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The Palestinians: Background and U.S. Relations

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SUMMARY

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The Palestinians: Background and U.S. Relations

The Palestinians are an Arab people whose origins are in present-day Israel, the West Bank, and the Gaza Strip. Congress pays close attention—through legislation and oversight—to the ongoing conflict between the Palestinians and Israel.

The current structure of Palestinian governing entities dates to 1994. In that year, Israel agreed with the Palestine Liberation Organization (PLO) to permit a Palestinian Authority (PA) to exercise limited rule over Gaza and specified areas of the West Bank, subject to overarching Israeli military administration that dates back to the 1967 Arab-Israeli War.

After the PA's establishment, U.S. policy toward the Palestinians focused on encouraging a peaceful resolution to the Israeli-Palestinian conflict, countering Palestinian terrorist groups, and aiding Palestinian goals on governance and economic development. Since then, Congress has appropriated more than $5 billion in bilateral aid to the Palestinians, who rely heavily on external donor assistance.

Conducting relations with the Palestinians has presented challenges for several Administrations and Congresses. The United States has historically sought to bolster PLO Chairman and PA President Mahmoud Abbas vis-à-vis Hamas (a U.S.-designated terrorist organization supported in part by Iran). Since 2007, Hamas has had de facto control within Gaza, making the security, political, and humanitarian situation there particularly fraught. The Abbas-led PA still exercises limited self-rule over specified areas of the West Bank. Given Abbas's advanced age (he was born in 1935) and questionable health, observers speculate about who will succeed him and implications for the current situation of divided rule in the West Bank and Gaza. PA legislative and presidential elections are scheduled for May and July 2021, respectively, but the divided rule situation could lead to their postponement as has happened with past efforts to hold elections since 2007.

Lack of progress toward peace with Israel has led the PLO to advocate the Palestinian cause more assertively in international fora. A 2012 U.N. General Assembly resolution changed the non-member observer status of "Palestine" at the United Nations from an entity to a "state." Palestinians also have applied international legal pressure on Israel. The Palestinians acceded to the Rome Statute of the International Criminal Court (ICC) in April 2015, and the ICC opened an investigation in March 2021 that could conceivably bring charges against Israeli, Palestinian, or other individuals for alleged war crimes committed in the West Bank and Gaza.

Under the Trump Administration, U.S. policy shifted in a direction that more explicitly favored Israel over the Palestinians. Actions of note included suspending U.S. funding for the Palestinians, recognizing Jerusalem as Israel's capital and opening an embassy there, and adopting measures to treat Israeli settlements in the West Bank more like areas in Israel proper. In late 2020, the Administration brokered agreements to help Israel move toward more formal relations with the United Arab Emirates, Bahrain, Sudan, and Morocco. PLO/PA leaders voiced opposition to the agreements insofar as they signaled a change to Arab states' previous stance that Israel should address Palestinian negotiating demands as a precondition to improved ties.

Biden Administration officials have stated their intention to improve U.S.-Palestinian ties, and probably plan to resume humanitarian, security, and economic development aid for Palestinians. The Administration and Congress face a number of issues with implications for bilateral ties, including (1) how to resume aid; (2) the feasibility of reopening certain diplomatic offices in Washington, DC, and Jerusalem; (3) how to respond to Palestinian initiatives in international fora (including the ICC); and (4) whether to revisit some Trump-era actions that gave more favorable treatment under U.S. policy to Israeli settlements in the West Bank. The trajectory of some of these issues may depend on a significant PLO/PA change to welfare payments to or on behalf of individuals allegedly involved in acts of terrorism, and whether elections (if held) lead to a greater Hamas role in the PA.

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Introduction

Since the United States established ties with the Palestine Liberation Organization (PLO) during the 1990s, Congress has played a significant role in shaping U.S. policymaking toward the Palestinians. As successive Administrations have sought to facilitate a negotiated solution to the Israeli-Palestinian conflict, counter Palestinian terrorist groups, and increase or decrease assistance to Palestinians, congressional action has often influenced executive branch decisions. After the signing of the Israel-PLO Declaration of Principles in 1993, Congress has appropriated more than $5 billion in bilateral aid to the Palestinians, while placing a number of restrictions and other conditions on certain types of aid. For more information, see CRS Report RS22967, *U.S. Foreign Aid to the Palestinians*, by Jim Zanotti.

Palestinian Overview and National Aspirations

The Palestinians are Arabs who live in the geographical area comprising present-day Israel, the West Bank, and the Gaza Strip, or who have historical and cultural ties to that area. An estimated 5.2 million Palestinians (98% Sunni Muslim, 1% Christian) live in the West Bank, Gaza Strip, and East Jerusalem (see **Table 1**).[1] Of these, about 2.2 million are registered as refugees in their own right or as descendants of the original refugees from the 1948 Arab-Israeli War. In addition, approximately 635,000 Jewish Israeli citizens live in the West Bank and East Jerusalem.[2] Of the more than 6 million diaspora Palestinians living outside of Israel, the West Bank, and Gaza, most are in Arab states—with more than 3 million registered as refugees in Jordan, Lebanon, and Syria.[3] For more information on Palestinian refugees, see **Appendix A**.

Table 1. Basic Facts for the West Bank and Gaza Strip

Statistic	West Bank	Gaza Strip	Combined
Population	3.1 million	2.1 million	5.2 million
Refugees	828,000	1,386,000	2,214,000
Median age	21.9 (2019 est.)	18.0 (2020 est.)	-
Literacy rate (2018 est.)	-	-	97.2%
Population growth rate	1.7%	2.0%	-
Real GDP growth rate	-	-	-11.5% (2020 est.) 3.5% (2021 proj.)
GDP per capita at PPP	-	-	$5,316 (2020 est.) $5,742 (2021 proj.)
Unemployment rate	15.0% (2020 est.)	43.0% (2020 est.)	25.9% (2020 est.) 24.9% (2021 proj.)
Export partners (2017 est.)	-	-	Israel 84.2%, Arab states 16.6%

[1] Palestinian Central Bureau of Statistics (PCBS) projections for 2021. PCBS estimated as of 2017 that an additional 1.47 million Palestinians were Arab citizens of Israel. Religious affiliation information comes from the State Department International Religious Freedom Report for 2019, West Bank and Gaza.

[2] Central Intelligence Agency World Factbook, West Bank. Figures for West Bank as of 2018, and East Jerusalem as of 2017.

[3] See the portal of the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) at https://www.unrwa.org/where-we-work.

Statistic	West Bank	Gaza Strip	Combined
Import partners (2017 est.)	-	-	Israel 58.1%, European Union 12.4%, Arab States 6.2%

Sources: Palestinian Central Bureau of Statistics, Central Intelligence Agency World Factbook, World Bank, Economist Intelligence Unit, International Monetary Fund World Outlook Database, U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

Notes: Figures are 2021 estimates or projections unless otherwise noted. Population figures exclude Israeli settlers.

Since the early 20th century, the dominant Palestinian national goal has been to establish an independent state in historic Palestine (the area covered by the British Mandate until the British withdrawal in 1948). Over time, Palestinians have debated among themselves, with Israelis, and with others over the nature and extent of such a state and how to achieve it. For more historical background, see **Appendix B** and CRS Report RL33476, *Israel: Background and U.S. Relations*, by Jim Zanotti.

Today, Fatah and Hamas (a U.S.-designated terrorist organization) are the largest Palestinian political movements (see **Appendix A** for profiles of both groups).[4] The positions that their leaders express reflect two basic cleavages in Palestinian society:

1. Between those (several in Fatah, including its leader Mahmoud Abbas) who seek to establish a state in the West Bank and Gaza by nonviolent means—negotiations, international diplomacy, civil disobedience—and those (Hamas) who insist on maintaining violence against Israel as an option;[5] and
2. Between those (Fatah) who favor a secular model of governance and those (Hamas) who call for a society governed more by Islamic norms.

The differences between these two factions are reflected in Palestinian governance (see **Appendix C**). Since Hamas forcibly seized control of Gaza in 2007, it has exercised de facto rule there, while Fatah's leader Mahmoud Abbas—elected as president of the Palestinian Authority (PA) in 2005—has headed the PA government based in the West Bank.

Having different Palestinian leaders in the two territories has complicated the question of who speaks for the Palestinians both domestically and internationally. In the West Bank, the PA exercises limited self-rule in specified urban areas (Areas A and B, as identified in a 1995 Israel-PLO agreement) where Israel maintains overarching control.[6] Both territories face socioeconomic challenges based on Israeli military measures such as property confiscation and demolition, Israeli movement and access restrictions, political uncertainty, longtime Palestinian dependence

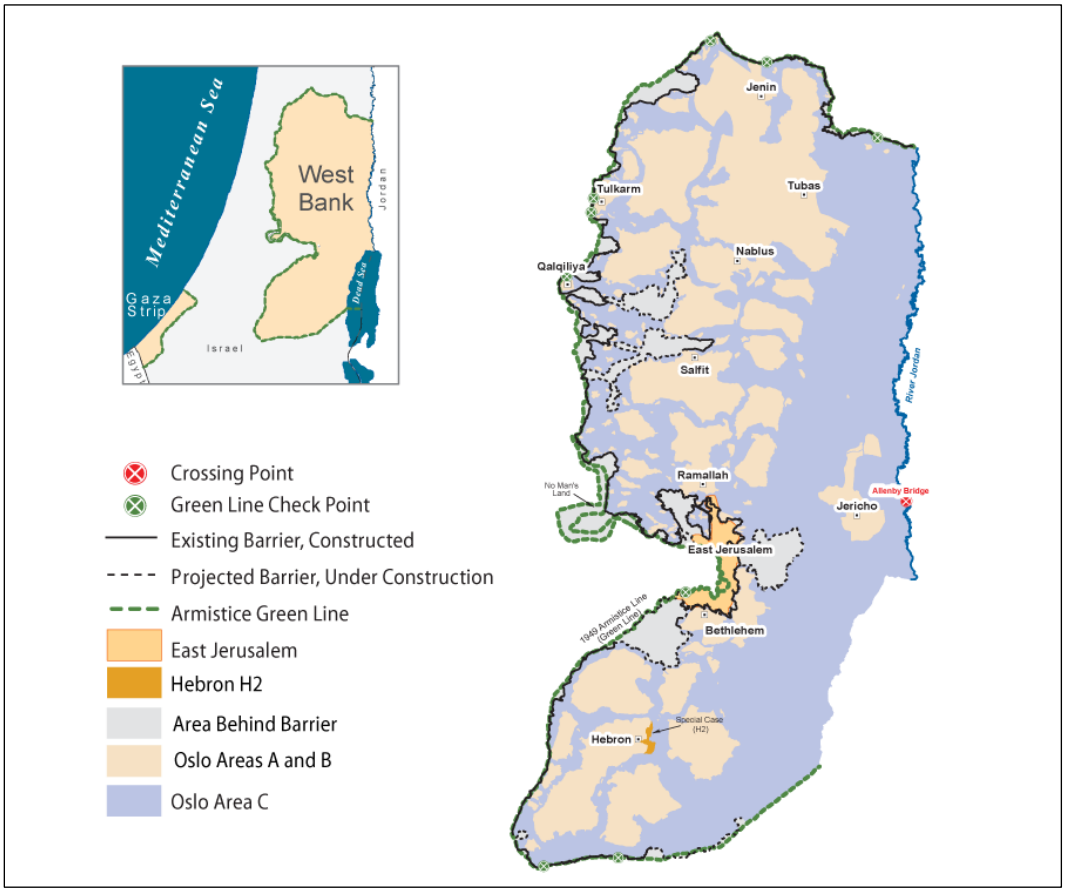
[4] Hamas has been designated a Foreign Terrorist Organization (FTO), a Specially Designated Terrorist (SDT), and a Specially Designated Global Terrorist (SDGT) by the U.S. government.

[5] See **Appendix A** for a discussion of different schools of thought within Fatah about maintaining violence against Israel as an option.

[6] The PLO is the internationally recognized representative of the Palestinian people. Various Israel-PLO agreements during the Oslo process in the 1990s created the PA as the organ of governance for limited Palestinian self-rule in the West Bank and Gaza Strip. Officially, the PLO represents the Palestinian national movement in international bodies, including the United Nations, often using the moniker "Palestine" or "State of Palestine." Because Mahmoud Abbas is both PLO chairman and PA president, U.S. officials and other international actors sometimes conflate his roles. For more information on the two entities, see **Appendix A**, **Appendix C**, and the European Council on Foreign Relations' online resource Mapping Palestinian Politics at https://www.ecfr.eu/mapping_palestinian_politics/detail/institutions.

on foreign aid, and domestic corruption and inefficiency—with Gaza's economic challenges and overall isolation more acute (see "Gaza's Challenges," **Appendix C**, and **Appendix D**). Additionally, the State Department and some NGOs have raised concerns about some possible PA and Hamas violations of the rule of law and civil liberties.[7] See **Figure 1** and **Figure 2** for maps of both territories.

Figure 1. Map of West Bank



Source: U.N. Office for the Coordination of Humanitarian Affairs occupied Palestinian territory, 2018, adapted by CRS.

Note: All boundaries and depictions are approximate.

[7] State Department, 2019 Country Reports on Human Rights Practices: Israel, West Bank, and Gaza; Amnesty International, Palestine (State of) 2019.

Figure 2. Map of Gaza Strip

Source: U.N. Office for the Coordination of Humanitarian Affairs occupied Palestinian territory, 2020.

Note: All boundaries and depictions are approximate.

International diplomacy aimed at resolving Israeli-Palestinian disputes and advancing Palestinian national goals has stalled, with no direct Israel-PLO negotiations since 2014. Palestinians routinely assert that U.S. policy reflects a pro-Israel bias and a lack of sensitivity to PLO Chairman and PA President Mahmoud Abbas's domestic political rivalry with Hamas.[8] Since a wave of unrest (commonly known as the Arab Spring) that started in 2011 presented Arab leaders with a range of domestic and other regional concerns, Arab states that had traditionally championed the Palestinian cause have focused on it less. Many have built or strengthened informal ties with Israel based on common concerns regarding Iran and other perceived regional threats. In 2020, four countries—the United Arab Emirates (UAE), Bahrain, Sudan, and Morocco—agreed to take steps toward formal diplomatic relations with Israel.

Citing the lack of progress in negotiations with Israel, Abbas and other PLO/PA leaders have sought support for Palestinian national aspirations and grievances in the United Nations and other international fora. Some Palestinian and international intellectuals advocate the idea of a binational or one-state idea as an alternative to a negotiated two-state solution with Israel. In a

[8] "FULL TEXT: Palestinian President Mahmoud Abbas' 2018 UN General Assembly Speech," haaretz.com, September 27, 2018.

December 2020 poll, 40% of Palestinians supported a two-state solution, but 62% expressed belief that Israeli settlement expansion in the West Bank has made this outcome impractical. In the same poll, 29% supported abandoning the two-state solution in favor of a "one-state solution."[9]

The "Palestinian question" is important not only to Palestinians, Israelis, and their Arab state neighbors, but also to the United States and many other countries and actors around the world for a variety of religious, cultural, and political reasons. For at least 75 years, the issue has been one of the most provocative in the international arena.

Key U.S. Policy Considerations and Issues

Major U.S. policy priorities with the Palestinians over successive Administrations have included facilitating or seeking a viable Israeli-Palestinian peace process, helping the West Bank-based PA counter Hamas and other terrorist groups, and using aid to encourage Palestinian governance reform and economic development.

During President Trump's time in office, his Administration took a number of actions that favored Israeli positions vis-à-vis the Palestinians, and also suspended aid to the Palestinians, as set forth below.

