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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), observers speculate about who will succeed him and implications of succession for the current situation of divided rule in the West Bank and Gaza. West Bank unrest has intensified in 2022, placing greater attention on U.S.-supported Israel-PA security efforts that many Palestinians criticize. Some domestic and international observers allege that PA leaders engage in corrupt and authoritarian practices to maintain control.

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. aid for the Palestinians, recognizing Jerusalem as Israel's capital and opening an embassy there, and affording more favorable treatment to Israeli settlements in the West Bank. 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 taken steps to improve U.S.-Palestinian ties, including through the resumption of aid and a renewed emphasis on support for an eventual two-state solution. The Administration and Congress face a number of key issues, including (1) the future of aid; (2) security and economic stability in the different contexts of the West Bank and Gaza; and (3) how to approach diplomacy, respond to Palestinian actions in international fora, and address Palestinian calls for reopening diplomatic offices in Jerusalem and Washington, DC. 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.

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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 defined or influenced U.S. policy. 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 historical background, see archived 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 5.35 million Palestinians (98% Sunni Muslim, 1% Christian) live in the West Bank, Gaza Strip, and East Jerusalem (see **Table 1**).[1] Of these, about 2.3 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 659,100 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	3.19 million	2.16 million	5.35 million
Refugees	872,000	1,477,000	2,349,000
Median age (2020 est.)	21.9	18.0	-
Literacy rate (2020 est.)	-	-	97.5%
Population growth rate	1.7%	2.0%	-
Real GDP growth rate	-	-	4.0%
GDP per capita at PPP	-	-	$5,348
Unemployment rate	13.8%	44.1%	25.7%

[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.

[2] Central Intelligence Agency World Factbook, West Bank. Figures 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
Export partners (2021 est.)	-	-	Israel 84.6%, Jordan 5.1%, United Arab Emirates 1.6%
Import partners (2021 est.)	-	-	Israel 56.2%, Turkey 10.2%, Jordan 2.9%

Sources: Palestinian Central Bureau of Statistics; CIA, *The 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 2022 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 (including many members of Fatah, such as 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 (including 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 has headed the PA government based in the West Bank since his election as president of the Palestinian Authority (PA) in 2005.

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

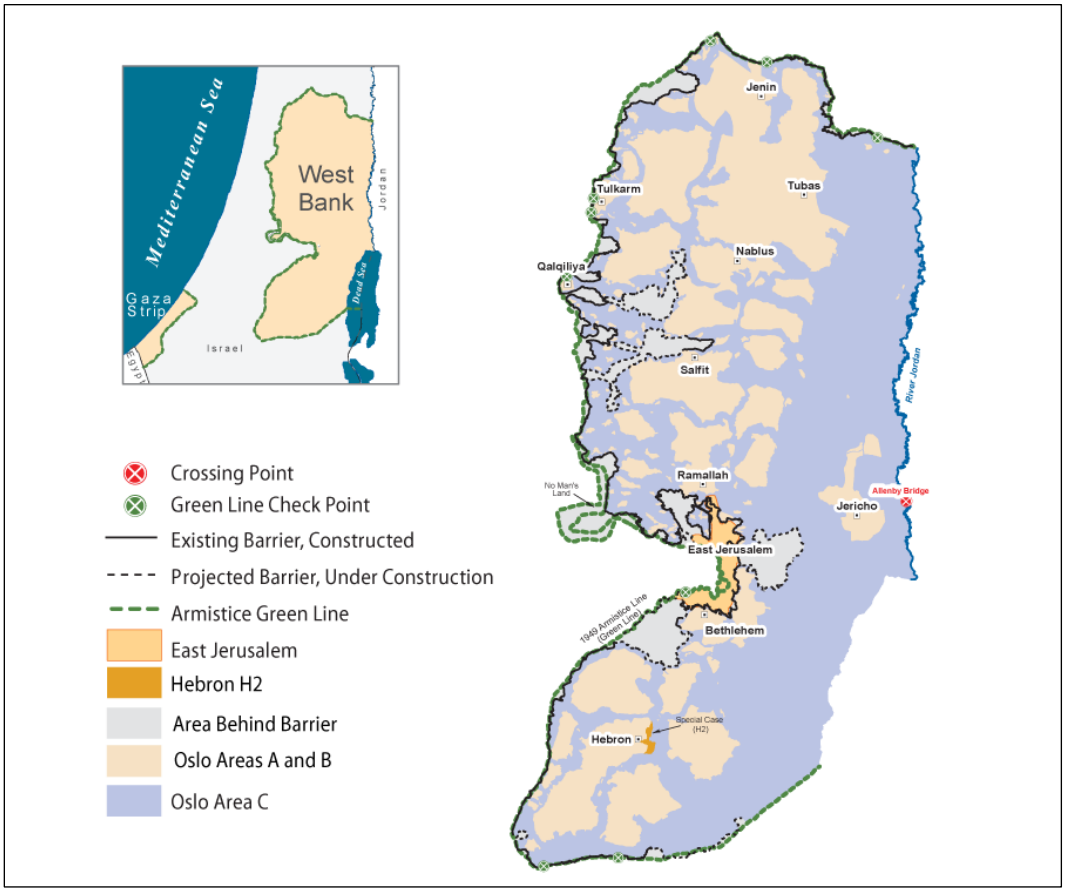
[4] Hamas has been designated a Foreign Terrorist Organization (FTO), a Specially Designated Terrorist (SDT), and a Specially Designated Global Terrorist (SDGT) by the U.S. government.

[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 identified as "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.

challenges due to Israeli military measures such as property confiscation and demolition, Israeli movement and access restrictions, political uncertainty, longtime Palestinian dependence on foreign aid, and domestic governance problems. Gaza's economic challenges and overall isolation are more acute (see "PA West Bank Leadership Concerns," "Gaza's Challenges: Hamas, Conflict, and Humanitarian Concerns," **Appendix C**, and **Appendix D**). 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.

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. Palestinian leaders 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.[7] In light of the Israeli-Palestinian stalemate, Arab leaders with a range of domestic and other regional concerns have focused less on championing the Palestinian cause. 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. Their agreements with Israel are known as the Abraham Accords.[8]

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 Palestinians advocate the idea of a binational or one-state idea as an

[7] "President Abbas at UNGA: Our confidence in achieving peace based on justice and international law is waning," *WAFA*, September 23, 2022; "FULL TEXT: Palestinian President Mahmoud Abbas' 2018 UN General Assembly Speech," haaretz.com, September 27, 2018.

