-building measures is that U.S. security and economic assistance to the PA could come to be seen as a fixture of the status quo. A peace process with no end in sight could erode momentum for a two-state solution and intensify the jockeying between and among Israelis and Palestinians for alternatives such as a one-state solution, a regional option, or Israeli unilateralism—perhaps leading ultimately to greater conflict.

⁵⁹ See footnote 56.

⁶⁰ These programs, including a three-year Palestinian Reform and Development Plan introduced in December 2007, have been developed and forwarded by PA Prime Minister Salam Fayyad, the politically independent former World Bank and International Monetary Fund official whom Abbas tasked to head the government in the wake of his dissolution of the Hamas-led unity government following Hamas’s forcible takeover of the Gaza Strip in June 2007.

⁶¹ See Zanotti, *op. cit.*; “PA Receives \$150 Million from US,” *jpost.com*, October 22, 2008.

⁶² See Ethan Bronner, “Palestinian Forces Dilute Hebron’s Volatile Brew,” *New York Times*, November 26, 2008. In addition to Gen. Dayton, two other State Department envoys have mandates that involve oversight and evaluation of progress with respect to Palestinian security—Gen. (ret.) James Jones (soon to be National Security Adviser in the Obama Administration) is Special Envoy for Middle Eastern Regional Security (among Israelis and Palestinians), and Lt. Gen. Paul Selva is responsible for assessing Israeli and Palestinian compliance with their respective Roadmap obligations.

⁶³ See “Chickens and Eggs,” *The Economist*, April 24, 2008; International Crisis Group, *op. cit.*

⁶⁴ There are concerns regarding the possibility that PA security forces could turn against Israel, as happened during the Second Intifada. See Bronner, *op. cit.*

Also, perceptions that residents of the Gaza Strip—almost totally dependent on humanitarian assistance and illicit economic activity under restrictive Hamas rule and the virtual Israeli shutdown of its borders—are being neglected, left behind, or perhaps even targeted in light of the attention and resources devoted to reform efforts and the strengthening of anti-Hamas groups in the West Bank could widen divisions between Palestinians from the two regions and lead to heightened resentment of all parties promoting the peace process.

Israeli Settlements in the West Bank and East Jerusalem

As discussed above (see “Israeli Settlements and Infrastructure”), extensive construction of Israeli settlements in the West Bank and East Jerusalem since Oslo may have complicated prospects for a two-state solution. Additional construction within existing settlements (so-called “natural growth”) and/or the establishment of new settlements or illegal outposts could exacerbate problems for the peace process. The historical tendency for settlement construction to increase during U.S.-brokered Israeli-Palestinian peace negotiations—including during the Annapolis process, despite the Roadmap’s call for a settlement freeze—has led to Palestinian and Arab complaints aimed not only at Israel, but also at the United States⁶⁵—as Israel’s ally and as both parties’ designee as “monitor and judge” of the peace process’s implementation.⁶⁶

Although longstanding official U.S. policy opposes the settlements as “obstacles to peace” and insists that existing settlement blocs should not prejudice final-status negotiations, Arab critics routinely charge that U.S. support of Israel indirectly supports settlement activity.⁶⁷ Since 1972, the United States has periodically offered loan guarantees to Israel. Current legislation authorizing these loan guarantees through FY2010 specifically prohibits the use of U.S.-guaranteed funds to finance Israeli settlement activity in territories occupied by Israel since the 1967 war, and permits the U.S. government to make reductions in the guarantees equal in amount to Israeli expenditures on settlement activity. The last reduction made was in 2003.⁶⁸ In recommending that the incoming Obama Administration “hold Israel accountable to its commitment to freeze new construction of settlements in the West Bank, including in the Jerusalem area,” a December 2008 joint publication from the Brookings Institution and the Council on Foreign Relations stated that “conditioning portions of aid to a settlement freeze can be effective in eliciting Israeli compliance.”⁶⁹

The Jewish settler population in the West Bank and East Jerusalem has grown to constitute about 6% of the Israeli population (approximately 450,000 out of 7.1 million total). Given the multitude of parties that exist within Israel’s coalition-based parliamentary system, settlers can leverage

⁶⁵ While serving as Secretary of State under President George H.W. Bush, James Baker observed, “Every time I have gone to Israel in connection with the peace process, on each of my four trips, I have been met with the announcement of new settlement activity. This does violate United States policy. It’s the first thing that Arabs—Arab governments, the first thing that the Palestinians in the territories—whose situation is really quite desperate—the first thing they raise when we talk to them. I don’t think there is any bigger obstacle to peace than the settlement activity that continues not only unabated but at an enhanced pace.” Testimony before the House Committee on Appropriations, May 22, 1991.

⁶⁶ The Annapolis Declaration of November 27, 2007.

⁶⁷ Some of these charges stem from the letter sent from President George W. Bush to Israeli Prime Minister Ariel Sharon dated April 14, 2004, which stated, “In light of new realities on the ground, including already existing major Israeli populations centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949.”

⁶⁸ See Steven R. Weisman, “U.S. Rescinds Part of Loan Guarantees to Israel,” *New York Times*, November 26, 2003.

⁶⁹ Cook and Telhami, op. cit.

their collective voice.⁷⁰ Although not all settlers share an ideological agenda or even the same interests, it has become harder for Israeli governments to function without their approval. This dynamic could make it very difficult for an Israeli prime minister to agree to settlement dismantlement in final-status negotiations with the PLO, or even to crack down on the increased settler violence discussed above.

Some say that the Israeli government's historical permissiveness with respect to settlers has eroded the settlers' sense of accountability, creating uncertainty for the IDF over how to protect settlers without enabling attacks against Palestinians that some observers fear could lead to a wider acceptance of extremism.⁷¹ If settler violence worsens further, it could lead to tensions between the PA and the IDF regarding the management of security with respect to settlers and Palestinian civilians living and traveling in close proximity—with potential implications for the U.S. Security Coordinator's office that consults closely on the ground with both sides. There are also signs in Hebron, Yitzhar, and other places that IDF measures to curb settler violence and provocations could plunge Israel into domestic strife over the issue, possibly further complicating the peace process and prospects for a two-state solution.⁷²

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⁷⁰ See Ilene R. Prusher, "Why Israeli Settlers Are Lashing Out," *Christian Science Monitor*, September 30, 2008.

⁷¹ See Prusher, op. cit.; Peraino, op. cit.

⁷² "Peres on Hebron Violence: Settlers Who Attack IDF Soldiers Are Attacking All of Israel," *Ha'aretz*, December 3, 2008.