Selected Trump Administration Actions Impacting Israeli-Palestinian Issues

December 2017	President Trump recognizes Jerusalem as Israel's capital, prompting the Palestine Liberation Organization (PLO) and Palestinian Authority (PA) to cut off high-level diplomatic relations with the United States.
May 2018	The U.S. embassy opens in Jerusalem.
August 2018	The Administration ends U.S. contributions to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).
September 2018	The Administration reprograms FY2017 economic aid for the West Bank and Gaza to other locations, and announces the closure of the PLO office in Washington, DC.
January 2019	As a result of the Anti-Terrorism Clarification Act of 2018 (P.L. 115-253), the Administration ends all bilateral U.S. aid to the Palestinians.
March 2019	The U.S. consulate general in Jerusalem—previously an independent diplomatic mission to the Palestinians—is subsumed under the authority of the U.S. embassy to Israel. President Trump recognizes Israeli sovereignty claims in the Golan Heights.
November 2019	Secretary of State Michael Pompeo says that the Administration disagrees with a 1978 State Department legal opinion stating that Israeli settlements in the West Bank are inconsistent with international law.

In the second half of 2020, the Trump Administration's diplomatic focus pivoted from its January 2020 Israeli-Palestinian peace proposal to helping Israel reach agreements on normalization with the UAE, Bahrain, Sudan, and Morocco. These agreements, known as the Abraham Accords,

[9] Palestinian Center for Policy and Survey Research (PCPSR), Public Opinion Poll No. 78, December 15, 2020 (poll conducted December 8-11, 2020). Most scenarios envisioning a binational Israeli-Palestinian state would apparently fundamentally change or abrogate the Zionist nature of Israel's institutional and societal makeup. Such developments would by almost all accounts be unacceptable to a large majority of Israelis.

signal some change to Arab states' previous insistence—in the 2002 Arab Peace Initiative[10]—that Israel address Palestinian negotiating demands as a precondition for improved ties.[11] Although Israel agreed to suspend plans to annex part of the West Bank as part of the UAE deal,[12] PLO/PA officials denounced the deal as an abandonment of the Palestinian national cause, claiming that the UAE had acquiesced to a West Bank status quo that some observers label "de facto annexation."[13]

Biden Administration Statements and Reported Proposal

Amid the longtime difficulties involved with Israeli-Palestinian relations, the Biden Administration has voiced interest in improving U.S. ties with the Palestinians, including by revisiting some Trump-era actions. In January 2021, Ambassador Richard Mills, then-Acting U.S. Representative to the United Nations, announced in a U.N. Security Council meeting that the Biden Administration would seek to reengage with Palestinian leaders and people, resume economic development and humanitarian aid, and preserve the viability of a negotiated two-state solution. Ambassador Mills also stated

> In this vein, the United States will urge Israel's government and the Palestinian Authority to avoid unilateral steps that make a two-state solution more difficult, such as annexation of territory, settlement activity, demolitions, incitement to violence, and providing compensation for individuals imprisoned for acts of terrorism. We hope it will be possible to start working to slowly build confidence on both sides to create an environment in which we might once again be able to help advance a solution.[14]

While Administration officials have stated their desires to build on the Abraham Accords, the State Department spokesperson has said that continued efforts at Arab-Israeli normalization should "contribute to tangible progress towards the goal of advancing a negotiated peace between Israelis and Palestinians."[15] In his January speech before the U.N. Security Council, Ambassador Mills said:

> [Israeli and Palestinian leaders] are far apart on final-status issues, Israeli and Palestinian politics are fraught, and trust between the two sides is at a nadir. However, these realities do not relieve Member States of the responsibility of trying to preserve the viability of a

[10] The Arab Peace Initiative offers a comprehensive Arab peace with Israel if Israel were to withdraw fully from the territories it occupied in 1967, agree to the establishment of a Palestinian state with a capital in East Jerusalem, and provide for the "[a]chievement of a just solution to the Palestinian Refugee problem in accordance with UN General Assembly Resolution 194." The initiative was proposed by Saudi Arabia and adopted by the 22-member League of Arab States in 2002, and later accepted by the then-56-member Organization of the Islamic Conference (now the 57-member Organization of Islamic Cooperation) at its 2005 Mecca summit. The text of the initiative is available at http://www.bitterlemons.org/docs/summit.html.

[11] Annelle Sheline, "Trump's Win Is a Loss for the Middle East," *Politico Magazine*, August 14, 2020.

[12] Jacob Magid, "US assured UAE it won't back Israel annexation before 2024 at earliest, ToI told," *Times of Israel*, September 13, 2020. For information on the annexation issue, see CRS Report R46433, *Israel's Possible Annexation of West Bank Areas: Frequently Asked Questions*, by Jim Zanotti.

[13] Walid Mahmoud and Muhammad Shehada, "Palestinians unanimously reject UAE-Israel deal," *Al Jazeera*, August 14, 2020.

[14] U.S. Mission to the United Nations, Ambassador Richard Mills, Remarks at a UN Security Council Open Debate on the Situation in the Middle East (via VTC), January 26, 2021.

[15] Ned Price, State Department Spokesperson, Department Press Briefing – February 2, 2021.

> two-state solution. Nor should they distract from the imperative of improving conditions on the ground, particularly the humanitarian crisis in Gaza.[16]

In a March 10, 2021, hearing before the House Foreign Affairs Committee, Secretary of State Antony Blinken stated that the United States has an obligation to seek to advance the prospects for a two-state solution, saying that it "is ultimately the only way that Israel will truly be secure as a Jewish and democratic state and the Palestinians will have the state to which they are entitled."

One news outlet reportedly obtained an internal State Department proposal entitled "The US Palestinian Reset and the Path Forward" in March 2021.[17] According to the source, the proposal—which is reportedly still subject to interagency review—recommends various steps for the Administration in line with the above statements, including

- Going back to the pre-Trump U.S. position on a negotiated two-state solution, based on "the 1967 lines with mutually agreed equivalent swaps."[18]
- Reversing "certain steps by the prior administration that bring into question our commitment or pose real barriers to a two-state solution," such as the product labeling changes mentioned above under then-Secretary Pompeo in November 2020.
- Resuming diplomatic contacts with PLO/PA leaders.
- $15 million in Coronavirus Disease 2019 (COVID-19)-related humanitarian assistance for the Palestinians as early as March 2021.
- Restarting U.S. economic, security, and humanitarian aid to the Palestinians in late March or early April, including via contributions to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

Regarding the U.S. position on Jerusalem, a spokesperson for President Biden confirmed in February that "our embassy will remain in Jerusalem, which we recognize as Israel's capital. The ultimate status of Jerusalem is a final status issue which will need to be resolved by the parties in the context of direct negotiations."[19]

COVID-19 Vaccinations for Palestinians

Israel has been vaccinating its population against Coronavirus Disease 2019 (COVID-19) at one of the fastest rates in the world. Vaccinations for Palestinians in the West Bank and Gaza have proceeded at a significantly slower pace, partly due to Israel having more wealth and international bargaining power than the PA.

In early 2021, this disparity has led PA officials and some observers—including the World Bank—to call for greater efforts by Israel to share vaccines with Palestinians, and to assist the PA in procuring additional vaccines more expeditiously.[20] The PA anticipates purchasing or receiving additional vaccines from other countries and

[16] U.S. Mission to the United Nations, Ambassador Richard Mills.

[17] Joyce Karam, "'The National' obtains US official document for Palestinian 'reset,'" *The National* (UAE), March 17, 2021.

[18] This was the formula articulated by then-Secretary of State John Kerry in December 2016. Secretary of State John Kerry, Remarks on Middle East Peace, Washington, DC, December 28, 2016. The "1967 lines" refer to the 1949-1967 Israel-Jordan armistice line for the West Bank (commonly known as the Green Line) and the 1950-1967 Israel-Egypt armistice line for the Gaza Strip.

[19] Niels Lesniewski, "White House confirms Biden will keep embassy in Jerusalem," *Roll Call*, February 9, 2021.

[20] World Bank, *Economic Monitoring Report to the Ad Hoc Liaison Committee*, February 23, 2021, pp. 26-27.

international programs to cover a majority of West Bank and Gaza residents, but questions surround how and when this might happen.[21]

Debate is ongoing regarding Israel's legal responsibility for the emergency health care needs of West Bank and Gaza residents, given Israel's control over many aspects of Palestinian life.[22] Israel has transferred some vaccines to the PA, and has started efforts to vaccinate Palestinians working in Israel or Israeli settlements in the West Bank.[23] However, reports that Israel has sent or plans to send vaccines to other countries while Palestinians are in need of them has increased the criticism Israel faces from human rights organizations.[24] The State Department spokesperson has said that increased Palestinian access to COVID-19 vaccines is important for Israel's health and security as well.[25]

The following are key issues that the Biden Administration and Congress are addressing or likely to address.

Resuming U.S. Aid

As mentioned above, the Biden Administration apparently may resume economic development, security, and humanitarian aid programs for Palestinians in the West Bank and Gaza (see also "Gaza's Challenges" below) as early as March or April 2021. As noted earlier, in 2019 the Trump Administration suspended all U.S. aid to the Palestinians,[26] after a number of measures by the Administration and Congress in 2018 to halt or limit various types of aid.[27] Some of these measures reflected Trump Administration policies that unsuccessfully sought to compel Palestinian leaders to resume dialogue with U.S. officials and accept U.S. and Israeli negotiating demands. Other measures, such as the Taylor Force Act (TFA, enacted in March 2018 as Div. S, Title X of P.L. 115-141, and discussed further below), attracted bipartisan support.

In his January speech, Ambassador Mills asserted, "U.S. assistance benefits millions of ordinary Palestinians and helps to preserve a stable environment that benefits both Palestinians and

[21] Ibid., pp. 22-23.

[22] Eyal Benvenisti, "Israel is Legally Obligated to Ensure the Population in the West Bank and Gaza Strip Are Vaccinated," *Just Security*, January 7, 2021; Alan Baker, "Israel, the Palestinians, and the COVID-19 Vaccines: The New Blood-Libel," Jerusalem Center for Public Affairs, January 14, 2021. Israeli claims that the PA is primarily responsible for health care in the West Bank and Gaza appear to be based on Article 17 of Annex III to the 1995 Israel-Palestinian Interim Agreement on the West Bank and the Gaza Strip. While Article 17 transfers general responsibility for health care to the PA, it also calls for Israeli-Palestinian cooperation in combating epidemics and mutual assistance in cases of emergency. Claims that Israel bears primary responsibility for emergency health care appear to stem from Article 56 of the Fourth Geneva Convention, which provides that an occupying power has a duty to take measures to combat the spread of contagious diseases and epidemics. While a number of U.N. Security Council Resolutions (spanning from Resolution 242 of 1967 to Resolution 2334 of 2016) describe Israel as the occupying power in the West Bank and Gaza, Israel disputes this characterization. Regarding the West Bank, see footnote 79. Regarding Gaza, Israel claims that it ceded responsibility when it withdrew its troops and settlers from Gaza's urban areas in 2005, while some observers argue that its responsibility continues because Israel maintains effective control over most of the territory's access points.

[23] "Israel begins vaccinating Palestinian workers after delays," *Associated Press*, March 8, 2021.

[24] Patrick Kingsley, et al., "Israel Secretly Agrees to Fund Vaccines for Syria as Part of Prisoner Swap," *New York Times*, February 20, 2021; Patrick Kingsley, "Israel Vaccines Go to Far-Off Allies Before Palestinians," *New York Times*, February 24, 2021.

[25] Ned Price, State Department Spokesperson, Department Press Briefing – February 23, 2021.

[26] CRS Report R46274, *The Palestinians and Amendments to the Anti-Terrorism Act: U.S. Aid and Personal Jurisdiction*, by Jim Zanotti and Jennifer K. Elsea.

[27] CRS Report RS22967, *U.S. Foreign Aid to the Palestinians*, by Jim Zanotti.

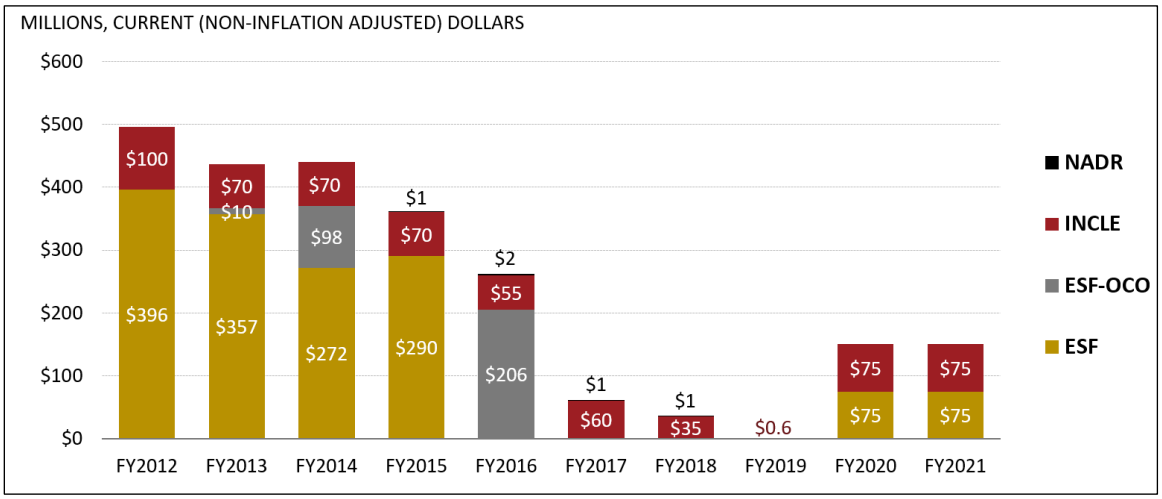
Israelis."[28] Past Administrations have used similar rationales to justify U.S. aid to the Palestinians. After the peace process began between Israel and the PLO in the 1990s, U.S. bilateral aid to the Palestinians in the West Bank and Gaza Strip supported U.S. efforts to incline the newly established PA toward better governance and economic development, and away from violence against Israel. Accordingly, Congress routinely attaches a number of conditions to aid to the Palestinians in annual appropriations language.[29]

Types of Aid

Aid appropriated by Congress for the Palestinians for FY2020 and FY2021 is available for obligation from the following accounts (see **Figure 3**):

- **Economic Support Fund (ESF)** aid would be the main channel for economic development and humanitarian assistance through NGO implementing partners in the West Bank and Gaza.
- **International Narcotics Control and Law Enforcement (INCLE)** aid funding would go toward nonlethal assistance programs that the United States started for the PA's security forces and justice sector in the West Bank in 2008.

Figure 3. U.S. Bilateral Aid to the Palestinians, FY2012-FY2021



Sources: U.S. State Department and U.S. Agency for International Development (USAID), adapted by CRS.

Notes: All amounts are approximate. Amounts for FY2020 and FY2021 have been appropriated but not obligated. NADR = Nonproliferation, Antiterrorism, Demining, and Related Programs, INCLE = International Narcotics Control and Law Enforcement, ESF = Economic Support Fund, OCO = Overseas Contingency Operations.

Additionally, the Administration could resume humanitarian assistance contributions to UNRWA for more than 5 million registered refugees in the West Bank, Gaza, Lebanon, Jordan, and Syria (see **Table 2**). Such contributions have come in the past from the Migration and Refugee Assistance account. Since the suspension of U.S. contributions in 2018, UNRWA has relied on contributions from other international donors, and adjusted its provision of education, health care, and other social services to help reduce expenses—sometimes delaying payment of salaries to its

[28] U.S. Mission to the United Nations, Ambassador Richard Mills.