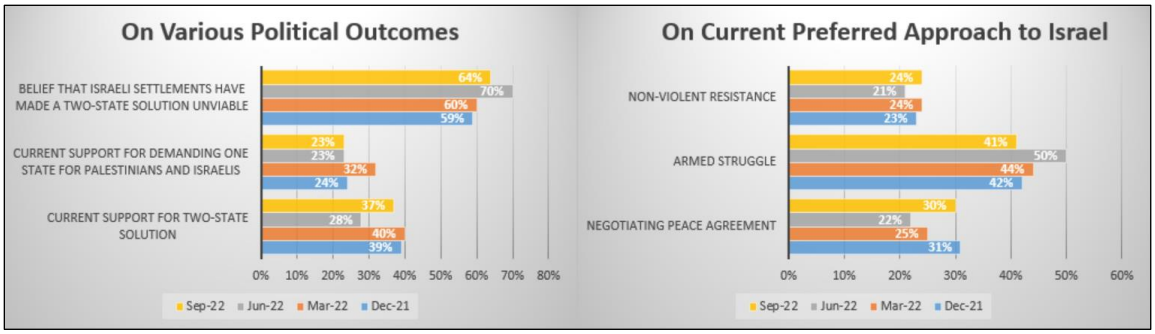
[8] For more information, see CRS Report R44245, *Israel: Background and U.S. Relations in Brief*, by Jim Zanotti.

alternative to a negotiated two-state solution with Israel (see **Figure 3**). In a September 2021 speech before the U.N. General Assembly, Abbas said

> I warn that undermining the two-State solution based on international law and UN resolutions will open the way for other alternatives imposed on us by the situation on the ground as a result of the continuation of the Israeli occupation of our State….
>
> If the Israeli occupation authorities continue to entrench the reality of one apartheid state as is happening today, our Palestinian people and the entire world will not tolerate such a situation and circumstances on the ground will inevitably impose equal and full political rights for all on the land of historical Palestine, within one State.[9]

Figure 3. Public Opinion Polling: Israeli-Palestinian Conflict

(Palestinians in the West Bank and Gaza Strip)



Source: CRS graphic, based on underlying polling data from Palestinian Center for Policy and Survey Research.

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 Policy Changes on Israeli-Palestinian Issues

December 2017	President Trump recognizes Jerusalem as Israel's capital, prompting the PLO/PA to cut off high-level diplomatic relations with the United States.
May 2018	The U.S. embassy opens in Jerusalem.

[9] Transcript of Abbas's speech (September 24, 2021) available at https://estatements.unmeetings.org/estatements/10.0010/20210924/7gIp44D6mxWV/8xz66G7sjKRg_en.pdf.

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	Then-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.
November 2020	Secretary Pompeo announces that products imported to the United States from Area C of the West Bank (where Israeli settlements and some Palestinian residential areas are located) are to be marked as coming from Israel rather than the West Bank.

The Abraham Accords signal some change to Arab states' previous insistence—as expressed in the 2002 Arab Peace Initiative[10]—that Israel address Palestinian negotiating demands as a precondition for improved ties.[11] Although Israel reportedly 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 Policies

The Biden Administration has made efforts to improve ties with the Palestinians, including by revisiting some Trump-era actions. U.S. officials have resumed some types of aid to the Palestinians, along with diplomatic engagement with Palestinian leaders. In his September 2022 address to the U.N. General Assembly, President Biden said

> And we will continue to advocate for lasting negotiating peace between the Jewish and democratic state of Israel and the Palestinian people. The United States is committed to Israel's security, full stop. And a negotiated two-state solution remains, in our view, the best way to ensure Israel's security and prosperity for the future and give the Palestinians

[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 archived 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.

> the state which—to which they are entitled—both sides to fully respect the equal rights of their citizens; both people enjoying equal measure of freedom and dignity.[14]

During his visit to the West Bank in July 2022, President Biden stated that he envisioned a two-state solution being organized along the 1967 lines (the armistice lines in place between Israel and the West Bank/Gaza before the 1967 Arab-Israeli war), with "mutually agreed-to swaps."[15] His Administration has not used the Trump Administration's 2020 proposed peace plan as a reference point.

Regarding the U.S. position on Jerusalem, the Administration has said 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."[16] In his July 2022 visit, President Biden said

> Jerusalem is central to the national visions of both Palestinians and Israelis—to your histories, to your faiths, to your futures.
>
> Jerusalem must be a city for all its people—its holy sites preserving the status quo, with the Hashemite Kingdom of Jordan continuing to serve as custodian.[17]

The following are key issues for the Biden Administration and Congress.

U.S. Aid

The Biden Administration has resumed some economic development, security, and humanitarian aid for Palestinians in the West Bank and Gaza. As noted earlier, in 2019 the Trump Administration suspended all U.S. aid to the Palestinians,[18] after a number of measures by the Administration and Congress in 2018 to halt or limit various types of aid.[19] 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.

Under the Biden Administration, total bilateral U.S. aid to the Palestinians has approached pre-Trump Administration levels (see **Figure 4**), though the TFA's enactment in 2018 has limited the allocation of funding for certain purposes due to restrictions against aid directly benefitting the PA.

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[14] White House, "Remarks by President Biden Before the 77th Session of the United Nations General Assembly," September 21, 2022.

[15] White House, "Remarks by President Biden and President Abbas of the Palestinian National Authority in Joint Press Statement | Bethlehem, West Bank," July 15, 2022.

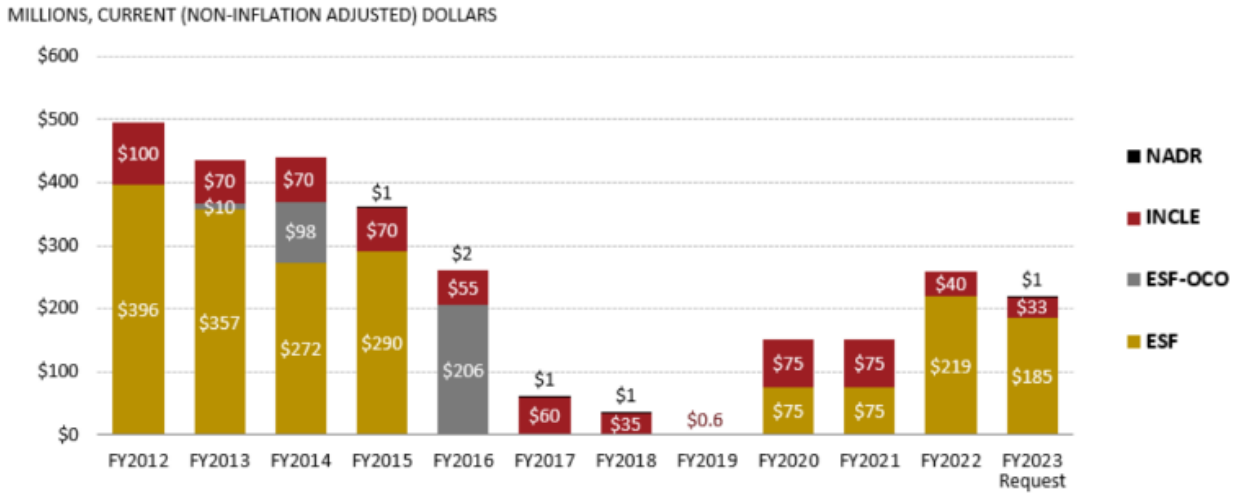
[16] Niels Lesniewski, "White House confirms Biden will keep embassy in Jerusalem," *Roll Call*, February 9, 2021.