[29] See, for example, sections 7037-7040, and 7041(k) of the Consolidated Appropriations Act, 2021 (P.L. 116-260).

employees.[30] Total donor pledges to UNRWA for calendar year 2020 were $940 million, compared with $1.121 billion for calendar year 2017 (the last year to date featuring regular U.S. contributions).[31] UNRWA is seeking $1.5 billion in pledges for calendar year 2021.[32] When asked about a possible resumption of U.S. contributions to UNRWA in a March 1, 2021, press briefing, the State Department spokesperson said "we intend to provide assistance that will benefit all Palestinians, including refugees. We are in the process of determining how to move forward on resuming all forms of that assistance consistent with U.S. law." As mentioned above, the reported State Department proposal anticipates providing U.S. contributions to UNRWA.[33]

For background information on the above-mentioned types of U.S. aid to the Palestinians, see CRS Report RS22967, *U.S. Foreign Aid to the Palestinians*, by Jim Zanotti.

Table 2. Historical U.S. Government Contributions to UNRWA

(in $ millions, non-inflation adjusted)

Fiscal Year(s)	Amount	Fiscal Year(s)	Amount
1950-1989	1,473.3	2005	108.0
1990	57.0	2006	137.0
1991	75.6	2007	154.2
1992	69.0	2008	184.7
1993	73.8	2009	268.0
1994	78.2	2010	237.8
1995	74.8	2011	249.4
1996	77.0	2012	233.3
1997	79.2	2013	294.0
1998	78.3	2014	398.7
1999	80.5	2015	390.5
2000	89.0	2016	359.5
2001	123.0	2017	359.3
2002	119.3	2018	65.0
2003	134.0	2019	-0-
2004	127.4	2020	-0-
		TOTAL	**6,248.8**

Source: U.S. State Department.

Note: All amounts are approximate.

[30] With the exception of 158 international staff posts funded by the United Nations General Assembly through the UN regular budget, UNRWA operations are supported through voluntary contributions. UNRWA, *Annual Operational Report 2019*, p. 21.

[31] See, for example, UNRWA's Funding Trends portal at https://www.unrwa.org/how-you-can-help/government-partners/funding-trends; UNRWA, *Annual Operational Report 2019*.

[32] UNRWA press statement, UNRWA Appeals for US$1.5 Billion to Support Palestine Refugees in 2021, February 11, 2021. The appeal is intended to cover $806 million for core services, $231 million for emergency humanitarian assistance, $318 million to address the effects of the Syria conflict on Palestinian refugees, and $170 million for priority facilities construction and core services improvement projects.

[33] Karam, "'The National' obtains US official document for Palestinian 'reset.'"

Potential New U.S. Funds for Israeli-Palestinian Cooperation

As part of the FY2021 Consolidated Appropriations Act enacted in December 2020, the Nita M. Lowey Middle East Partnership for Peace Act of 2020 (Div. K, Title VIII of P.L. 116-260) authorized the establishment of the following two funds, as well as $50 million (Congress can specify how to allocate any future appropriations among the two authorized funds) for each of the next five years (FY2022-FY2026):

People-to-People Partnership for Peace Fund is authorized to be established by the Administrator of the U.S. Agency for International Development (USAID) as early as December 2021. If established, the fund would support dialogue and reconciliation programs, as well as other projects designed "to help build the foundation for peaceful co-existence between Israelis and Palestinians and for a sustainable two-state solution and an initiative to promote Israeli-Palestinian economic cooperation."

Joint Investment for Peace Initiative is authorized to be established by the Chief Executive of the U.S. International Development Finance Corporation (DFC) as early as June 2021. If established, the initiative would "provide investments in, and support to, entities that carry out projects that contribute to the development of the Palestinian private sector economy in the West Bank and Gaza," and would "prioritize support to projects that increase economic cooperation between Israelis and Palestinians." A former PLO adviser has raised concerns that the authorizing legislation does not explicitly preclude Israeli settlers in the West Bank from receiving funding from the initiative.[34]

Taylor Force Act (TFA) and PLO/PA Payments "for Acts of Terrorism"

The Biden Administration has said that any resumption of aid to the Palestinians would comply with the TFA. The TFA discourages certain PLO/PA payments "for acts of terrorism" by prohibiting most Economic Support Fund aid (ESF) that "directly benefits" the PA. During the legislative process for the TFA, some Members of Congress argued that these PLO/PA payments—made to Palestinians (and/or their families) who are imprisoned for or accused of terrorism by Israel—provide incentives for Palestinians to commit terrorist acts. For more information on violence and terrorism by Palestinians, see **Appendix A**.

Palestinian Payments for "Martyrs" and Prisoners

The Palestinian practice of compensating families who lost a member (combatant or civilian) in connection with Israeli-Palestinian violence reportedly dates back to the 1960s.[35] Palestinian payments on behalf of prisoners or decedents in their current form apparently "became standardized during the second *intifada* [uprising] of 2000 to 2005."[36] Various PA laws and decrees since 2004 have established parameters for payments.[37] U.S. lawmakers and executive branch officials have condemned the practice to the extent it might incentivize violence, focusing particular criticism on an apparent tiered structure that provides higher levels of compensation for prisoners who receive longer sentences.[38]

[34] Zaha Hassan, "How a Proposed New Fund to Bolster the Palestinian Economy Stands to Benefit Israeli Settlers," *Responsible Statecraft*, September 2, 2020.

[35] Neri Zilber, "An Israel 'Conspiracy Theory' That Proved True—but Also More Complicated," theatlantic.com, April 27, 2018.

[36] Eli Lake, "The Palestinian incentive program for killing Jews," *Bloomberg*, July 11, 2016.

[37] Yossi Kuperwasser, "Incentivizing Terrorism: Palestinian Authority Allocations to Terrorists and their Families," Jerusalem Center for Public Affairs, at http://jcpa.org/paying-salaries-terrorists-contradicts-palestinian-vows-peaceful-intentions/.

[38] See, for example, Corker Opening Statement at Hearing on Taylor Force Act, July 12, 2017, https://www.corker.senate.gov/public/index.cfm/news-list?ID=CFA1D96C-2FF8-4A70-9C29-49451ADD90AE; Joel Gehrke, "House passes bill that could cut off Palestinian Authority funding due to aid of terrorists' families," *Washington Examiner*, December 5, 2017. For an analysis arguing that these PLO/PA payments are not the primary drivers of violence against Israel, see Shibley Telhami, "Why the discourse about Palestinian payments to prisoners' families is distorted and misleading," Brookings Institution, December 7, 2020.

As mentioned above, the TFA prohibits most ESF directly benefitting the PA, with specific exceptions for the East Jerusalem Hospital Network, and a certain amount for wastewater projects and vaccination programs. Thus, any new U.S. aid for economic development and humanitarian purposes presumably either would come under those exceptions, or would be deemed by the Administration not to directly benefit the PA. The Administration can only lift the TFA's restrictions if it certifies that the PLO/PA has ended or significantly changed the payments in question in such a way that they do not incentivize acts of terrorism, and also certifies that the PLO/PA is taking additional steps to oppose violence against Israelis and Americans. It appears unlikely that bilateral aid would return to pre-Trump Administration levels absent such certifications.[39]

The prospect of significantly changing these payments may encounter strong domestic opposition among Palestinians. Media reports in late 2020 suggested that the PA might be considering changes—if it can make them domestically palatable—in hopes of removing obstacles to U.S. aid.[40] PA officials may also be focused on recouping the full amount of taxes that Israel collects on the PA's behalf. After Congress and the Trump Administration enacted the TFA, Israel enacted a law in 2018 by which it withholds the transfer of these taxes by the amount of PLO/PA payments Israel estimates to be for acts of terrorism.[41] A past adviser to Palestinian negotiating teams has said to CRS that major changes to the PLO/PA payments are implausible—given a heightened focus on catering to domestic sentiment—in the context of possible elections in 2021 (see "PA Elections and Leadership Succession" below).[42]

Diplomatic Offices

As part of the Biden Administration's efforts to reengage with the Palestinians, it intends to "take steps to re-open diplomatic missions that were closed by the last U.S. administration."[43] This statement apparently refers to the PLO representative office in Washington, DC, that the Trump Administration caused to close in 2018, and the U.S. consulate general in Jerusalem—which had operated for decades as an independent diplomatic mission engaging the Palestinians—that the Trump Administration merged into the U.S. embassy to Israel in 2019.

PLO Office in Washington, DC

In September 2018, the State Department announced that the office maintained by the PLO in Washington, DC, would cease operating. Though not diplomatically accredited, the office had functioned since the 1990s as a focal point for U.S.-Palestinian relations.

[39] David Makovsky, *Building Bridges for Peace: U.S. Policy Toward Arab States, Palestinians, and Israel*, Washington Institute for Near East Policy, January 2021.

[40] Adam Rasgon and David M. Halbfinger, "Seeking Restart with Biden, Palestinians Eye End to Prisoner Payments," *New York Times*, November 19, 2020.

[41] Ruth Levush, Law Library of Congress, "Israel: Law on Freezing Revenues Designated for Palestinian Authority," Updated December 30, 2020.

[42] CRS email interview with Ghaith al-Omari,

[43] U.S. Mission to the United Nations, Ambassador Richard Mills.

PLO Office in Washington, DC: Timeline of Key Events

1978	PLO opens office in Washington, DC, to disseminate information about itself and the Palestinian cause.
1987	Congress passes the Anti-Terrorism Act of 1987 (Title X of P.L. 100-204), which (under Section 1003) prohibits the PLO from maintaining an office in the United States. President Reagan signs P.L. 100-204 in December but adds a signing statement saying that "the right to decide the kind of foreign relations, if any, the United States will maintain is encompassed by the President's authority under the Constitution, including the express grant of authority in Article II, Section 3, to receive ambassadors."[44] The State Department instructs the PLO to close its office.
1994	As the Oslo peace process gets underway, the PLO opens a representative office in Washington, DC. Despite the prohibition of a PLO office in P.L. 100-204, Congress provides waiver authority to the executive branch.
1997	The PLO office briefly closes after a lapse in waiver authority, and reopens after Congress reinstitutes the waiver and the executive branch exercises it.
2017	The State Department announces in November that it cannot renew the waiver (required every six months in annual appropriations legislation) because of statements made by Palestinian leaders about the International Criminal Court (ICC),[45] but allows the PLO office to remain open so long as its activities are limited "to those related to achieving a lasting, comprehensive peace between the Israelis and Palestinians."[46] A State Department spokesperson justifies the actions by saying that they "are consistent with the president's authorities to conduct the foreign relations of the United States."[47]
2018	The State Department announces the closure of the PLO office in September.

It is unclear whether the Administration can legally authorize the PLO to reopen its Washington office. Under the annual appropriations language found in Section 7041(k) of the Consolidated Appropriations Act, 2021 (P.L. 116-260), the general prohibition in Section 1003 of P.L. 100-204 on a PLO office can only be waived by the President if he can certify that the Palestinians have not "actively supported an ICC investigation against Israeli nationals for alleged crimes against Palestinians." This is the same waiver requirement that the State Department determined in November 2017 could not be met because of Palestinian statements regarding ICC proceedings relating to Israelis. However, in September 2018, the Justice Department issued a memorandum opinion for the State Department's legal adviser stating that Congress cannot dictate State Department actions regarding the status of the PLO office—via P.L. 100-204 or other legislation—because the President has exclusive constitutional authority "to receive foreign diplomatic agents in the United States and to determine the conditions under which they may operate."[48]

[44] President Ronald Reagan, Statement on Signing the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, December 22, 1987, available at https://www.presidency.ucsb.edu/documents/statement-signing-the-foreign-relations-authorization-act-fiscal-years-1988-and-1989.

[45] State Department Press Briefing, November 21, 2017.

[46] Josh Lederman, "US backtracks on decision to close Palestinian office in DC," Associated Press, November 24, 2017.

[47] State Department spokesperson Edgar Vasquez, quoted in "US backtracks on decision to close Palestinian office in DC," *Associated Press*, November 24, 2017.

[48] U.S. Department of Justice, Office of Legal Counsel, Statutory Restrictions on the PLO's Washington Office, September 11, 2018, available at https://www.justice.gov/sites/default/files/opinions/attachments/2021/01/19/2018-09-11-plo-office.pdf.

A separate question is whether the PLO would be willing to reopen its Washington office. Under the Promoting Security and Justice for Victims of Terrorism Act of 2019 (PSJVTA, Section 903 of P.L. 116-94), which became law in December 2019, the PLO's establishment of an office in the United States could subject it to liability in U.S. courts for terrorism-related lawsuits. The extent to which Congress can provide by statute that a foreign entity is deemed to consent to personal jurisdiction by establishing or maintaining facilities in the United States appears to be untested in the U.S. legal system.[49] However, the PSJVTA provision has reportedly given Palestinian officials and advisers pause about reopening the PLO office, and has led them to engage with the Administration and Congress about a possible amendment to the PSJVTA to facilitate the office's reopening.[50]

U.S. Consulate General in Jerusalem

Since the 2019 merger of the U.S. consulate general in Jerusalem into the U.S. embassy to Israel, U.S. diplomats in Jerusalem have conducted relations with the Palestinians via the embassy's Palestinian Affairs Unit. Reversing the merger would presumably reestablish the consulate general as an independent diplomatic mission that would work in parallel with, rather than as a part of, the embassy. Practically, however, reestablishing the consulate general would probably require Israel's approval given the need for cooperation from Israeli authorities to issue visas to and help protect U.S. diplomats.[51] Given Israel's insistence that the entire Jerusalem municipality is its capital, the U.S. opening of an embassy there in 2018, and political considerations associated with Israel's upcoming March 23 election and government formation process, Israeli approval for a separate U.S. diplomatic mission in Jerusalem focusing on the Palestinians could be politically fraught. The reported State Department proposal mentioned above indicates that the Administration is reviewing options on this issue.[52]

International Organizations

In General

The PLO has pursued a number of initiatives—either directly or with the help of supportive countries—in international organizations to advance its claims to statehood and other positions it takes vis-à-vis Israel. The United States and Israel generally oppose these initiatives and criticize international organizations for negative treatment of Israel.

In February 2021, Secretary of State Blinken announced that the United States would reengage with the U.N. Human Rights Council—from which the Trump Administration withdrew in June 2018—as an observer. Secretary Blinken said

> We recognize that the Human Rights Council is a flawed body, in need of reform to its agenda, membership, and focus, including its disproportionate focus on Israel. However, our withdrawal in June 2018 did nothing to encourage meaningful change, but instead

[49] For background information on PSJVTA and this issue, see CRS Report R46274, *The Palestinians and Amendments to the Anti-Terrorism Act: U.S. Aid and Personal Jurisdiction*, by Jim Zanotti and Jennifer K. Elsea.

[50] "Biden pledge to reopen PLO mission in Washington faces legal hurdles," *Reuters*, January 29, 2021.

[51] Shira Efron and Ibrahim Eid Dalalsha, "Reopening the U.S. Consulate in Jerusalem: Subject to Israeli Discretion?" Israel Policy Forum, January 14, 2021.

[52] Karam, "'The National' obtains US official document for Palestinian 'reset.'"

created a vacuum of U.S. leadership, which countries with authoritarian agendas have used to their advantage.[53]

For more on Palestinian initiatives in international fora, see **Appendix E**.

International Criminal Court (ICC) Actions[54]

Background

The International Criminal Court (ICC) is in the early stages of an investigation into possible crimes committed by Israelis and Palestinians in the West Bank (including East Jerusalem) and the Gaza Strip since June 13, 2014. The ICC can exercise jurisdiction over alleged genocide, war crimes, and crimes against humanity ("ICC crimes") that occur on the territory of or are perpetrated by nationals of an entity deemed to be a State

- after the Rome Statute enters into force for a State Party;
- during a period of time in which a nonparty State accepts jurisdiction; or
- pursuant to a U.N. Security Council resolution referring the situation in a State to the ICC.