[17] White House, "Remarks by President Biden and President Abbas of the Palestinian National Authority in Joint Press Statement | Bethlehem, West Bank," July 15, 2022. For more background, see CRS Report RL33476, *Israel: Background and U.S. Relations*, by Jim Zanotti; and CRS Report RL33546, *Jordan: Background and U.S. Relations*, by Jeremy M. Sharp.

[18] For more information on this development and subsequent legislative amendments that facilitated renewed congressional appropriations of bilateral aid for the West Bank and Gaza starting in FY2020, see archived 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.

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

Figure 4. U.S. Bilateral Aid to the Palestinians, FY2012-FY2023 Request



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

Notes: All amounts are approximate and reflect appropriations for each fiscal year. Some amounts have been appropriated but not obligated. Amounts for FY2023 have been requested but not appropriated. NADR = Nonproliferation, Antiterrorism, Demining, and Related Programs, INCLE = International Narcotics Control and Law Enforcement, ESF = Economic Support Fund, OCO = Overseas Contingency Operations.

In its FY2023 congressional budget justification, the State Department outlined the following as one of five strategic goals for U.S. foreign aid policy in the Middle East and North Africa region:

> Achieving a comprehensive and lasting peace between Israelis and Palestinians is a long-standing U.S. national security goal. The United States seeks to advance equal measures of freedom, security, and prosperity for Israelis and Palestinians alike and work toward a negotiated two-state solution in which Israel lives in peace and security alongside a viable Palestinian state…. U.S. assistance to the West Bank and Gaza creates sustainable opportunities for market-oriented growth, strengthens accountability and transparency in governance through civil society development, and improves the quality of life for the Palestinian people.[20]

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. Congress routinely attaches a number of conditions to aid to the Palestinians in annual appropriations language.[21]

For historical background on U.S. aid to the Palestinians, see archived CRS Report RS22967, *U.S. Foreign Aid to the Palestinians*, by Jim Zanotti.

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

The Biden Administration has said that any provision of aid to the Palestinians will comply with the TFA. The TFA seeks to discourage certain PLO/PA payments "for acts of terrorism" by prohibiting most Economic Support Fund aid (ESF) that "directly benefits" the PA. The TFA does not further define what constitutes a direct benefit.

[20] State Department, FY2023 Congressional Budget Justification, Appendix 2, p. 23.

[21] See, for example, Sections 7037-7040, and 7041(l) of the Consolidated Appropriations Act, 2022 (P.L. 117-103).

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.[22] Palestinian payments on behalf of prisoners or decedents in their current form apparently "became standardized during the second *intifada* [uprising] of 2000 to 2005."[23] Various PA laws and decrees since 2004 have established parameters for payments.[24] 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.[25]

As mentioned above, the TFA prohibits most ESF directly benefitting the PA, with specific exceptions for the East Jerusalem Hospital Network (EJHN), and a certain amount for wastewater projects and vaccination programs. Thus, U.S. aid for economic development and humanitarian purposes either is required to fit under those exceptions, or be deemed by an Administration not to directly benefit the PA. The Biden Administration modified its spending plan for FY2020 ESF after some Members of Congress differed with the Administration on whether some items in the initial plan would directly benefit the PA. In September 2021, a media report said that Senate Foreign Relations Committee (SFRC) Ranking Member Jim Risch released an informal congressional hold on the ESF after the Administration reallocated $20 million slated for infrastructure projects toward food assistance.[26]

An 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. Reportedly, PLO/PA efforts to consider moving toward a more needs-based prisoner payments system, rather than one tied to the severity of prisoners' sentences, have encountered domestic opposition.[27] In June 2021, a public opinion poll found that 70% of Palestinians in the West Bank and Gaza opposed significant changes to the PLO/PA payments.[28]

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

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

[24] 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/.

[25] See, for example, Corker Opening Statement at Hearing on Taylor Force Act, July 12, 2017, https://www.foreign.senate.gov/press/rep/release/corker-opening-statement-at-hearing-on-taylor-force-act; 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.

[26] Jacob Magid, "Top Republican releases remaining Palestinian aid he held up for months," *Times of Israel*, September 23, 2021.

[27] Jonah Schrock et al., "Responding to the PA's Mounting Fiscal Crisis," Washington Institute for Near East Policy, September 1, 2022.

[28] Palestinian Center for Policy and Survey Research (PCPSR), Public Opinion Poll No. 80, June 9-12, 2021.

After Congress and the Trump Administration enacted the TFA, Israel enacted a law in 2018 by which it withholds the transfer of taxes it collects for the PA by the amount of PLO/PA payments Israel estimates to be for acts of terrorism.[29] According to World Bank estimates, the Israeli deductions tend to range between $100 million and $185 million annually, amounting to between 2-4% of the annual PA budget.[30]

Economic Assistance

ESF is the main channel for economic development, civil society, and humanitarian assistance through nongovernmental organization (NGO) implementing partners in the West Bank and Gaza. The FY2023 congressional budget justification reads

> Palestinians are grappling with severe poverty, crippling unemployment, and chronic underdevelopment—particularly in Gaza. These challenges have only become more pronounced as the world continues to emerge from the pandemic and the invasion of Ukraine has accelerated inflation on a number of staples and basic materials. In this fragile context, U.S. assistance programs seek to reduce the likelihood of destabilization by creating new economic opportunities and providing relief to vulnerable populations.[31]

Table 2. Details of April 2022 Congressional Notification (for FY2021 ESF)

Amount	Implementing Partner(s)	Description
$21.1 mil	Global Communities and TBD	Water supply and sanitation needs
$15.5 mil	N/A	Public health (direct funding for East Jerusalem Hospital Network)
$12 mil	DAI Global, LLC and TBD	Private sector economic development assistance
$7.5 mil	TBD	Civil society and governance, including women's rights
$6.6 mil	Mercy Corps and TBD	Workforce development, including for youth and entrepreneurs, and vocational training
$6.5 mil	Catholic Relief Services	Rapid humanitarian relief and community resilience
$600,000	Global Communities	Disaster readiness in water and sanitation for Gaza

Source: USAID.

Note: TBD = To be determined.