The following actions by Palestinian leaders have influenced the overall context in which the ICC's actions have taken place:

- In January 2015, Palestinian leaders deposited an instrument of accession for the "State of Palestine" to become party to the Rome Statute of the ICC, after declaring acceptance in December 2014 of ICC jurisdiction over crimes allegedly "committed in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014."
- Later in January 2015, the U.N. Secretary-General, acting as depositary, stated that the Rome Statute would enter into force for the "State of Palestine" on April 1, 2015.[55]
- Later that same month, the ICC Prosecutor opened a preliminary examination into the "situation in Palestine" to determine "whether there is a reasonable basis to proceed with an investigation" against Israelis, Palestinians, or others, having found that the Palestinians had the proper capacity to accept ICC jurisdiction in light of the November 2012 adoption of U.N. General Assembly Resolution 67/19.[56] As mentioned in **Appendix E**, Resolution 67/19 had changed the permanent U.N. observer status of the PLO (aka "State of Palestine") from an "entity" to a "non-member state."
- Palestinian leaders provided information to the ICC on alleged Israeli crimes regarding both the summer 2014 Israel-Gaza conflict and settlement activity in

[53] Secretary of State Antony J. Blinken, U.S. Decision To Reengage with the UN Human Rights Council, February 8, 2021.

[54] Matthew C. Weed, Specialist in Foreign Policy Legislation, assisted in preparing this subsection.

[55] U.N. Secretary-General Rome Statute Depositary Notification for the State of Palestine, January 6, 2015, https://treaties.un.org/doc/Publication/CN/2015/CN.13.2015-Eng.pdf.

[56] ICC Press Release, "The Prosecutor of the International Criminal Court, Fatou Bensouda, opens a preliminary examination of the situation in Palestine," January 16, 2015.

> the West Bank. In May 2018, Palestinian leaders made a formal referral of the "situation in Palestine" to the Prosecutor.[57]

As referenced above, the State Department cited Palestinian actions relating to the ICC in connection with the 2018 closure of the PLO office in Washington, DC. Various U.S. and Israeli officials have denounced Palestinian efforts that could subject Israelis to ICC investigation or prosecution.[58] Neither the United States nor Israel is a State Party to the Rome Statute.

Palestinian accession and acceptance of jurisdiction grant the ICC Prosecutor authority to investigate all alleged ICC crimes committed after June 13, 2014, by any individual—Israeli, Palestinian, or otherwise—on "occupied Palestinian territory." However, Palestinian actions do not ensure any formal ICC prosecution of alleged ICC crimes. A party to the Rome Statute can refer a situation to the Court and is required to cooperate with the Prosecutor on investigations, but it is the role of the Prosecutor to determine whether to bring charges against and prosecute an individual. In addition, a case is inadmissible before the ICC if it concerns conduct that is the subject of "genuine" legal proceedings (as described in Article 17 of the Statute) brought by a state with jurisdiction, including a state (such as Israel) that is not party to the Statute.

The ICC Prosecutor is required to notify all states with jurisdiction over a potential case, and such states are afforded the opportunity to challenge ICC jurisdiction over a case on inadmissibility grounds.

Investigation of Possible Crimes in West Bank and Gaza

On March 3, 2021, current ICC Prosecutor Fatou Bensouda announced that she was opening an investigation of possible ICC crimes in the West Bank and Gaza.[59] She had previously sought a ruling from a pre-trial chamber to confirm her determination that the ICC has jurisdiction over the situation generally, and to determine the extent of the Court's territorial jurisdiction specifically.[60] In a 2-1 decision, the chamber ruled in February 2021 that the ICC has jurisdiction in the West Bank and Gaza (including East Jerusalem), based on the Palestinians' status as a State Party to the Rome Statute.[61] Israel had argued that the ICC should not have jurisdiction in those territories because Palestinians do not have sovereign control there.[62]

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[57] ICC Statement, "Statement by ICC Prosecutor, Mrs Fatou Bensouda, on the referral submitted by Palestine," May 22, 2018.

[58] See, for example, "Bolton warns ICC not to go after Israel, confirms closure of PLO's DC office," *Times of Israel*, September 10, 2018.

[59] ICC, Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine, March 3, 2021.

[60] ICC, Statement of ICC Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination of the Situation in Palestine, and seeking a ruling on the scope of the Court's territorial jurisdiction, December 20, 2019.

[61] ICC, Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine,' February 5, 2021. In a partly dissenting opinion (available at https://www.icc-cpi.int/RelatedRecords/CR2021_01167.PDF), Judge Péter Kovács argued that the ICC's jurisdiction in the West Bank should be limited to the competences transferred to the PA in the 1995 Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, leading to an interpretation that might require Israel's consent to ICC investigations of Israeli nationals.

[62] Israeli Attorney General, *The International Criminal Court's Lack of Jurisdiction over the So-Called "Situation in Palestine,"* December 20, 2019. Germany, Brazil, Australia, Uganda, the Czech Republic, Austria, and Hungary had filed *amicus curiae* briefs with the pre-trial chamber offering arguments in line with Israel's objections to territorial, while the League of Arab States and Organization of Islamic Cooperation had filed briefs in support of territorial jurisdiction.

Broader Impact of ICC Pre-Trial Chamber Ruling?

The ICC pre-trial chamber's February 2021 decision stated that because the ICC exercises jurisdiction over natural persons rather than states, its decision "is strictly limited to the question of jurisdiction set forth in the Prosecutor's Request and does not entail any determination on the border disputes between Palestine and Israel." Yet, Palestinians and other international actors could use the decision to support for Palestinian statehood and territorial claims.[63]

In response to the opening of an ICC investigation, Secretary of State Blinken said on March 3

> The United States firmly opposes and is deeply disappointed by this decision. The ICC has no jurisdiction over this matter. Israel is not a party to the ICC and has not consented to the Court's jurisdiction, and we have serious concerns about the ICC's attempts to exercise its jurisdiction over Israeli personnel. The Palestinians do not qualify as a sovereign state and therefore, are not qualified to obtain membership as a state in, participate as a state in, or delegate jurisdiction to the ICC.…
>
> Moreover, the United States believes a peaceful, secure and more prosperous future for the people of the Middle East depends on building bridges and creating new avenues for dialogue and exchange, not unilateral judicial actions that exacerbate tensions and undercut efforts to advance a negotiated two-state solution.
>
> We will continue to uphold our strong commitment to Israel and its security, including by opposing actions that seek to target Israel unfairly.[64]

On March 11, 54 Senators sent a letter to Secretary Blinken commending his statements, and urging him to work with like-minded international partners to "steer the ICC away from further actions that could damage the Court's credibility by giving the appearance of political bias."[65]

While Palestinian leaders (from both the PLO/PA and Hamas) welcomed the news of an ICC investigation,[66] leading Israeli political figures roundly denounced it, with Prime Minister Binyamin Netanyahu calling the decision to investigate biased and anti-Semitic.[67]

It is unclear how far the investigation might proceed before Prosecutor Bensouda's term ends in June, and how her successor, Karim Khan (currently serving as a U.N. Assistant Secretary-General),[68] might choose to handle it.[69] The investigation could focus on a number of possible war crimes from Israeli and Palestinian actions, including

- actions by Israel, Hamas, and other Palestinian militant groups during their 2014 conflict in Gaza;
- lethal force used by Israeli soldiers in 2018-2019 against some Palestinian protestors in Gaza seeking to breach or approach the administrative boundary with Israel;

[63] Tovah Lazaroff, "Eight things to know about the ICC war crimes suits against Israel," jpost.com, February 7, 2021.

[64] Secretary of State Antony J. Blinken, The United States Opposes the ICC Investigation into the Palestinian Situation, March 3, 2021.

[65] Text of letter available at https://www.portman.senate.gov/newsroom/press-releases/portman-cardin-lead-bipartisan-senate-call-secretary-blinken-continue.

[66] "ICC prosecutor opens war crimes probe in Palestinian territories," *Al Jazeera*, March 3, 2021.

[67] "Netanyahu: ICC war crimes probe is 'pure antisemitism,'" jpost.com, March 4, 2021.

[68] Since 2017, Assistant Secretary-General Khan has served as the Special Adviser and Head of the Investigative Team established pursuant to U.N. Security Council Resolution 2379 (2017) to promote accountability efforts for genocide, crimes against humanity and war crimes committed by the Islamic State in Iraq and the Levant (ISIL) in Iraq.

[69] "ICC opens 'war crimes' investigation in West Bank and Gaza," *BBC News*, March 3, 2021.

- other Israeli actions in and around the West Bank and Gaza, including settlement activity; and
- possible PA (West Bank) and Hamas (Gaza) human rights abuses.

An investigation could take months or years before the Prosecutor makes decisions on bringing specific charges against individuals. As mentioned above, if an ICC investigation produces any case against Israelis or Palestinians concerning conduct that is the subject of "genuine" legal proceedings by a state having jurisdiction, it would be inadmissible. In Bensouda's March 3 announcement of the investigation, she said

> As a first step, the Office [of the Prosecutor] is required to notify all States Parties and those States which would normally exercise jurisdiction over the crimes concerned about its investigation. This permits any such State to request the Office to defer to the State's relevant investigation of its own nationals or others within its jurisdiction in relation to Rome Statute crimes referred to in the notification (subject to possible Pre-Trial Chamber review).[70]

One Israeli journalist, citing a legal expert, has written that "Israeli probes or potential probes into criminal activity by its soldiers in Gaza could sway Bensouda not to move forward on war crimes allegations with regard to Gaza."[71] In the same article, the journalist has written, "Israel has not simultaneously held criminal investigations into settlement activity – which it considers to be legal – and thus Bensouda is likely to move the matter of settlements forward to the phase of individual criminal charges."[72]

Possible U.S. Responses

It is unclear what diplomatic or other measures the Biden Administration might take to counter an ICC investigation focused on the West Bank and Gaza, including sanctions authorized by the Trump Administration. Under Executive Order 13928 from June 2020, President Trump authorized sanctions against foreign persons or entities involved in or supporting ICC investigations or actions targeting U.S. personnel or personnel of U.S. allies without the consent of the home government of those personnel.[73] In September 2020, the Trump Administration imposed sanctions under E.O. 13928 against Prosecutor Bensouda and another top ICC official in

[70] ICC, Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine, March 3, 2021.

[71] Lazaroff, "Eight things to know."

[72] Ibid.

[73] Executive Order 13928, Blocking Property of Certain Persons Associated with the International Criminal Court, June 11, 2020. Prior to E.O. 13928, 67 Senators and 262 Representatives sent letters to then-Secretary of State Michael Pompeo asserting that ICC jurisdiction in the West Bank and Gaza would be improper, and urging him to support Israel in challenging it. The text of the Senators' letter is available at https://www.cardin.senate.gov/newsroom/press/release/cardin-portman-lead-bipartisan-senate-call-for-pompeo-to-defend-israel-against-politically-motivated-investigations-by-the-international-criminal-court, and the text of the Representatives' letter is available at https://luria.house.gov/sites/luria.house.gov/files/wysiwyg_uploaded/2020.05.12%20Luria%20Gallagher%20letter%20to%20Sec%20Pompeo%20on%20ICC.pdf.

connection with an investigation regarding Afghanistan that could subject U.S. personnel to prosecution.[74] The Biden Administration has pledged to review these sanctions.[75]

Israeli Settlements in the West Bank

Israeli settlements in the West Bank have presented longstanding policy challenges for U.S. officials and lawmakers.[76] As mentioned above, the Trump Administration took a number of actions apparently aimed at providing greater legitimacy to Israeli settlements in the West Bank, including on product labeling and on funding for three U.S.-Israel binational foundations. Biden Administration officials have not announced whether they intend to reverse or otherwise address these Trump Administration actions, but have specified that the United States would urge Israel to avoid settlement activity or annexation of territory.[77] The reported State Department proposal mentioned above anticipates reversing the Trump Administration product labeling decision.[78]

Near the end of the Obama Administration in December 2016, the U.N. Security Council adopted Resolution 2334, with the United States abstaining and all other Security Council members in favor. Resolution 2334 reaffirmed that Israeli settlements in the West Bank (including East Jerusalem) violate international law, and called upon states to "distinguish, in their relevant dealings," between the territory of Israel and of the West Bank.[79]

Israeli officials have continued construction-related announcements regarding settlements in the West Bank and East Jerusalem. In January 2021, the planning authority that operates under Israeli military jurisdiction approved plans for hundreds of additional homes in settlements whose expansion deep within the West Bank could increase the difficulty of negotiating borders between Israel and a future Palestinian state.[80] Some observers say that construction in certain areas could present major obstacles to the territorial contiguity of a future Palestinian state (see **Figure 4**).

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[74] Treasury Department, Office of Foreign Assets Control, Blocking Property of Certain Persons Associated with the International Criminal Court Designations, September 2, 2020. For background information, see CRS Insight IN11428, *International Criminal Court: U.S. Sanctions in Response to Investigation of War Crimes in Afghanistan*, by Matthew C. Weed and Dianne E. Rennack.

[75] "Biden administration to review sanctions on International Criminal Court officials," *Reuters*, January 26, 2021.

[76] CRS Report R46433, *Israel's Possible Annexation of West Bank Areas: Frequently Asked Questions*, by Jim Zanotti; CRS Report RL33476, *Israel: Background and U.S. Relations*, by Jim Zanotti.

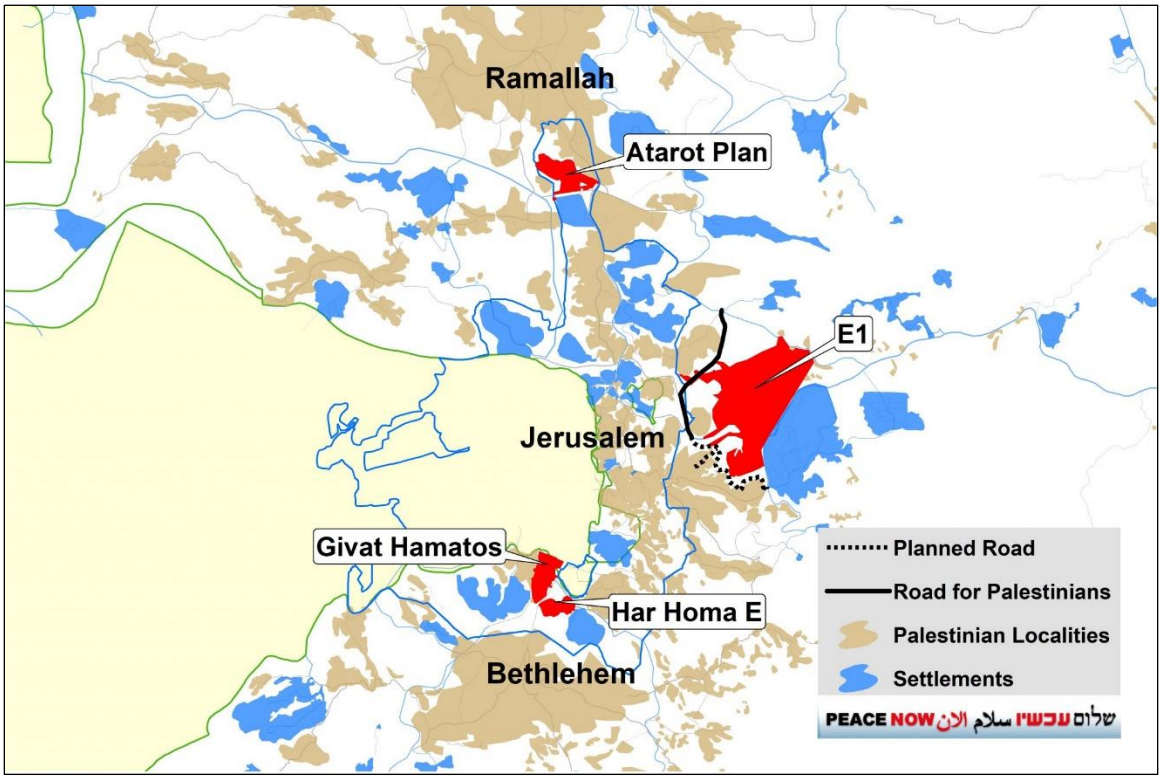
[77] U.S. Mission to the United Nations, Ambassador Richard Mills.