During President Biden's July 2022 trip to Israel and the West Bank, he announced a $100 million U.S. contribution for Palestinian health care via the EJHN. Shortly thereafter, the White House announced that Kuwait, Qatar, Saudi Arabia, and the UAE had pledged $25 million each to partner with the United States in helping the EJHN "upgrade its infrastructure and improve patient care for thousands of Palestinians in the West Bank, East Jerusalem, and Gaza who rely on the network for life-saving treatment."[32] $14.5 million of the $100 million U.S. contribution has

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

[30] World Bank, *Economic Monitoring Report to the Ad Hoc Liaison Committee*, September 22, 2022, Table 3.

[31] State Department, FY2023 Congressional Budget Justification, Appendix 2, p. 286.

[32] White House, "FACT SHEET: The United States Strengthens Cooperation with Middle East Partners to Address 21st Century Challenges," July 16, 2022.

been disbursed as part of FY2021 ESF.[33] As of October 2022, additional funding details and timing have not been publicly released.

West Bank Security Assistance amid Rising Violence

International Narcotics Control and Law Enforcement (INCLE) funding goes toward nonlethal assistance programs that the United States started for the PA's security forces and justice sector in the West Bank in 2008. According to the FY2023 congressional budget justification: "The request for INCLE security assistance will support the Palestinian Authority (PA) to build professional and effective security and criminal justice institutions that maintain security and stability in the West Bank, uphold the rule of law, and contribute directly to regional security."[34]

Annual appropriations provisions since the 110th Congress have required the following reports to Congress:

- **Benchmarks for assistance and PA steps.** Before funding appropriated in each fiscal year can be made available, the State Department is required to report to Congress on (a) benchmarks established for security assistance for the West Bank and Gaza and the extent of Palestinian compliance with such benchmarks; and (b) PA steps to end torture or other objectionable treatment of detainees.[35]
- **Description of assistance.** The State Department is required to report twice yearly to the Appropriations Committees on "assistance provided by the United States for the training of Palestinian security forces, including detailed descriptions of the training, curriculum, and equipment provided; an assessment of the training and the performance of forces after training has been completed; and a description of the assistance that has been pledged and provided to Palestinian security forces by other donors." This language also requires "a description of modifications, if any, to the security strategy of the Palestinian Authority."[36]

Office of the U.S. Security Coordinator

The U.S. Security Coordinator for Israel and the Palestinian Authority (USSC), established in 2005, is a U.S.-led multilateral mission of more than 75 security specialists from nine NATO countries based in Jerusalem, with a forward post in the West Bank city of Ramallah, where the PA is headquartered.[37] The USSC is headed by a three-star U.S. flag officer who leads U.S. efforts to help develop and reform the PA security sector, and facilitate coordination and communication between Israeli and PA security units. When implementing projects, including those that provide training and equipment to the elements of the PA security forces (PASF) and justice sector, the USSC works in coordination with the State Department's Bureau of International Narcotics and Law Enforcement Affairs. In synchronizing international supporting efforts for PASF, the USSC

[33] State Department, "Special Briefing with Ambassador Barbara Leaf, Assistant Secretary of State for Near Eastern Affairs," September 14, 2022.

[34] State Department, FY2023 Congressional Budget Justification, Appendix 2, p. 349.

[35] P.L. 117-103, Section 7039(c)(2).

[36] P.L. 117-103, Section 7041(l)(5), citing an original reporting requirement in P.L. 110-252, Section 1404.

[37] Information provided by the USSC to CRS, October 20, 2022. The core of the USSC is made up of U.S. military officers hosted by the State Department. Supporting contingents of security specialists from the United Kingdom and Canada work with the U.S. core team, as do smaller contingents from the Netherlands, Turkey, Italy, Poland, Greece, and Bulgaria.

works closely with other organizations operating in the region, including the Office of the Quartet and the European Union Coordinating Office for Palestinian Police Support (EUPOL COPPS).[38] Additionally, some media sources report that the Central Intelligence Agency maintains close ties with the PA intelligence service on counterterrorism.[39]

After more than four years of supporting the PA's recruitment and training of personnel for National Security Forces and Presidential Guard units (2008-2012), the USSC shifted to a less resource intensive, strategic advisory role alongside continuing efforts to use INCLE funds to assist with

- PASF and criminal justice facilities;
- nonlethal equipment (including vehicles and communications gear);
- training on issues including counterterrorism, community policing, crowd control, emergency response, leadership, and human rights; and
- criminal justice reform.

In the first years of USSC efforts and INCLE support, the PASF showed increased professionalism and helped improve law enforcement efforts in West Bank cities like Jenin and Nablus. These places had previously been hotbeds of militant and criminal activity, largely spearheaded by factions or clans operating from refugee camps. Israel and the PA assisted efforts to pacify these areas by sponsoring amnesty and compensation packages to provide incentives for militants and older-generation security personnel with long track records of fighting Israelis to cease their activities or retire.[40]

Since 2014, militant activity in these areas has resumed and gradually expanded, presenting challenges for the PASF and Israel.[41] As of 2022, militancy has increased to such a degree that it has become a key U.S. policy concern in the Israeli-Palestinian arena.[42] Israeli and PA forces have approached the issue in different ways, leading to some tensions.[43] In this context, the USSC's role in facilitating Israel-PA coordination may become more prominent, and officials and lawmakers may reevaluate the level and nature of U.S. assistance to the PA security sector.

Increased Violence and Abu Akleh Controversy

During 2022, militants mostly concentrated in northern West Bank urban areas like Jenin and Nablus have been at the center of Israeli and PA counterterrorism operations. In early 2022, a spate of attacks in Israel killed at least 19 people, with Israeli security forces tracing some of the perpetrators to the northern West Bank. Israeli forces have killed more than 120 Palestinians in

[38] USSC web portal at https://www.state.gov/about-us-united-states-security-coordinator-for-israel-and-the-palestinian-authority/. The Office of the Quartet (the Quartet is the United Nations, European Union, United States, and Russia) has a mandate to assist Palestinian economic and institutional development. Website: http://www.quartetoffice.org/. EUPOL COPPS website: https://eupolcopps.eu/.

[39] See, for example, Barak Ravid, "CIA director to visit Israel, Palestinian Authority," *Axios,* August 9, 2021.

[40] Dan Murphy and Joshua Mitnick, "Israel offers amnesty to boost Fatah," *Christian Science Monitor,* July 17, 2007; Adam Entous, "Abbas overhauls his security forces," *Reuters,* June 20, 2008.

[41] Ahmad Melhem, "Israel watches closely as the West Bank seethes," *Al-Monitor,* September 12, 2022.

[42] State Department Press Briefings, October 25, 2022 and September 28, 2022; "Remarks by Ambassador Linda Thomas-Greenfield," September 28, 2022.

[43] Isabel Kershner, "Israeli Military Targets New Palestinian Militia," *New York Times,* October 26, 2022; Yaniv Kubovich and Jack Khoury, "Nablus' 'Lion's Den' Has Become a Major Headache for Israel and the Palestinian Authority," haaretz.com, October 12, 2022.

the West Bank—including some Palestinian protesters and uninvolved civilians—in connection with efforts to arrest suspects, halt illicit weapons smuggling and production, and establish order.[44] As of October 2022, unrest and security standoffs have spread to some extent to Palestinian neighborhoods of East Jerusalem and the southern West Bank city of Hebron.[45]

The complexities of the Israeli-Palestinian conflict make it difficult to reach definitive conclusions about the causes of increased violence coming from the West Bank. Some contributing factors may include Israeli-Palestinian tensions over holy sites, evictions, settlers, and demolitions in Jerusalem and the West Bank;[46] and socioeconomic challenges stemming from the COVID-19 pandemic, reduced foreign support, and domestic corruption and repression.[47] Some observers argue that some militant groups may be jockeying for influence in anticipation of the end of aging PA President Abbas's rule.[48] In October 2022, one source cited an Israeli security official in reporting that Israeli West Bank settlers have increased attacks against Palestinians.[49]

With prospects apparently dim for diplomatic resolution of final-status issues like borders, refugees, and Jerusalem's status, Israeli and Palestinian militants, activists, officials, and personnel may seek to shape outcomes or express protest. Arab states' greater willingness—despite Israeli-Palestinian diplomatic stalemate—to cooperate openly with Israel could feed increased tensions.[50]

Shireen Abu Akleh Killing and Controversy

In May 2022, prominent *Al Jazeera* journalist Shireen Abu Akleh (a U.S. citizen) was killed by a gunshot in an area of Jenin where Israeli security forces were trading fire with Palestinians. Her death triggered a major international outcry, as did images of Israeli police disrupting her funeral in East Jerusalem. In condemning Abu Akleh's killing and an injury suffered by one of her colleagues, the State Department spokesperson called for an immediate and thorough investigation and full accountability, and said that Israel has "the wherewithal and the capabilities to conduct a thorough, comprehensive investigation."[51] Evidence suggests that the shot may have come from Israeli forces,[52] with the PA asserting that its investigation proves Israeli forces deliberately targeted Abu Akleh, but Israel denying any such intent.[53] In April 2022, some advocacy groups and lawyers filed a complaint with the ICC alleging that Israel has systematically targeted Palestinian journalists for years.[54]

After some Members of the House and Senate sent letters to the executive branch requesting that the State Department and Federal Bureau of Investigation conduct an independent investigation into Abu Akleh's death,[55]

[44] "Report: Over 100 settler attacks against Palestinians in West Bank in past 10 days," *Times of Israel*, October 21, 2022; State Department Press Briefing, September 28, 2022; Ahmad Melhem, "Palestinian Authority steps up arrests in Nablus under Israeli, US pressure," *Al-Monitor*, September 28, 2022; Isabel Kershner, "Jerusalem on Edge After Deadly Checkpoint Shooting," New York Times, October 10, 2022.

[45] Patrick Kingsley, "Unrest Shakes West Bank and Jerusalem," *New York Times*, October 15, 2022.

[46] For more information on issues relating to Jerusalem and West Bank tensions and settlements, see CRS Report RL33476, *Israel: Background and U.S. Relations*, by Jim Zanotti.

[47] Ahmad Melhem, "Palestinians alarmed by lawlessness in West Bank," *Al-Monitor*, August 3, 2022.

[48] Kershner, "Jerusalem on Edge After Deadly Checkpoint Shooting."

[49] Yaniv Kubovich, "Settlers Commit 100 Crimes Against West Bank Palestinians in Last 10 Days," haaretz.com, October 21, 2022. See also "Report: Over 100 settler attacks against Palestinians in West Bank in past 10 days," *Times of Israel*, October 21, 2022.

[50] CRS Report RL33476, *Israel: Background and U.S. Relations*, by Jim Zanotti.

[51] State Department Press Briefing, May 11, 2022.

[52] Josef Federman, "Bellingcat probe suggests Israeli fire most likely killed journalist; but not 100%," May 16, 2022.

[53] "Palestinian officials: Israel killed Al Jazeera reporter," *Associated Press*, May 26, 2022.

[54] International Federation of Journalists, "Palestine: ICC case filed over systematic targeting of Palestinian journalists," April 26, 2022.

[55] Text of letters available at https://carson.house.gov/sites/carson.house.gov/files/

the State Department issued a statement in July. The statement said that the U.S. Security Coordinator (USSC) for Israel and the Palestinian Authority oversaw an independent process, and in summarizing Israeli and PA investigations concluded that Israeli gunfire likely killed Abu Akleh, but "found no reason to believe that this was intentional."[56] PA officials and members of Abu Akleh's family have publicly criticized the part of the USSC's finding regarding intent.[57] A June 2022 public opinion poll indicated that 92% of Palestinians in the West Bank and Gaza believe that Abu Akleh was deliberately targeted.[58]

After conducting an internal investigation, the Israel Defense Forces (IDF) said in September 2022 that there was a "high possibility" that Abu Akleh was accidentally hit by IDF gunfire[59]—eliciting additional public criticism from PA officials and Abu Akleh family members who assert that the shooting was not accidental.[60] In response, the State Department welcomed the IDF review, later adding that U.S. officials would continue to press Israel to "closely review its policies and practices on rules of engagement and consider additional steps to mitigate the risk of civilian harm, protect journalists and prevent similar tragedies in the future."[61] Israeli Prime Minister Yair Lapid and Defense Minister Benny Gantz then defended Israel's rules of engagement and said that no outside party could dictate them.[62]

To accompany the Senate Appropriations Committee July 2022 markup of the 2023 Department of State, Foreign Operations, and Related Programs Appropriations Act (S. 4662), the explanatory statement seeks to require a report from the Secretary of State on steps taken to facilitate an independent, credible, and transparent investigation into Abu Akleh's death, including whether 620M of the Foreign Assistance Act of 1961 (also known as the Leahy Law, pertaining to the possibility of gross human rights violations by a foreign security force unit) applies.[63]

Open source reporting on the militants operating in Jenin and Nablus provide varying descriptions of their affiliations, methods, and sources of support. Many, especially from younger generations, appear to be unaffiliated or only loosely affiliated with organized militias that come from the secular Fatah faction (such as Tanzim/Al Aqsa Martyrs' Brigades) or the Islamist Hamas and Palestine Islamic Jihad (PIJ) factions.[64] As happened during the second intifada (which took place from 2000 to 2005), some militants—including a group in Nablus calling itself the Lion's Den—are reportedly making common cause with counterparts across factional or secular-

Carson%20Shireen%20Abu%20Abkleh%20signed.pdf and https://www.vanhollen.senate.gov/imo/media/doc/Final%20Abu%20Akleh%20Letter%20(PDF).pdf.