[78] Karam, "'The National' obtains US official document for Palestinian 'reset.'"

[79] The most-cited international law pertaining to Israeli settlements is the Fourth Geneva Convention, Part III, Section III, Article 49 *Relative to the Protection of Civilian Persons in Time of War*, August 12, 1949, which states in its last sentence, "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." Israel insists that the West Bank does not fall under the international law definition of "occupied territory," but is rather "disputed territory" because the previous occupying power (Jordan) did not have an internationally recognized claim to it (only a few countries recognized Jordan's 1950 annexation of the West Bank), and given the demise of the Ottoman Empire at the end of World War I and the end of the British Mandate in 1948, Israel claims that no international actor has superior legal claim to it. Israel Ministry of Foreign Affairs, Israeli Settlements and International Law, November 30, 2015. Jordan renounced its claims to the West Bank in 1988 in favor of the PLO.

[80] Peace Now, "780 Settlement Housing Units Approved Ahead of US Presidential Transition," January 17, 2021. See also David Makovsky, *Building Bridges for Peace: U.S. Policy Toward Arab States, Palestinians, and Israel*, Washington Institute for Near East Policy, January 2021, pp. 9-10.

Figure 4. Selected Planned Settlement Construction Areas in the West Bank and East Jerusalem



Source: Peace Now.

PA Elections and Leadership Succession

Uncertainty surrounds the future of Palestinian democracy and leadership, with questions about whether future elections are possible and who might eventually succeed Mahmoud Abbas (see textbox below for his biography) as leader of the national movement. Since divided rule took hold in 2007—with the Abbas-led PA in the West Bank, and Hamas in Gaza—periodic PA presidential or legislative elections for the West Bank, Gaza, and East Jerusalem have been on hold, and the Palestinian Legislative Council has ceased to function. Municipal elections for some West Bank cities and towns occurred in 2012 and 2017.

Mahmoud Abbas: Biography

Abbas (also known by his Arabic *kunya* as "Abu Mazen" or "the father of Mazen"—Abbas's oldest son) is generally regarded as the leader of the Palestinian national movement, given his status as the current PLO chairman, PA president, and head of Fatah—having succeeded Yasser Arafat upon his death in 2004. Abbas was elected as PA president in 2005 popular elections, and when his four-year term expired in 2009, the PLO Central Council voted to extend his term indefinitely until new elections could take place.

Abbas was born in 1935 in Safed in what is now northern Israel. Abbas and his family left for Syria as refugees in 1948 when Israel was founded. He earned a B.A. in law from Damascus University and a Ph.D. in history from Moscow's Oriental Institute.[81]

Abbas was an early member of Fatah, joining in Qatar. In the 1970s and 1980s, Abbas became a top deputy to Arafat when he headed Fatah and the PLO.[82] Abbas played an important role in negotiating the various Israeli-PLO agreements of the 1990s, and returned to the West Bank and Gaza in 1995.

In March 2003, Abbas was named as the first PA prime minister, but was not given full authority because Arafat (then the PA president) insisted on retaining ultimate decisionmaking authority and control over security services. Abbas resigned as prime minister in September 2003, apparently as a result of frustration with Arafat, the United States, and Israel.[83]

Since Abbas assumed the leadership of the Palestinian national movement after Arafat's death in 2004, he has been a part of the contentious negotiations and disputes that have largely characterized Palestinian relations with the United States and Israel, while also cooperating closely with both countries on security matters. While Abbas praises "martyrs" for the Palestinian cause, he also has made repeated public calls for nonviolent approaches to resolving Palestinian disputes with Israel.

Abbas appears motivated by a complex combination of factors that include safeguarding his personal authority and legacy, preventing destabilization and violence, and protecting his family members.[84] Some observers have argued that Abbas's rule became more authoritarian and corrupt after the Hamas takeover of Gaza in 2007 limited his authority there, and left the PA without a functioning legislature or realistic prospects for future elections.[85]

In January 2021, the PA announced plans for legislative elections on May 22 and presidential elections on July 31.[86] Whether elections take place may depend on various factors,[87] including

- Fatah and Hamas agreement on electoral lists, processes, adjudication, and security; and

[81] Some Jewish groups allege that Abbas's doctoral thesis and a book based on the thesis (entitled *The Other Side: The Secret Relationship Between Nazism and Zionism*) downplayed the number of Holocaust victims and accused Jews of collaborating with the Nazis. Abbas has maintained that his work merely cited differences between other historians on Holocaust victim numbers, and has stated that "The Holocaust was a terrible, unforgivable crime against the Jewish nation, a crime against humanity that cannot be accepted by humankind." "Profile: Mahmoud Abbas," *BBC News*, November 29, 2012.

[82] One of the Black September assassins involved in the 1972 Munich Olympics terrorist attack that killed 11 Israeli athletes has claimed that Abbas was responsible for financing the attack, even though Abbas "didn't know what the money was being spent for." Alexander Wolff, "The Mastermind," *Sports Illustrated*, August 26, 2002.

[83] James Bennet, "The Mideast Turmoil: The Leadership; Abbas Steps Down, Dealing Big Blow to U.S. Peace Plan," *New York Times*, September 7, 2003.

[84] See, for example, Daoud Kuttab, "Abbas bids adieu," *Al-Monitor*, August 1, 2018.

[85] Ibid.; Freedom House, *Freedom in the World 2020*, "West Bank."

[86] As part of these plans, Palestinian leaders also anticipate that a selection process for members of the Palestinian National Council (the PLO's legislature) would take place by the end of August 2021, with some inclusion of Hamas in the process. European Council on Foreign Relations, "Mapping Palestinian Politics."

[87] "Uncertainty as Palestine's Abbas announces elections," *Al Jazeera*, January 17, 2021.

- Israeli cooperation, especially on the question of permitting Palestinians in East Jerusalem to vote.

During the 14-year West Bank-Gaza split, Fatah and Hamas have reached a number of Egypt-brokered agreements aimed at ending the split and allowing elections to take place, but have generally not implemented these agreements. While Egyptian officials continue mediating Fatah-Hamas discussions, some observers remain skeptical about the likelihood of elections.[88] Some others raise the possibility of an arrangement where the two factions agree on a joint list of candidates for legislative elections, and Hamas refrains from running a presidential candidate.[89] The potential for various figures from Fatah to form separate electoral lists, if it does not spur reconciliation or reform within the faction, could undermine Fatah's prospects vis-à-vis Hamas.[90]

The historical memory of Hamas's surprise victory in the last PA elections to be held—the legislative elections of 2006—is likely to influence the various parties' calculations. After Hamas assumed control over PA ministries with its legislative majority, the United States and other Western actors significantly restructured assistance for the PA to prevent its use by those ministries. Changes made to U.S. law and annual appropriations legislation (see textbox below) remain possible constraints on aid to PA governments with Hamas participation or influence. The ensuing 2006-2007 struggle between Fatah and Hamas for control of the PA—fueled in part by external actors—contributed to the 2007 West Bank-Gaza split that created the divided rule of today.

Fatah-Hamas "Unity Government" Scenario and U.S. Aid

Per regular annual appropriations provisions, U.S. aid is generally not permitted for a power-sharing PA government that includes Hamas as a member, or that results from an agreement with Hamas and over which Hamas exercises "undue influence." This general restriction is only lifted if the President certifies that the PA government, including all ministers, has "publicly accepted and is complying with" the following two principles embodied in Section 620K of the Foreign Assistance Act of 1961, as amended by the Palestinian Anti-Terrorism Act of 2006 (PATA, P.L. 109-446): (1) recognition of "the Jewish state of Israel's right to exist" and (2) acceptance of previous Israeli-Palestinian agreements.[91] If the PA government is "Hamas-controlled," PATA applies additional conditions, limitations, and restrictions on aid.

It is unclear what implications the scheduled elections—whether or not they happen—will have for Palestinian governance and international relationships. Many observers assert that Abbas announced elections largely to show his commitment to democracy and Palestinian unity in a way that can build credibility and goodwill with the Biden Administration and other key international actors.[92] Passages from the reported State Department proposal mentioned above suggest that the Administration is proceeding cautiously regarding PA elections, in light of the 2006 elections' aftermath.[93] Open questions include whether elections can take place in a free and fair manner,

[88] Ghaith al-Omari, "Will the Palestinian Election Decree Produce Actual Elections?" Washington Institute for Near East Policy, PolicyWatch 3424, January 27, 2021.

[89] Dalia Hatuqa, "The New Palestinian Elections Are All Talk and No Action," foreignpolicy.com, February 2, 2021.

[90] Aziza Nofal, "Fatah sacks senior member, highlighting split ahead of elections," *Al-Monitor*, March 11, 2021.

[91] P.L. 116-260, §7040(f).

[92] Isabel Kershner and Adam Rasgon, "Abbas Announces Palestinian Elections After Years of Paralysis," *New York Times*, January 15, 2021.

[93] Karam, "'The National' obtains US official document for Palestinian 'reset.'"

include international observers, and garner acceptance from both Fatah and Hamas in the event of adverse outcomes for either.[94]

Speculation surrounds who may run for PA president. Abbas's advanced age and reports of health problems have fed public conjecture for several years about who might lead the PA, PLO, and Fatah upon the end of his tenure—whether via elections or otherwise. In past years, Abbas has said that he would not run again, and some Fatah Central Committee members have expressed that the committee is ultimately responsible for nominating a candidate.[95] However, some key Fatah leaders have proclaimed that Abbas will be the candidate.[96]

Marwan Barghouti—a major Fatah leader who has supported negotiating with Israel at times, and armed resistance against Israel at other times—is more popular than Abbas in public opinion polls.[97] He has announced his plans to run for PA president in the July election. It is unclear whether Abbas and/or Barghouti will stand as candidates, and whether Israel would consider releasing Barghouti from prison; an Israeli court convicted him of murder in 2004 in connection with terrorist attacks during the second Palestinian intifada. Some Palestinian leaders are reportedly considering creating the position of vice president to allow Abbas to run again and have Barghouti or someone else in position to succeed him.[98]

Other Palestinian leaders who could be involved in succeeding Abbas include

- **Mohammed Dahlan** was a top security figure in Gaza under Arafat who is based in the United Arab Emirates (UAE). His apparent involvement with Israel-UAE normalization has fueled some speculation about regional and international support for him in future PLO/PA leadership.[99] While Dahlan has some political support in the West Bank and Gaza, he remains a pariah within Fatah leadership. The faction expelled him in 2011 after he and Abbas had a falling out, and in 2014 the PA convicted him in absentia of libel, slander, and contempt of Palestinian institutions.
- **Majid Faraj** (arguably Abbas's most trusted security figure) and **Salam Fayyad** (a previous PA prime minister) are prominent internationally, but have little domestic popular support.
- **Mohammed Shtayyeh** (PA prime minister since 2019) is an internationally visible Fatah insider.
- **Nasser al Qudwa** (a former PLO diplomat and Arafat's nephew) is another internationally visible figure who was expelled from Fatah in March 2021 for his efforts to form a separate list of candidates for the planned legislative elections.
- **Mahmoud al Aloul** and **Jibril Rajoub** have political heft within Fatah, but relatively less international experience.

[94] "Uncertainty as Palestine's Abbas announces elections," *Al Jazeera.*

[95] Aaron Boxerman, "PA premier: Abbas to run as Fatah candidate in Palestinian presidential election," *Times of Israel,* January 21, 2021.

[96] Daoud Kuttab, "Does Abbas intend to run for president after all?" *Arab News,* February 18, 2021.

[97] PCPSR, Public Opinion Poll No. 78.

[98] Daoud Kuttab, "Marwan Barghouti insists on running for president in Palestinian elections," *Al-Monitor,* February 17, 2021.

[99] See, for example, Neri Zilber, "The Talented Mr. Dahlan," *Newlines Magazine,* November 11, 2020.

Israeli Normalization with Arab States

Israel's ongoing normalization of relations with Arab states could have political and economic implications for the Palestinians.

Questions surround the impact that Arab states with open relations with Israel might have on Israeli-Palestinian diplomacy. Will these states influence Israeli positions regarding the Palestinians, due to their closer access to Israeli leaders and Israeli interests in maintaining and improving ties with these countries? Or will these states—having decided to normalize relations with Israel before a resolution of the Israeli-Palestinian conflict—possess less leverage with Israel, or possibly even support efforts to have Palestinians compromise their traditional demands?

To the extent that Arab states increase trade and investment with Israel in connection with normalization, how it affects Palestinians in the West Bank and Gaza could depend on various factors. If increased commercial ties are strictly bilateral, they may not provide much benefit to the Palestinians. However, efforts by Arab state leaders to improve Palestinians' economic well-being could increase their populations' acceptance of political normalization with Israel. Such efforts could include expanded Arab state commercial ties with or aid to the Palestinians, or regional economic projects that involve or benefit the Palestinians in addition to increasing Israel-Arab state commercial ties.

Examples of regional projects could include

- Boosting support for Israeli natural gas exports to Arab neighbors, including the Palestinians.[100]
- Developing Gaza's potential offshore natural gas deposits.[101]
- Boosting support for regional cooperation on water sharing and environmental issues, such as a proposed Red Sea-Dead Sea project involving Israel, Jordan, and the PA.[102]
- Regional infrastructure projects such as the Tracks for Regional Peace project mentioned in the Israel-UAE treaty signed in September 2020.[103]

Additionally, it is possible that Arab states could encourage Israel to ease movement and access restrictions affecting Palestinian economic activity. For example, there are conflicting claims about whether the UAE might have influenced Israel in its December 2020 decision to allow some Palestinians to reclaim the use of their farms in the Jordan Valley region of the West Bank.[104]

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[100] Zvi Bar'el, "After Countless Failures, Could Natural Gas Power a Breakthrough in Israel-Palestine Relations?" haaretz.com, December 22, 2020.

[101] Ibid.

[102] For information on the proposed Red Sea-Dead Sea project, see David Schenker and Ghaith al-Omari, "Getting the Israel-Jordan Relationship Back on Track," Washington Institute for Near East Policy, March 12, 2021; Osama Al Sharif, "Project to save Dead Sea going nowhere," *Al-Monitor*, December 30, 2020.

[103] In August 2019, the Israeli foreign ministry released a proposal for Tracks for Regional Peace, which would build a rail line from Israel to Saudi Arabia and the UAE via the West Bank and Jordan. A major part of its appeal would be allowing the participant countries to bypass the two major chokepoints of the Strait of Hormuz (Persian Gulf) and Bab al-Mandab (Red Sea). See Israeli Ministry of Foreign Affairs, Tracks for regional peace - regional land bridge and hub initiative, August 5, 2019.

[104] "PA denies claims UAE returned Jordan Valley farms to Palestinians," *Middle East Monitor*, January 5, 2021.

Gaza's Challenges

The Gaza Strip (see **Figure 2**) presents complicated challenges for U.S. policy. Hamas, Israel, the PA, and several outside actors affect Gaza's difficult security, political, and humanitarian situations. Since Hamas seized de facto control within Gaza in 2007 (for more information on Hamas and Gaza, see **Appendix B** and **Appendix C**), these situations have fueled periodic violence between Israel and Hamas (along with other Palestinian militants based in Gaza) that could recur in the future.

Three large-scale conflicts took place in 2008-2009, 2012, and 2014. In each of these conflicts, Palestinian militants fired rockets into Israel, while Israel conducted airstrikes targeting militants in Gaza (for more information on threats to Israel from Palestinian violence, see the textbox in **Appendix B**). Israel also launched some ground operations, particularly in the 2008-2009 and 2014 conflicts. In the aftermath of each conflict, significant international attention focused on the still largely elusive tasks of

- improving humanitarian conditions and economic opportunities for Palestinians in Gaza; and
- preventing Hamas and other militants from reconstituting arsenals and military infrastructure.