[56] State Department press statement, "On the Killing of Shireen Abu Akleh," July 4, 2022.

[57] "US: Israeli fire likely killed reporter; no final conclusion," *Associated Press*, July 4, 2022.

[58] PCPSR, Public Opinion Poll No. 84, June 22-25, 2022.

[59] Hiba Yazbek and Patrick Kingsley, "Israel Says Reporter Was Probably Shot By One of Its Forces," *New York Times*, September 6, 2022.

[60] Khaled Abu Toameh, "Palestinians reject IDF probe into Shireen Abu Akleh killing, vow to bring case to ICC," jpost.com, September 5, 2022.

[61] Emanuel Fabian and Jacob Magid, "Rebuffing US, Lapid and Gantz say 'no one will dictate' IDF's open-fire regulations," *Times of Israel*, September 7, 2022.

[62] Ibid.

[63] For background on the Leahy Law, see CRS Report RL33222, *U.S. Foreign Aid to Israel*, by Jeremy M. Sharp.

[64] Yaniv Kubovich and Jack Khoury, "Nablus' 'Lion's Den' Has Become a Major Headache for Israel and the Palestinian Authority," haaretz.com, October 12, 2022. See **Appendix A** for more information on these groups. 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. According to the State Department's Country Reports on Terrorism for 2020, Iran has provided AAMB with "funds and guidance, primarily through Hizballah facilitators."

religious boundaries.[65] Some sources debate whether Hamas and other factions seeking to undermine PA rule in West Bank cities are actively sponsoring or seeking to sponsor young militants who appear to be unaffiliated.[66]

Israeli incursions into PA-administered areas have significantly increased in response to the violence, arguably improving near-term security for Israel while risking a longer-term worsening of West Bank tensions.[67] One analyst has argued

> There are clear benefits to putting Hamas, Islamic Jihad, and rogue Fatah gunmen in Israeli prisons, but there are costs to these operations as well. Not only does a heavy Israeli presence in Palestinian cities day after day and night after night put Palestinian governmental impotence front and center, it creates resentment among Palestinians who would not otherwise be radicalized but respond to Israeli operations with violence and anger.[68]

Security Coordination Challenges and U.S. Policy Implications

In this context, the PASF face a number of challenges. When they cautiously avoid confrontation with fellow Palestinians, they are vulnerable to criticism from Israeli and U.S. officials that they are weak or incapable of maintaining order, or even sympathetic to the militants' causes. When they undertake operations to arrest militants—partly in hopes of minimizing Israeli incursions—domestic critics often label them as collaborators with Israel, especially when such operations and the resulting prosecution and imprisonment of suspects appear to be related to Israeli raids, information sharing, or objectives.[69] Under these stresses, PA authorities often release detainees absent compelling evidence of serious terrorist plans or affiliations.[70]

The PA reportedly seeks time and flexibility to address militancy independent of Israeli dictates, with efforts to reach compromises that avoid major armed confrontations or arrests. By agreeing to stop fighting, some militants might receive lighter sentences and have an opportunity—if they uphold their commitment to rule of law—to eventually join the PASF.[71] Increasing challenges to PASF operations within this environment could lead some officials and lawmakers to reassess the level and nature of U.S. and international assistance.

It is unclear how effective U.S. assistance, training, and coordination can be in encouraging PASF personnel to maintain or improve their professional commitment to keeping order and stopping militants in an increasingly risky environment, especially if political, social, and economic pressures pull them in a different direction. Some personnel reportedly have directly targeted

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[65] Khaled Abu Toameh, "Fatah, Palestinian Islamic Jihad join forces to fight against IDF," jpost.com, October 16, 2022.

[66] Ahmad Melhem, "Israel accuses Hamas of sponsoring 'Lion's Den' group," *Al-Monitor*, October 22, 2022; Kubovich and Khoury, "Nablus' 'Lion's Den' Has Become a Major Headache for Israel and the Palestinian Authority"; Khaled Abu Toameh, "The Palestinian power struggle continues with Lions' Den," jpost.com, October 14, 2022.

[67] Ahmad Melhem, "Israel expands military operations in West Bank ahead of elections," *Al-Monitor*, October 27, 2022; Patrick Kingsley, "Palestinians on West Bank Call Israeli Lockdowns 'Suffocating,'" *New York Times*, October 27, 2022.

[68] Michael J. Koplow, "The Intensification of the West Bank's Perpetual Catch-22," Israel Policy Forum, September 8, 2022.

[69] Jack Mukand, "A year on, Nizar Banat's killing sheds light on PA corruption, but justice is on hold," *Times of Israel*, October 3, 2022; Melhem, "Palestinian Authority steps up arrests in Nablus."

[70] Melhem, "Palestinian Authority steps up arrests in Nablus."

[71] Kubovich and Khoury, "Nablus' 'Lion's Den' Has Become a Major Headache for Israel and the Palestinian Authority."

Israeli forces or settlers, raising questions about the PA's ability to control individuals' actions.[72] Since late 2021, personnel (along with other civil servants) have only been receiving around 80% of their normal salaries because of PA financial difficulties.[73] The PA is reportedly discussing various options to reduce payroll expenses, including one option that would—among other reforms—freeze salaries at certain levels for a few years before indexing them to a standard rate of increase.[74]

In September 2022 remarks before the U.N. Security Council, U.S. Representative to the United Nations Linda Thomas-Greenfield lamented unilateral actions opposed to peace, saying that they include "terrorist attacks and incitement to violence against Israelis" and "violence inflicted by Israeli settlers on Palestinians in their neighborhoods, and in some cases escorted by Israeli Security Forces. I'll also note that the United States is concerned about increasing tensions and violence in the West Bank among Palestinians, including the recent clashes in Jenin and Nablus."[75] The same day, the State Department spokesperson said, "The United States and other international partners stand ready to help but we cannot substitute for vital actions by the parties to mitigate conflict and to restore calm."[76] Ambassador Thomas-Greenfield, in her remarks at the Security Council, said that a "strong and legitimate" PA was in the interest of the entire region, while calling on the PA to respect human rights and "refrain from making payments to those who harm Israelis."[77] In a September 2022 phone briefing, Assistant Secretary of State for Near Eastern Affairs Barbara Leaf said that U.S. officials seek to ensure that Israel-PA "security cooperation is robust and continuing," while also encouraging an improvement in economic conditions in the West Bank and Gaza "because those can help and sustain improvement in security conditions."[78]

U.S. Contributions to UNRWA

Overview

The Administration resumed voluntary contributions to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in 2021. UNRWA provides education, health care, and other social services to more than 5 million registered Palestinian refugees in the West Bank, Gaza, Lebanon, Jordan, and Syria. It is funded almost entirely through voluntary contributions from governments and other donors.

During FY2022, the Biden Administration announced $364 million in contributions to UNRWA (see **Table 3**). U.S. contributions come from the Migration and Refugee Assistance account, which is administered through the State Department's Bureau of Population, Refugees, and Migration (PRM).

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[72] Ahmad Melhem, "Palestinian security forces become more involved in resistance in West Bank," *Al-Monitor*, October 12, 2022.

[73] Jonah Shrock et al., "Responding to the PA's Mounting Fiscal Crisis," Washington Institute for Near East Policy, September 1, 2022.

[74] World Bank, *Economic Monitoring Report to the Ad Hoc Liaison Committee*, September 22, 2022, p. 15.

[75] U.S. Mission to the United Nations, "Remarks by Ambassador Linda Thomas-Greenfield at a UN Security Council Briefing on the Situation in the Middle East," September 28, 2022.

[76] State Department Press Briefing, September 28, 2022.

[77] "Remarks by Ambassador Linda Thomas-Greenfield," September 28, 2022.

[78] State Department, "Special Briefing with Ambassador Barbara Leaf, Assistant Secretary of State for Near Eastern Affairs," September 14, 2022.

Table 3. Historical U.S. Government Contributions to UNRWA

(in $ millions, non-inflation adjusted)

Fiscal Year(s)	Amount	Fiscal Year(s)	Amount
1950-1999	2,216.7	2012	233.3
2000	89.0	2013	294.0
2001	123.0	2014	398.7
2003	134.0	2015	390.5
2004	127.4	2016	359.5
2005	108.0	2017	359.3
2006	137.0	2018	65.0
2007	154.2	2019	-0-
2008	184.7	2020	-0-
2009	268.0	2021	318.8
2010	237.8	2022	364.0
2011	249.4	**TOTAL**	**6,931.6**

Sources: U.S. State Department and UNRWA.

Note: All amounts are approximate.

Some Members of Congress and Israeli officials have stated that U.S. officials should pressure UNRWA to reform some of its practices.[79] While many supporters of the organization may agree with the need for reform, some also argue that UNRWA provides critical humanitarian support to the Palestinian refugee population.[80]

UNRWA Contributions: Conditions and Oversight (Including Textbooks)

U.S. contributions to UNRWA are subject to various legislative conditions and oversight measures. Section 301(c) of the 1961 Foreign Assistance Act (P.L. 87-195), as amended, says that "No contributions by the United States shall be made to [UNRWA] except on the condition that [UNRWA] take[s] all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism."

Additionally, since FY2015, annual appropriations legislation (for example, Section 7048(d) of P.L. 117-103) has included a provision requiring the State Department to report to Congress on whether UNRWA is

- using Operations Support Officers to inspect UNRWA installations and reporting any inappropriate use;
- acting promptly to address any staff or beneficiary violations of Section 301(c) or UNRWA internal policies;
- implementing procedures to maintain its facilities' neutrality, and conducting regular inspections;
- taking necessary and appropriate measures to ensure Section 301(c) compliance and related reporting;

[79] Senate Foreign Relations Committee, "Risch, McCaul: Biden Administration should have secured concessions before resuming assistance to Palestinians," April 7, 2021; Israeli Ambassador to the United States Gilad Erdan, quoted in Pranshu Verma and Rick Gladstone, "Reversing Trump, Biden Restores Aid to Palestinians," *New York Times*, April 7, 2021.

[80] See, for example, Better World Campaign, "Better World Campaign says UNRWA funding critical to U.S. interests in the Middle East," January 9, 2018.

- taking steps to ensure the content of educational materials taught in UNRWA-administered schools and summer camps is consistent with the values of human rights, dignity, and tolerance and does not induce incitement;
- not engaging in financial violations of U.S. law, and taking steps to improve financial transparency; and
- in compliance with U.N. audit requirements.

The State Department (specifically PRM) and UNRWA have a nonbinding "Framework for Cooperation" in place for calendar years 2021 and 2022,[81] patterned after similar framework documents from before the Trump Administration's suspension of contributions in 2018. In the framework document, UNRWA has agreed to submit a report to PRM semiannually—alongside its annual operational report—as a way to evaluate UNRWA's compliance with U.S. legislative requirements.

Regarding UNRWA's educational activities, it provided the following information to CRS in September 2022:

> Consistent with UN practice in all refugee situations, UNRWA uses textbooks in its school provided by the "host country." For the UN this is a matter of national sovereignty, ensures students can matriculate into host country educational systems at any level and more broadly participate in the social and economic life of the host country. No US funding is utilized to purchase textbooks, those are provided by the host government, in this instance [for the West Bank and Gaza] the PA Ministry of Education….
>
> Importantly, UNRWA reviews all textbooks against the UN values of neutrality/bias, gender, and age-appropriateness. In the latest PA textbooks (2021-2022) utilized by the Agency, the majority of the material identified as not in line with UN values (parts of approximately four percent of all pages) are related to maps and references to the occupation. To address these issues, the Agency utilizes a Critical Thinking Approach (CTA) to empower teachers to address the specific identified issues of concern in a way that is in line with UN values. UNRWA reports on its findings regarding textbooks through periodic donor briefs.

In 2019, a Government Accountability Office (GAO) study examining State Department reporting to Congress pertaining to educational materials in UNRWA-administered schools found that while UNRWA had developed complementary teaching materials to address content in PA textbooks not aligned with U.N. values, "due to financial shortfalls and other constraints, UNRWA officials told GAO that UNRWA did not train teachers or distribute the complementary teaching materials to classrooms."[82] UNRWA officials have since introduced additional safeguards intended to ensure the adherence of educational materials with U.N. values.[83] Since then, UNRWA and an activist organization have engaged in some public debate about the practical adherence of UNRWA educational practices and materials with U.N. values.[84]

In light of renewed public debate regarding PA textbooks since the introduction of new curriculum materials starting in 2016,[85] H.R. 2374 was introduced in the House in April 2021. The bill would require a few annual State Department reports to Congress on PA educational material, and on whether U.S. aid is used directly or indirectly to fund the dissemination of the curriculum by the PA. In September 2022, the House Foreign Affairs Committee ordered H.R. 2374 to be reported.

In a September 2021 SFRC hearing on the nomination of Julieta Valls Noyes to serve as Assistant Secretary of State for Population, Refugees, and Migration, Noyes said that the Biden Administration shared concerns expressed by some Members via their summer 2021 introduction

[81] Text available at https://www.state.gov/wp-content/uploads/2021/07/2021-2022-US-UNRWA-Framework-Signed.pdf.