No significant breakthrough has occurred to reconcile civilian infrastructure needs with security considerations. Such a breakthrough could include one or more of the following: (1) a political reunification of Gaza with the West Bank, (2) reducing restrictions on access and commerce, (3) a long-term Hamas-Israel cease-fire. Political reunification appears to depend on Hamas's willingness to cede control of security in Gaza to the PA. In the past, PA President Abbas has insisted that he will not accept a situation where PA control is undermined by Hamas's militia.[105]

The precarious security situation in Gaza is linked to humanitarian conditions, and because Gaza does not have a self-sufficient economy (see **Appendix C** and **Appendix D**), external assistance largely drives humanitarian welfare. Gazans face chronic economic difficulties and shortages of electricity and safe drinking water.[106] Large transfers of aid to the PA have historically been critical inputs for the economy in the West Bank and Gaza, but according to the World Bank aid received by the PA in 2020 was 20 percent lower than in 2019 and the lowest in decades.[107]

The possibility that humanitarian crisis could destabilize Gaza has prompted some efforts aimed at improving living conditions and reducing spillover threats. In fall 2018, Israel started allowing shipments of Qatari fuel and cash into Gaza to partially alleviate the electricity and funding shortages.[108] In early 2021, Qatar announced that it would increase its annual contribution to Gaza by around 50% to $360 million, and also pledged $60 million to ease Gaza's energy crisis by helping build a natural gas pipeline to Gaza from Israel.[109]

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[105] "Abbas: If PA not handed control of Gaza, Hamas must take full responsibility," *Times of Israel*, August 18, 2018.

[106] For information on the situation, see U.N. Office for the Coordination of Humanitarian Affairs occupied Palestinian territory (OCHA-oPt), Gaza Strip: Critical Humanitarian Indicators, at https://www.ochaopt.org/page/gaza-strip-critical-humanitarian-indicators.

[107] World Bank, *Economic Monitoring Report to the Ad Hoc Liaison Committee*, February 23, 2021, p. 14. Also see **Figure D-1**.

[108] Oren Liebermann, et al., "Suitcases of $15M in cash from Qatar bring relief for Gaza," *CNN*, November 11, 2018.

[109] Aaron Boxerman, "Qatar raises annual aid to Gaza to $360 million," *Times of Israel*, January 31, 2021; "Qatar says to fund $60 million pipeline from Israel to Gaza," *Reuters*, February 25, 2021.

Role of Congress

As Congress exercises oversight over U.S. policy regarding Israeli-Palestinian developments, and considers legislative options—including on annual appropriations for the Palestinians, Members may consider a number of issues, including the following:

- various aspects of U.S.-Palestinian relations, including foreign aid and the possible reopening of diplomatic offices;
- the status of Israeli-Palestinian diplomacy and how it relates to Israel's normalization of relations with some Arab states;
- Palestinian international initiatives and the ICC's investigation into possible Israeli and Palestinian war crimes in the West Bank and Gaza;
- human rights, humanitarian, and economic development concerns, especially in Gaza;[110]
- countering terrorism from Hamas and other groups;
- the surrounding region's effects on the West Bank and Gaza, and vice versa; and
- Palestinian domestic leadership and civil society.

Some key factors could influence issues for Congress in 2021. These factors include whether the PLO/PA significantly changes welfare payments to or on behalf of individuals allegedly involved in acts of terrorism, the extent to which Israeli legal institutions and proceedings might preclude the ICC from prosecuting cases against Israeli personnel, and how developments unfold on PA elections and leadership succession. Consideration of these factors takes place within the context of Biden Administration efforts to improve ties with the Palestinians, existing legislation such as the TFA, and more visible Israel-Arab state relations. Also, given existing legislation and longtime U.S. concerns about a direct Hamas involvement in PA leadership, a greater Hamas role in the PA or PLO could affect U.S. aid for and actions toward the Palestinians.[111]

[110] A March 12, 2021, letter from 12 Representatives urged Secretary Blinken to take more assertive stances in support of Palestinian human rights. Text of letter available at https://tlaib.house.gov/sites/tlaib.house.gov/files/Palestine%20State%20Dept.%20Letter.pdf.

[111] CRS Report RS22967, *U.S. Foreign Aid to the Palestinians*, by Jim Zanotti.

Appendix A. Key Palestinian Factions and Groups

Palestine Liberation Organization (PLO)

The PLO is recognized by the United Nations (including Israel since 1993) as the sole legitimate representative of the Palestinian people, wherever they may reside. It is an umbrella organization that includes 10 Palestinian factions (but not Hamas or other Islamist groups). The PLO was founded in 1964, and, since 1969, has been dominated by the secular nationalist Fatah movement. Organizationally, the PLO consists of an Executive Committee, the Palestinian National Council (or PNC, its legislature), and a Central Council.[112]

After waging guerrilla warfare against Israel under the leadership of Yasser Arafat, the PNC declared Palestinian independence and statehood in 1988. This came at a point roughly coinciding with the PLO's decision to publicly accept the "land-for-peace" principle of U.N. Security Council Resolution 242 and to contemplate recognizing Israel's right to exist. The declaration had little practical effect, however, because the PLO was in exile in Tunisia and did not define the territorial scope of its state.[113] The PLO recognized the right of Israel to exist in 1993 upon the signing of the Declaration of Principles between the two parties.

While the Palestinian Authority (PA) maintains a measure of self-rule over various areas of the West Bank, as well as a legal claim to self-rule over Gaza despite Hamas's security presence,[114] the PLO remains the representative of the Palestinian people to Israel and other international actors. Under the name "State of Palestine," the PLO maintains a permanent observer mission to the United Nations in New York and in Geneva as a "non-member state," and has missions and embassies in other countries—some with full diplomatic status. The PLO also is a full member of both the Arab League and the Organization of Islamic Cooperation.

Fatah

Fatah, the secular nationalist movement formerly led by Yasser Arafat, has been the largest and most prominent faction in the PLO for decades. Since the establishment of the PA and limited self-rule in the West Bank and Gaza in 1994, Fatah has dominated the PA, except during the period of partial Hamas rule in 2006-2007. Yet, popular disillusionment has come from the failure to establish a Palestinian state, internecine violence, corruption, and poor governance. Arafat's

[112] The PNC consists of more than 700 members, a majority of whom are from the diaspora. The Central Council is chaired by the PNC president and has 124 members—consisting of the entire Executive Committee, plus (among others) representatives from Fatah and other PLO factions, the Palestinian Legislative Council, and prominent interest groups and professions. The Central Council functions as a link between the Executive Committee and the PNC. Either the PNC or the Central Council reportedly can elect the 18 members of the Executive Committee, which functions as a cabinet—with each member assuming discrete responsibilities—and the Executive Committee elects its own chairperson. The European Council on Foreign Relations' online resource Mapping Palestinian Politics at https://www.ecfr.eu/mapping_palestinian_politics/detail/institutions is a source for much of the PLO organizational information in this paragraph.

[113] The declaration included the phrase: "The State of Palestine is the state of Palestinians wherever they may be." The text is available at http://www.mideastweb.org/plc1988.htm.

[114] The PA's legal claim to self-rule over Gaza is subject to the original Oslo-era agreements of the 1990s, the agreements between Israel and the PA regarding movement and access that were formalized in November 2005 shortly after Israel's withdrawal from Gaza, and the June 2014 formation of a PA government with formal sway over both the self-rule areas in the West Bank and Gaza.

2004 death removed a major unifying symbol, further eroding Fatah's support under Mahmoud Abbas.

Fatah's 1960s charter continues to include clauses calling for the destruction of the Zionist state and its economic, political, military, and cultural supports.[115] Abbas routinely expresses support for "legitimate peaceful resistance" to Israeli occupation under international law, complemented by negotiations. However, some of the other Fatah Central Committee members are either less outspoken in their advocacy of nonviolent resistance than Abbas, or reportedly explicitly insist on the need to preserve the option of armed struggle.[116]

Other PLO Factions and Leaders

Factions other than Fatah within the PLO include secular groups such as the Popular Front for the Liberation of Palestine (PFLP, a U.S.-designated terrorist organization), the Democratic Front for the Liberation of Palestine, and the Palestinian People's Party. All of these factions have minor political support relative to Fatah and Hamas.

A number of Palestinian politicians and other leaders without traditional factional affiliation have successfully gained followings domestically and in the international community under the PLO's umbrella, even some who are not formally affiliated with the PLO. These figures—such as Salam Fayyad, Hanan Ashrawi (a female Christian), and Mustafa Barghouti—often have competing agendas. Several of them support a negotiated two-state solution, generally oppose violence, and appeal to the Palestinian intellectual elite and to prominent Western governments and organizations.

Non-PLO Factions

Hamas

Overview

Hamas (an Arabic acronym for "Islamic Resistance Movement") is a U.S.-designated terrorist organization and Fatah's main rival for leadership of the Palestinian national movement. Countering Hamas is a focal point for Israel and the United States.

Hamas grew out of the Muslim Brotherhood, a religious and political organization founded in Egypt in 1928 with affiliates and sympathizers throughout the Arab world. Hamas's emergence as a major political and military group can be traced to the first Palestinian *intifada* (or uprising), which began in the Gaza Strip in 1987 in resistance to what Hamas terms the Israeli occupation of Palestinian-populated lands. The group presented an alternative to Yasser Arafat and his secular Fatah movement by using violence against Israeli civilian and military targets just as Arafat began negotiating with Israel. Hamas took a leading role in attacks against Israelis—including suicide

[115] This is the case even though Fatah is the predominant member faction of the PLO, and the PLO formally recognized Israel's right to exist 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).

[116] The Al Aqsa Martyrs' Brigades (AAMB) is a militant offshoot of Fatah that emerged in the West Bank early in the second intifada and later began operating in Gaza as well. It was added to the State Department's list of Foreign Terrorist Organizations in March 2002. In line with the Abbas-led PA's effort to centralize control, the Brigades lowered its profile in the West Bank after 2007. However, some observers have noted that militant elements remain within Fatah, including some members of the AAMB, and are generally known as the Tanzim. See, for example, Michael Milshtein, "Fateh`s 'Tanzim' Formations: a potential challenge that is liable to intensify in the face of scenarios of deterioration in the Palestinian arena," IDC Herzliya Institute for Policy and Strategy, June 2020.

bombings targeting civilians—during the second intifada (between 2000 and 2005—see **Appendix B** for more information on the two intifadas and Palestinian violence and terrorism). Shortly after Arafat's death in 2004, the group decided to directly involve itself in politics. In 2006, a year after the election of Fatah's Mahmoud Abbas as PA president, and just a few months after Israel's military withdrawal from the Gaza Strip, Hamas defeated Fatah in Palestinian Legislative Council elections. Subsequently, Israel, the United States, and others in the international community have sought to neutralize or marginalize Hamas. As discussed in **Appendix C**, Hamas seized control of Gaza in 2007 and has exercised de facto rule there since then.

According to the State Department's Country Reports on Terrorism for 2019, Hamas "comprises several thousand Gaza-based operatives."

Ideology, Organization, and Leadership

Hamas's ideology combines Palestinian nationalism with Islamic fundamentalism. Hamas's founding charter committed the group to the destruction of Israel and the establishment of an Islamic state in all of historic Palestine.[117] A 2017 document updated Hamas's founding principles. It clarified that Hamas's conflict is with the "Zionist project" rather than the Jews, and expressed willingness to accept a Palestinian state within the 1949/50-1967 armistice lines if it results from "national consensus."[118]

Since Hamas's inception during the first intifada in 1987, it has maintained its primary base of support and particularly strong influence in the Gaza Strip. It also has a significant presence in the West Bank and in various Arab countries.

The leadership structure of Hamas is opaque, and much of the open source reporting available on it cannot be independently verified. It is unclear who controls strategy, policy, and financial decisions. In previous years, some external leaders reportedly sought to move toward a less militant stance in exchange for Hamas obtaining a significant role in the PLO, which represents Palestinians internationally.

Overall policy guidance comes from a Shura (or consultative) Council, with reported representation from the West Bank, Gaza, and other places. Qatar-based **Ismail Haniyeh** is the overall leader of Hamas's political bureau (politburo). **Yahya Sinwar**, previously a top commander from Hamas's military wing, is the movement's leader for Gaza.[119] The militia, known as the Izz al Din al Qassam Brigades,[120] is led by **Muhammad Deif**,[121] and may seek to drive political decisions via its control over security. Haniyeh, Sinwar, and Deif have all been named by the Treasury Department as Specially Designated Global Terrorists.

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[117] For the English translation of the 1988 Hamas charter, see http://avalon.law.yale.edu/20th_century/hamas.asp.

[118] "Hamas in 2017: The document in full," *Middle East Eye*, May 1, 2017. This document, unlike the 1988 charter, does not identify Hamas with the Muslim Brotherhood.

[119] "Gaza's ruthless pragmatist," *Economist*, May 26, 2018.

[120] Izz al Din al Qassam was a Muslim Brotherhood member, preacher, and leader of an anti-Zionist and anticolonialist resistance movement in historic Palestine during the British Mandate period. He was killed by British forces on November 19, 1935.

[121] For a profile of Deif, see Nidal Al-Mughrabi and Maayan Lubell, "Has Hamas military chief, Mohammed Deif, escaped death again?" *Reuters*, August 20, 2014.

External Support

Hamas reportedly receives support from a number of sources, including some states. Along with some other non-PLO factions, Hamas has historically received much of its political and material support (including funding, weapons, and training) from Iran. Hamas became distant from Iran when it broke with Syria's government in the early years of the country's civil war. However, the Hamas-Iran relationship reportedly revived—including financially—around 2017.[122]

In 2014, a Treasury Department official stated publicly that Qatar "has for many years openly financed Hamas."[123] Qatari officials have denied that their government supported Hamas financially and have argued that their policy is to support the Palestinian people.

In addition to external assistance from states, Hamas has other sources of support. According to the State Department's profile of Hamas in its Country Reports on Terrorism for 2019, the group "raises funds in Gulf countries" and "receives donations from some Palestinian and other expatriates as well as from its own charity organizations."

Some reports claim that Hamas officials use Turkey as a base of operations.[124] Turkish President Recep Tayyip Erdogan periodically hosts top Hamas officials and expresses support for the group's political aims.

On January 11, 2021, Representative Brian Mast introduced the Palestinian International Terrorism Support Prevention Act of 2021 (H.R. 261). The bill, which is virtually identical to a bill introduced during the 116th Congress (H.R. 1850), would require the President to report to Congress on foreign sources of support for Hamas and Palestine Islamic Jihad, and impose sanctions on these sources as specified, subject to a waiver for national security reasons.

Other Rejectionist Groups

Several other small Palestinian groups continue to reject the PLO's decision to recognize Israel's right to exist and to conduct negotiations. They remain active in the West Bank and Gaza and retain some ability to carry out terrorist attacks and other forms of violence to undermine efforts at cooperation and conciliation. In Gaza, some observers speculate that Hamas permits or even supports the operations of some of these groups, including those with a presence in Egypt's Sinai Peninsula, without avowing ties to them. Such groups provide Hamas opportunities to tacitly acquiesce to attacks against Israel while avoiding direct responsibility.

Palestine Islamic Jihad (PIJ)

The largest of these other groups is Palestine Islamic Jihad (PIJ), a U.S.-designated terrorist organization that, like Hamas, is an offshoot of the Muslim Brotherhood and receives support from Iran. PIJ emerged in the 1980s in the Gaza Strip as a rival to Hamas.

Since 2000, PIJ has conducted several attacks against Israeli targets (including suicide bombings), killing scores of Israelis.[125] PIJ militants in Gaza sometimes take the lead in firing rockets into

[122] See, for example, Shlomi Eldar, "Hamas turns to Iran," *Al-Monitor*, July 6, 2017.

[123] Remarks of Under Secretary for Terrorism and Financial Intelligence David Cohen before the Center for a New American Security on "Confronting New Threats in Terrorist Financing," March 4, 2014.

[124] "Israel dismantles money transfer channel between Hamas operatives in Turkey and West Bank," *i24News*, February 15, 2021; "Revealed: How a bank in Turkey funded Hamas terror operations," *Arab News*, October 20, 2020.

[125] Suicide bombing figures culled from Israel Ministry of Foreign Affairs website at http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Palestinian+terror+before+2000/Suicide%20and%20Other%20Bombing%20Attacks%20in%20Israel%20Since.

Israel—perhaps to pressure Hamas into matching its hardline tactics or to demonstrate its credentials as a resistance movement to domestic audiences and external supporters.

PIJ's ideology combines Palestinian nationalism, Sunni Islamic fundamentalism, and Shiite revolutionary thought (inspired by the Iranian revolution). PIJ seeks liberation of all of historic Palestine through armed revolt and the establishment of an Islamic state, but unlike Hamas has not established a social services network, formed a political movement, or participated in elections. Perhaps largely for these reasons, PIJ has not approached the same level of support among Palestinians as Hamas. Some PIJ leaders reside in Syria, Lebanon, or other Arab states.

According to the State Department's Country Reports on Terrorism for 2019, "PIJ has close to 1,000 members."

Popular Front for the Liberation of Palestine-General Command (PFLP-GC)

Another—though smaller—Iran-sponsored militant group designated as an FTO is the Popular Front for the Liberation of Palestine-General Command (PFLP-GC). PFLP-GC is a splinter group from the PFLP. According to the State Department's 2019 Country Reports on Terrorism, PFLP-GC's operates in Syria, Lebanon, and Gaza and has several hundred members.

Salafist Militant Groups

A number of small Palestinian Salafist-Jihadist militant groups evincing affinities toward groups such as Al Qaeda or the Islamic State have arisen in the Gaza Strip. Some Salafist groups reportedly include former Hamas militia commanders who became disaffected by actions from Hamas that they deemed to be overly moderate. Salafist groups do not currently appear to threaten Hamas's rule in Gaza.

Palestinian Refugees

Of the some 700,000 Palestinians displaced before and during the 1948 Arab-Israeli War, about one-third ended up in the West Bank, one-third in the Gaza Strip, and one-third in neighboring Arab countries. According to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), there are more than 5 million registered refugees (comprising original refugees and their descendants) in UNRWA's areas of operation—the West Bank, Gaza, Jordan, Syria, and Lebanon. Jordan offered Palestinian refugees citizenship, partly owing to its previous unilateral annexation of the West Bank (which ended in 1988), but the other refugees in the region are generally stateless and therefore limited in their ability to travel. Many of the refugees remain reliant on UNRWA for food, health care, and education.

For political and economic reasons, Arab host governments generally have not actively supported the assimilation of Palestinian refugees into their societies. Even if able to assimilate, many Palestinian refugees hold out hope of returning to the homes they or their ancestors left behind or possibly to a future Palestinian state. Many assert a sense of dispossession and betrayal over never having been allowed to return to their homes, land, and property. Some Palestinian factions have organized followings among refugee populations, and militias have proliferated at various times in some refugee areas. The refugees seek to influence both their host governments and the PLO/PA to pursue a solution to their claims as part of any final status deal with Israel.

For additional information on Palestinian refugees and UNRWA, see CRS Report RS22967, *U.S. Foreign Aid to the Palestinians*, by Jim Zanotti.

Appendix B. Historical Background

Palestinian political identity emerged during the British Mandate period (1923-1948), began to crystallize with the 1947 United Nations partition plan (General Assembly Resolution 181), and grew stronger following Israel's conquest and occupation of the West Bank and Gaza Strip in 1967. Although in 1947 the United Nations intended to create two states in Palestine—one Jewish and one Arab—only the Jewish state came into being. Varying explanations for the failure to found an Arab state alongside a Jewish state in mandatory Palestine place blame on the British, the Zionists, neighboring Arab states, the Palestinians themselves, or some combination of these groups.[126]

As the state of Israel won its independence in 1947-1948, roughly 700,000 Palestinians were driven or fled from their homes, an occurrence Palestinians call the *nakba* ("catastrophe"). Many ended up in neighboring states (Egypt, Syria, Lebanon, and Jordan) or in Arab Gulf states such as Kuwait. Palestinians remaining in Israel became Israeli citizens. Those who were in the West Bank (including East Jerusalem) and Gaza were subject to Jordanian and Egyptian administration, respectively. With their population in disarray, and no clear hierarchical structure or polity to govern their affairs, Palestinians' interests were largely represented by Arab states that had conflicting interests.

1967 was a watershed year for the Palestinians. In the June Six-Day War, Israel decisively defeated the Arab states who had styled themselves as the Palestinians' protectors, seizing East Jerusalem, the West Bank, and the Gaza Strip (as well as the Sinai Peninsula from Egypt and the Golan Heights from Syria). Thus, Israel gained control over the entire area that constituted Palestine under the British Mandate. Israel's territorial gains provided buffer zones between Israel's main Jewish population centers and its traditional Arab state antagonists. These buffer zones remain an important part of the Israeli strategic calculus to this day.

After the 1967 war, Israel only effectively annexed East Jerusalem (as well as the Golan Heights), leaving the West Bank and Gaza under military occupation. However, both territories became increasingly economically linked with Israel. Furthermore, Israel presided over the settlement of thousands of Jewish civilians in both territories (although many more in the West Bank than Gaza)—officially initiating some of these projects and assuming security responsibility for all of them. Settlement of the West Bank increased markedly once the Likud Party, with its vision of a "Greater Israel" extending from the Mediterranean Sea to the Jordan River, took power in 1977. Having Israelis settle in the West Bank presented some economic and cultural opportunities for Palestinians, but also new challenges to their identity and cohesion, civil rights, and territorial contiguity. These challenges persist and have since intensified.

The Arab states' defeat in 1967, and Israeli rule and settlement of the West Bank and Gaza, allowed the Palestine Liberation Organization (PLO) to emerge as the representative of Palestinian national aspirations. Founded in 1964 as an umbrella organization of Palestinian factions and militias in exile under the aegis of the League of Arab States (Arab League), the PLO asserted its own identity after the Six-Day War by staging guerrilla raids against Israel from Jordanian territory. The late Yasser Arafat and his Fatah movement gained leadership of the PLO in 1969, and the PLO subsequently achieved international prominence on behalf of the Palestinian national cause—representing both the refugees and those under Israeli rule in the West Bank and Gaza. Often this prominence came infamously from acts of terrorism and militancy.

[126] See, for example, Edward Said, *The Question of Palestine*, New York: Times Books, 1979; Barry Rubin, *Israel: An Introduction*, New Haven: Yale University Press, 2012.

Although Jordan forced the PLO to relocate to Lebanon in the early 1970s, and Israel forced it to move from Lebanon to Tunisia in 1982, the organization and its influence survived. In 1987, Palestinians inside the West Bank and Gaza rose up in opposition to Israeli occupation (the first *intifada*, or uprising), leading to increased international attention and sympathy for the Palestinians' situation. In December 1988, as the intifada continued, Arafat initiated dialogue with the United States by renouncing violence, promising to recognize Israel's right to exist, and accepting the "land-for-peace" principle embodied in U.N. Security Council Resolution 242.[127] Arafat's turn to diplomacy with the United States and Israel may have been partly motivated by concerns that if the PLO's leadership could not be repatriated from exile, its legitimacy with Palestinians might be overtaken by local leaders of the intifada in the West Bank and Gaza (which included Hamas). These concerns intensified when Arafat lost much of his Arab state support following his political backing for Saddam Hussein's 1990 invasion of Kuwait.

After direct secret diplomacy with Israel brokered by Norway, the PLO recognized Israel's right to exist in 1993, and through the "Oslo agreements" gained limited self-rule for Palestinians in Gaza and parts of the West Bank—via the creation of the PA. The agreements were gradually and partially implemented during the 1990s, but the expectation that they would lead to a final-status peace agreement has not been realized.

Palestinian Violence and Terrorism Since the Oslo Agreements

Various Palestinian groups have engaged in a variety of methods of violence since the Israel-PLO agreements of the 1990s, killing hundreds of Israelis—both military and civilian.[128] Palestinians who insist that they are engaging in asymmetric warfare with a stronger enemy point to the thousands of deaths inflicted on Palestinians by Israelis since 1993,[129] some through acts of terrorism aimed at civilians.[130]

Palestinian militants in Gaza periodically fire rockets and mortars into Israel indiscriminately. The possibility that a rocket threat could emerge from the West Bank is one factor that Israelis have cited in explaining their reluctance to consider a full withdrawal from there.[131] Although Palestinian militants maintain rocket and mortar arsenals, Israel's Iron Dome defense system reportedly has decreased the threat to Israel from these projectiles.[132] Additionally, tunnels that Palestinian militants in Gaza used somewhat effectively in a 2014 conflict have been neutralized to some extent by systematic Israeli efforts, with some financial and technological assistance from the United States.[133]

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[127] UNSCR 242, adopted in 1967 shortly after the Six-Day War, calls for a "just and lasting peace in the Middle East" based on (1) "Withdrawal of Israeli armed forces from territories occupied in the [1967 Six-Day War]" and (2) "Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force."

[128] Statistics available from B'Tselem (The Israeli Information Center for Human Rights in the Occupied Territories) website at http://www.btselem.org/statistics.

[129] Ibid.

[130] The most prominent attack by an Israeli civilian against Palestinians since 1993 was the killing of at least 29 Palestinians (and possibly between 10 to 23 more) and the wounding of about 150 more by Israeli settler Baruch Goldstein (a Brooklyn-born former military doctor) at the Ibrahimi Mosque (Mosque of Abraham) in the Cave of the Patriarchs in Hebron on February 25, 1994 (the Jewish holy day of Purim) while the victims were at prayer. See George J. Church, "When Fury Rules," *Time*, March 7, 1994. This incident has been cited by many analysts as a provocation for the Palestinian suicide bombing campaign that followed.

[131] See, for example, Hirsh Goodman, "The Dangers of a Unilateral Israeli Withdrawal from the West Bank and Eastern Jerusalem," Jerusalem Center for Public Affairs, 2017.

[132] Neri Zilber, "Israel and Hamas: Negotiating With Rockets and Bombs," *Daily Beast*, May 31, 2018. For more on Iron Dome, see CRS Report RL33222, *U.S. Foreign Aid to Israel*, by Jeremy M. Sharp.

[133] CRS Report RL33222, *U.S. Foreign Aid to Israel*, by Jeremy M. Sharp.

Since 2018, some Palestinians—with reported encouragement from Hamas—have tried to breach fences dividing Gaza from Israel, or have used incendiary kites or balloons to set fires to arable land in southern Israel.[134] The purpose of these tactics may be to provoke Israeli responses that evoke international sympathy for Palestinians and criticism of Israel—a dynamic that bolstered Palestinian national aspirations in the late 1980s during the first intifada.[135]

Isolated attacks still occur within Israel and the West Bank. Some are perpetrated by Palestinians who are unaffiliated with terrorist groups and who use small arms or vehicles as weapons. Antipathy between Jewish settlers and Palestinian residents in the West Bank leads to occasional attacks on both sides. Some militants have staged attacks at or near Gaza border crossings and attempted to capture Israeli soldiers there.

Many factors have contributed to the failure to complete the Oslo process. A second Palestinian intifada from 2000 to 2005 was marked by intense terrorist violence inside Israel. In response, Israel took actions that it asserted were necessary to safeguard its citizens' security, rendering unusable much of the PA infrastructure built over the preceding decade. During the second intifada, U.S.- and internationally supported efforts to restart peace negotiations under various auspices failed to gain traction.

After Arafat's death in 2004 and his succession by Mahmoud Abbas, Israel unilaterally withdrew its settlers and military forces from Gaza in 2005. Despite forswearing responsibility for Gaza, Israel has continued to control most of Gaza's borders, airspace, maritime access, and even various buffer zones within the territory. The limited self-rule regime of the PA was undermined further by Hamas's legislative election victory in 2006, and its takeover of Gaza in 2007. Having different Palestinian leaders controlling the West Bank and Gaza since then has complicated the question of who speaks for the Palestinians both domestically and internationally (see **Appendix C**).

[134] Mark Landler, "As Violence Flares, Kushner Threatens to Abandon Plan to Rebuild Gaza," *New York Times*, July 23, 2018.

[135] See, for example, Hussein Ibish, "The Nonviolent Violence of Hamas," foreignpolicy.com, April 6, 2018.

Appendix C. Palestinian Governance

Achieving effective and transparent governance over the West Bank and Gaza and preventing Israeli-Palestinian violence has proven elusive for Palestinian leaders since their limited self-rule experiment began in 1994. The split established in 2007 between the Abbas-led PA in the West Bank and Hamas in Gaza exacerbated these difficulties.

Palestinian Authority (PA)

The Palestinian National Authority (or Palestinian Authority, hereafter PA) was granted limited rule under Israeli occupational authority in the Gaza Strip and parts of the West Bank in the mid-1990s, pursuant to the Oslo agreements.[136] One of the PLO's options is to restructure or dissolve the PA (either in concert with Israel or unilaterally) pursuant to the claim that the PA is a constitutional creature of PLO agreements with Israel.[137]

Although not a state, the PA is organized like one—complete with executive, legislative, and judicial organs of governance, as well as security forces. Ramallah is its de facto seat, but is not considered to be the PA capital because of Palestinian political consensus that Jerusalem (or at least the part east of the 1949-1967 Israel-Jordan armistice line, or "Green Line") should be the capital of a Palestinian state.

The executive branch has both a president and a prime minister-led cabinet, and the Palestinian Legislative Council (PLC) is the PA's legislature (sidelined since Hamas's takeover of Gaza in 2007). The judicial branch has separate high courts to decide substantive disputes and to settle controversies regarding Palestinian basic law. There are also a High Judicial Council and separate security courts. The electoral base of the PA is composed of Palestinians from the West Bank, Jerusalem, and the Gaza Strip.

Leadership succession within the PA after Mahmoud Abbas leaves office could present Hamas with opportunities to increase its influence, especially if the process does not definitively concentrate power around one or more non-Hamas figures. Though Hamas members have not run in past presidential elections, one or more could potentially run in future elections.

Under Article 37 of the Palestinian Basic Law,[138] it appears that if Abbas were to leave office, the speaker of the Palestinian Legislative Council (currently Aziz Dweik, a member of Hamas) would take over duties as president for a period not to exceed 60 days, by which time elections for a more permanent successor are supposed to take place.

Succession to the PA presidency could be determined by elections or under the Palestinian Basic Law. Abbas's term of office was supposed to be four years, with a new round of elections initially planned for 2009 that would have allowed Abbas to run for a second and final term. However, the split between the Abbas-led PA in the West Bank and Hamas in Gaza has indefinitely postponed PA elections, with the last presidential election having taken place in 2005 and the last legislative election in 2006. In December 2009, the PLO's Central Council voted to extend the terms of both

[136] The relevant Israel-PLO agreements that created the PA and established its parameters were the Agreement on the Gaza Strip and the Jericho Area, dated May 4, 1994; and the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, dated September 28, 1995.

[137] The PA was originally intended to be a temporary, transitional mechanism for the five-year period prescribed for final-status negotiations, not an indefinite administrative authority.

[138] The Palestinian Basic Law is the set of laws that govern the PA. The Palestinian Legislative Council originally passed it in 1997, and PA President Yasser Arafat ratified it in 2002. Some amendments have occurred since.

Abbas and the current PLC until elections can be held. This precedent could lead to PLO action in selecting or attempting to select a successor to Abbas as PA president.

West Bank

The PA administers densely populated Palestinian areas in the West Bank subject to supervening Israeli control under the Oslo agreements (see **Figure 1** for map).[139] Israel Defense Forces (IDF) soldiers regularly mount arrest operations to apprehend wanted Palestinians or foil terrorist plots. They maintain permanent posts throughout the West Bank and along the West Bank's administrative borders with Israel and Jordan to protect Jewish settlers and broader security interests. The IDF sometimes takes measures that involve the expropriation of West Bank land or dispossession of Palestinians from their homes and communities.

Coordination between Israeli and PA authorities generally takes place discreetly, given the political sensitivity for PA leaders to be seen as collaborating with Israeli occupiers. In 2002, at the height of the second intifada, Israel demonstrated its ability to reoccupy PA-controlled areas of the West Bank in what it called Operation Defensive Shield. The IDF demolished many official PA buildings, Palestinian neighborhoods, and other infrastructure.[140]

Since 2007, when the West Bank-Gaza split took place and Western efforts to bolster PA security forces in the West Bank resumed, some observers have noted signs of progress with PA security capabilities and West Bank economic development.[141] It is less clear whether the progress they cite can be self-sustaining absent a broader political solution with Israel.

Gaza

Hamas's security control of Gaza (see **Figure 2** for map) presents a conundrum for the Abbas-led PA, Israel, and the international community. They have been unable to establish a durable political-security framework for Gaza that assists Gaza's population without bolstering Hamas. For more information, see "Gaza's Challenges."

Hamas's preeminence in Gaza can be traced to 2006-2007. After victory in the 2006 PA legislative elections, Hamas consolidated its power in Gaza—while losing it in the West Bank—through violent struggle with Fatah in June 2007. Hamas's security forces have maintained power in Gaza ever since, even after its de facto government relinquished nominal responsibility to the PA in June 2014.

Since Hamas's 2007 takeover of Gaza, Israeli and Egyptian authorities have maintained strict control over Gaza's border crossings.[142] Israel justifies the restrictions it imposes as a way to deny

[139] The two agreements that define respective Israeli and PA zones of control are (1) the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, dated September 28, 1995; and (2) the Protocol Concerning the Redeployment in Hebron, dated January 17, 1997. East Jerusalem is excluded from these agreements, as Israel has effectively annexed it.

[140] Anna Ahronheim, "Fifteen years after Op. Defensive Shield, situation on the ground completely different," jpost.com, April 24, 2017.

[141] See, for example, Neri Zilber and Ghaith al-Omari, *State with No Army, Army with No State: Evolution of the Palestinian Authority Security Forces: 1994-2018*, Washington Institute for Near East Policy, March 2018.

[142] In November 2005, Israel and the PA signed an Agreement on Movement and Access, featuring U.S. and European Union participation in the travel and commerce regime that was supposed to emerge post-Gaza disengagement, but this agreement was never fully implemented. In September 2007, three months after Hamas's takeover of Gaza, the closure regime was further formalized when Israel declared Gaza to be a "hostile entity." Depending on circumstances since then, Israel has eased and re-tightened restrictions on various imports and exports. Gisha – Legal Center for Freedom of

Hamas materials to reconstitute its military capabilities. However, the restrictions also limit commerce, affect the entire economy, and delay humanitarian assistance.[143] For several years, Hamas compensated somewhat for these restrictions by routinely smuggling goods into Gaza from Egypt's Sinai Peninsula through a network of tunnels. However, after Egypt's military regained political control in July 2013, it disrupted the tunnel system.

Observers routinely voice concerns that if current arrangements continue, the dispiriting living conditions that have persisted since Israel's withdrawal in 2005 could feed radicalization within Gaza and pressure its leaders to increase violence against Israel for political ends.[144] Israel disputes the level of legal responsibility for Gaza's residents that some international actors claim it retains—given its continued control of most of Gaza's borders, airspace, maritime access, and various buffer zones within the territory.

Within limited parameters amid Gaza's political uncertainties and access restrictions, UNRWA and other international organizations and nongovernmental organizations take care of many Gazans' day-to-day humanitarian needs. These groups play significant roles in providing various forms of assistance and trying to facilitate reconstruction from previous conflicts. For more information on Palestinian refugees, see **Appendix A**.

Movement, *Gaza Up Close*, September 1, 2020. Widespread unemployment and poverty persist.

[143] World Bank, *Economic Monitoring Report to the Ad Hoc Liaison Committee*, June 2, 2020, p. 24.

[144] U.N. OCHA-oPt, *Humanitarian Needs Overview OPT 2021*, December 2020.

Appendix D. Palestinian Economy

The economy in the West Bank and Gaza Strip faces structural difficulties—with Gaza's real per capita income about half that of the West Bank's.[145] Palestinians' livelihoods largely depend on their ties to Israel's relatively strong economy. Israel is the market for about 84% of West Bank/Gaza exports, and the source for about 56% of West Bank/Gaza imports.[146] Palestinians are constrained from developing other external ties because of the layers of control that Israel has put in place to enforce security. The Coronavirus 2019 disease (COVID-19) pandemic and its impact on economic and social activity has exacerbated these difficulties for the West Bank and Gaza.[147]

Because the PA has been unable to become self-sufficient, it has been acutely dependent on foreign assistance. Facing a regular annual budget deficit of over $1 billion (and more than double that amount for 2020 given COVID-19), PA officials have traditionally sought aid from international sources to meet the PA's financial commitments (see **Figure D-1**).[148] Part of the problem is a PA payroll that has become increasingly bloated over the PA's 27-year existence. Domestic corruption and inefficiency also appear to pose difficulties.[149] Absent fundamental changes in revenue and expenses, the PA's fiscal dependence on external sources is likely to continue.

[145] World Bank, *Economic Monitoring Report to the Ad Hoc Liaison Committee*, March 19, 2018, pp. 22-23.

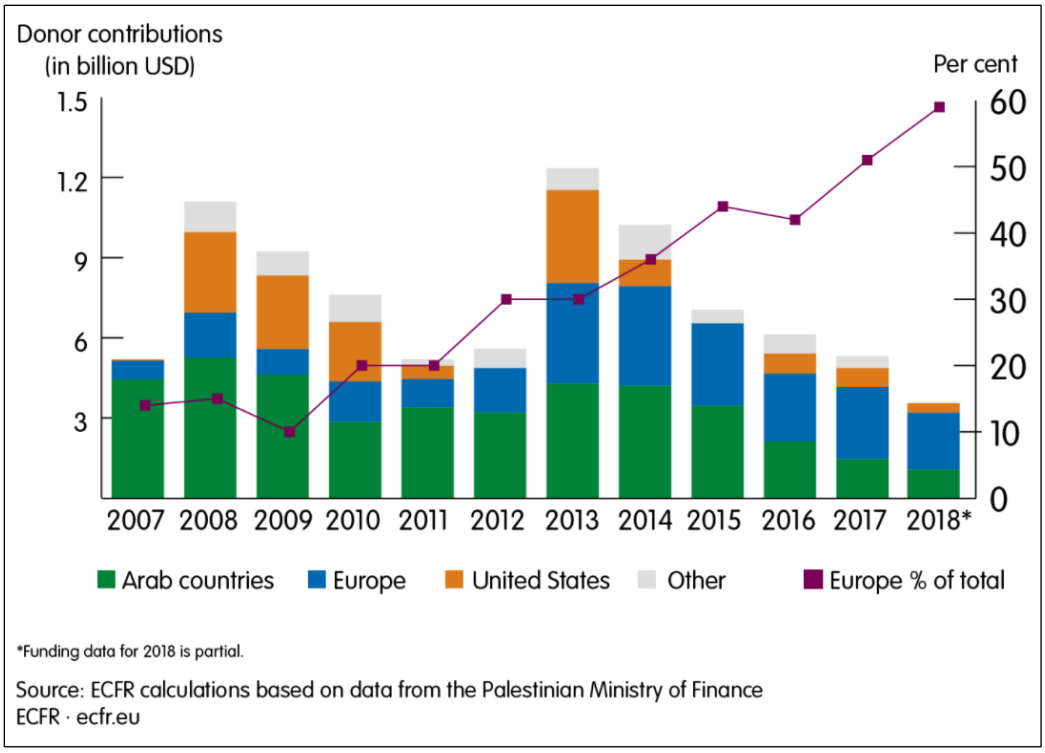
[146] Economist Intelligence Unit, Palestine Country Report (accessed March 12, 2021), based on 2019 figures.

[147] World Bank, February 23, 2021.

[148] Official PA financial statements available at http://www.pmof.ps/pmof/en/index.php.

[149] See, e.g., Elliott Abrams, "Corruption in the Palestinian Authority," Council on Foreign Relations, April 5, 2018.

Figure D-1. International Donor Funding to the Palestinian Authority



Source: Hugh Lovatt, "The end of Oslo: A new European strategy on Israel-Palestine," European Council on Foreign Relations, December 9, 2020.

Lacking sufficient private sector employment opportunities in the West Bank and Gaza, many Palestinians have historically depended on easy entry into and exit out of Israel for their jobs and goods. Yet, the second intifada that began in 2000 reduced this access considerably. Israel constructed a West Bank separation barrier and increased security at crossing points, and unilaterally "disengaged" (withdrew its settlements and official military contingent) from Gaza in 2005. Israel now issues permits to control access. Its security forces significantly limit the flow of people and goods to flow between Israel and Gaza, while periodically halting these flows between Israel and the West Bank.

The Palestinians' alternatives to functional dependence on Israel's economy include

- attracting investment and building a self-sufficient economy;
- looking to neighboring Egypt and Jordan (which struggle with their own political and economic problems) for economic integration; or
- depending indefinitely on external assistance.

For the West Bank and Gaza to attract enough long-term investment to become more self-sufficient, most observers agree that uncertainties regarding the political and security situation and Israeli restrictions on the movement of goods, people, and capital would need to be significantly reduced.[150] Such changes may be untenable absent an overall resolution of Israeli-Palestinian disputes. In the meantime, donors and lenders occasionally provide emergency funding to stave off fiscal crisis.

[150] World Bank, June 2, 2020.

Appendix E. Palestinian Initiatives in International Fora

The PLO has pursued a number of international initiatives—opposed by the United States and Israel—that are part of a broader effort to obtain greater international recognition of Palestinian statehood. Some 137 out of 193 U.N. member states reportedly have formally recognized the state of Palestine that the PLO declared in 1988. These do not include the most politically and economically influential Western countries.

The PLO's international initiatives are centered on the United Nations. In September 2011, PLO Chairman Abbas applied for Palestinian membership in the United Nations. Officially, the application remains pending in the Security Council's membership committee, whose members did not achieve consensus during 2011 deliberations.[151] The application for Palestinian membership would likely face a U.S. veto if it came to a future vote in the Security Council. In fall 2011, the Palestinians obtained membership in the U.N. Educational, Scientific and Cultural Organization (UNESCO).[152]

Under U.S. laws passed in 1990 and 1994,[153] Palestinian admission to membership in UNESCO in 2011 triggered the withholding of U.S. assessed and voluntary financial contributions to the organization. If the Palestinians were to obtain membership in other U.N. entities, the 1990 and 1994 U.S. laws might trigger withholdings of U.S. financial contributions to these entities.[154] Such withholdings could adversely affect these entities' budgets and complicate the conduct of U.S. foreign policy within the U.N. system and other multilateral settings. The following are some other significant steps for the PLO in international fora:

[151] United Nations Security Council, "Report of the Committee on the Admission of New Members concerning the application of Palestine for admission to membership in the United Nations," S/2011/705, November 11, 2011. Paragraph 19 of this report provides a summary of the varying views that committee members advanced regarding Palestinian membership: "The view was expressed that the Committee should recommend to the Council that Palestine be admitted to membership in the United Nations. A different view was expressed that the membership application could not be supported at this time and an abstention was envisaged in the event of a vote. Yet another view expressed was that there were serious questions about the application, that the applicant did not meet the requirements for membership and that a favourable recommendation to the General Assembly would not be supported."

[152] For more information, see CRS Report R42999, *The United Nations Educational, Scientific, and Cultural Organization (UNESCO)*, by Luisa Blanchfield and Marjorie Ann Browne.

[153] P.L. 101-246 (Foreign Relations Authorization Act, Fiscal Years 1990 and 1991) and P.L. 103-236 (Foreign Relations Authorization Act, Fiscal Years 1994 and 1995).

[154] In May 2018, the Palestinians obtained membership in the U.N. Industrial Development Organization (UNIDO), but there are no consequences under U.S. law because the United States is not a member of or donor to UNIDO.

- On November 29, 2012, the U.N. General Assembly adopted Resolution 67/19. The resolution changed the permanent U.N. observer status of the PLO (recognized before as "Palestine" and now as "State of Palestine" within the U.N. system) from an "entity" to a "non-member state."[155]
- In 2016, the Palestinians acceded to the U.N. Framework Convention on Climate Change (UNFCCC).[156] Some Members of Congress called for U.S. funding of UNFCCC to be cut off under the 1994 law,[157] but the State Department replied that no cutoff was required because UNFCCC is a treaty and the Palestinians had not joined an international organization.[158]
- In September 2017, the Palestinians obtained membership in Interpol.

In May 2018, the Palestinians applied to join the U.N. Conference on Trade and Development (UNCTAD)[159] and deposited an instrument of accession to the Chemical Weapons Convention (CWC) with the U.N. Secretary General.[160] A U.S. official was quoted as saying that the Trump Administration would "review the application of US legislative restrictions related to Palestinian membership in certain UN agencies and organizations," presumably referring to both UNCTAD and the Organisation for the Prohibition of Chemical Weapons (which implements the CWC).[161] No specific U.S. action has been announced to date.

[155] The PLO has had permanent observer status at the United Nations since 1974. Following the adoption of Resolution 67/19, the "State of Palestine" maintains many of the capacities it had as an observer entity—including participation in General Assembly debates and the ability to co-sponsor draft resolutions and decisions related to proceedings on Palestinian and Middle East issues. Despite its designation as a state, the "State of Palestine" is not a member of the United Nations, and therefore does not have the right to vote or to call for a vote in the General Assembly on resolutions. However, in November 2013, the "State of Palestine" participated in the balloting for a judge for the International Tribunal for the Former Yugoslavia. Article 13, Section 2(d) of the Statute for the Tribunal (Annex to U.N. Doc. S/25704, adopted pursuant to U.N. Security Council Resolution 827 (1993), as subsequently amended) includes "non-Member States maintaining permanent observer missions at United Nations Headquarters" in the election of the tribunal's judges.

[156] UNFCCC website, State of Palestine Joins Convention, March 15, 2016.

[157] Timothy Cama, "GOP targets UN climate agency funding over Palestine," *The Hill*, April 18, 2016.

[158] Letter from Assistant Secretary of State for Legislative Affairs Julia Frifield, partially quoted in Patrick Goodenough, "State Dept.—Ignoring Law—Won't Defund U.N. Climate Agency for Admitting 'State of Palestine,'" CNS News, April 28, 2016.

[159] UNCTAD website, State of Palestine expresses intent to join UNCTAD, May 24, 2018.

[160] Organisation for the Prohibition of Chemical Weapons (OPCW) website, State of Palestine Accedes to the Chemical Weapons Convention, May 23, 2018. The OPCW later announced that the "State of Palestine" had become a State Party to the CWC and an OPCW Member State. OPCW website, State of Palestine Joins the Organisation for the Prohibition of Chemical Weapons, June 21, 2018.

[161] "US weighs UN funding cuts after Palestinians join agencies," *Agence France Presse*, May 23, 2018. Also in May, the Palestinians acceded to the constitution of the U.N. Industrial Development Organization (UNIDO), but because the United States does not belong to or fund UNIDO, it does not present an issue under the 1990 or 1994 law.

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