[82] GAO-19-448, *West Bank and Gaza: State Has Taken Actions to Address Potentially Problematic Textbook Content but Should Improve Its Reporting to Congress*, June 2019.

[83] UNRWA press release, "UNRWA Improves Safeguards on Ensuring Adherence of Educational Materials with UN Principles; Prepares to Launch Secure Agencywide Self-Learning Platform," January 14, 2021.

[84] IMPACT-se, *Review of 2022 UNRWA-Produced Study Materials in the Palestinian Territories*, July 2022; UNRWA press release, "UNRWA Reviews and Responds to Allegations Concerning Agency Educational Materials," July 15, 2022; IMPACT-se, "Statement on UNRWA's Response to IMPACT-se Report," July 21, 2022.

[85] Georg Eckert Institute for International Textbook Research, *Report on Palestinian Textbooks*, 2021; IMPACT-se, The New Palestinian School Curriculum, April 2019.

of an UNRWA Transparency and Accountability Act (S. 2479 and H.R. 4721) that would further condition U.S. contributions to UNRWA (a nearly identical version was introduced in the Senate in 2022 as S. 3467).[86] However, Noyes asserted that the PRM-UNRWA framework document (see text box above) "accounts for the need to make changes and to redouble efforts to ensure efficiency, the effectiveness and the neutrality of UNWRA." Noyes also stated, "UNRWA is a force for stability in the region by providing vital services to Palestinians in need, education for school children, health care for people, and the only viable alternative to UNRWA in those areas would be Hamas."[87]

Similarly, in a May 2022 hearing before the House Appropriations Subcommittee on State, Foreign Operations, and Related Programs, USAID Administrator (and former U.S. Representative to the United Nations) Samantha Power acknowledged "challenges with UNRWA over the years," but cautioned that disruptions to UNRWA's operations in educating Palestinian youth could open the door for greater influence from extremists.[88] SFRC Ranking Member Risch has expressed concern that "issues regarding the impartiality of UNRWA, including its education system, have yet to be sufficiently addressed despite this administration's decision to restore U.S. funding."[89] UNRWA Commissioner-General Philippe Lazzarini has voiced worries that political developments might impact U.S. contributions to UNRWA.[90] In October 2022, Lazzarini was quoted as saying, "Sometimes funding can be decreased due to political considerations; at times we receive less from some donors that are not prioritizing this region anymore, or because they had to decrease their overseas budget, and this affects us here in the region."[91]

FY2023 Appropriations Legislation

In the report (H.Rept. 117-401) accompanying the House Appropriations Committee's markup of the FY2023 Department of State, Foreign Operations, and Related Programs Appropriations Act (H.R. 8282), the Committee recommended that in addition to regular contributions to UNRWA from the MRA account, an additional $100 million from the International Organizations and Programs account should go to UNRWA for food assistance for vulnerable Palestinians in the West Bank and Gaza in response to rising food and transport costs. The report also included the following language:

> As part of the Administration's ongoing reengagement with UNRWA, the Committee urges the Secretary of State to secure additional contributions to the Agency from countries in the region, work with the Government of Lebanon on job opportunities for refugees, and work with UNRWA on overcoming residual financial impacts to the Agency created by the 2018 suspension of U.S. contributions.
>
> In addition to the reports required prior to the obligation of funds made available by this Act to UNRWA, the Secretary of State shall take additional steps to ensure that UNRWA adheres to the UN humanitarian principles of independence, impartiality, humanity, and neutrality, and redoubles efforts to (1) implement procedures to maintain the neutrality of

[86] Text of hearing transcript available at http://www.cq.com/doc/congressionaltranscripts-6341064?1.

[87] Ibid.

[88] Text of hearing transcript available at https://plus.cq.com/alertmatch/526548624?0&deliveryId=92338759&uid=congressionaltranscripts-6532974.

[89] Rachel Oswald, "UN Palestinian refugee agency chief warns office facing existential crisis," *Congressional Quarterly*, March 31, 2022.

[90] Ibid.

[91] Rawan Radwan, "Saudi Arabia cements commitment to Palestinian refugees with UNRWA contribution 25 times the amount it pledged," *Arab News*, October 24, 2022. UNRWA donor charts for previous calendar years are available at https://www.unrwa.org/how-you-can-help/government-partners/funding-trends/donor-charts.

> its facilities, including implementing a no-weapons policy and conducting regular inspections of its installations, to ensure they are only used for humanitarian or other appropriate purposes; and (2) take steps to ensure that the content of all educational materials taught in UNRWA-administered schools and summer camps is: (A) consistent with the value of dignity for all persons; and (B) does not induce or encourage incitement, violence, or prejudice.

The explanatory statement accompanying the Senate Appropriations Committee's markup of the FY2023 Department of State, Foreign Operations, and Related Programs Appropriations Act (S. 4662) said

> Not later than 90 days after the date of enactment of the act, the Secretary of State shall submit a report to the Committees on Appropriations on reforms implemented by the UN Relief and Works Agency [UNRWA] during the preceding calendar year. Such report shall include a detailed description of any plans to leverage future U.S. contributions to make progress on implementing additional reforms, as appropriate.
>
> Such report shall also include information on the degree to which UNRWA is complying with the policies and procedures described in subsection (d) [in Section 7048] and the areas in which the Department is partnering with the Agency on new guidelines or reform efforts. Such report shall include an updated description of the mechanisms UNRWA has in place to identify incitement and other unacceptable subject matters, including anti-Semitic content, in locally produced textbooks, the procedures in place to substitute such material with curricula that emphasizes the importance of human rights, tolerance, and non-discrimination, and a description of steps taken to determine the credibility of the source of, and verify, claims, when made, that UNRWA is not complying with such policies and procedures, as well as any steps taken to respond to claims that are determined to not be credible.

Israeli-Palestinian Cooperative Programs

In the current Israeli-Palestinian context, where U.S. officials support the concept of negotiating a permanent resolution but do not anticipate imminent progress on that point,[92] the Administration and Congress have pursued programs fostering Israeli-Palestinian cooperative action.

USAID Conflict Mitigation and Stabilization

Since 2002, the Office of Conflict Management and Mitigation (CMM) at the U.S. Agency for International Development (USAID) has provided a U.S. government vehicle for using foreign assistance to support people-to-people reconciliation activities and to counteract sources of instability and violent conflict. Congress began funding CMM projects for Israelis and Palestinians in FY2004.[93] According to Section 7060(f) of the FY2022 Consolidated Appropriations Act (P.L. 117-103), CMM funding (which has historically come from either the ESF or the Development Assistance [DA] account) is intended to "support people-to-people reconciliation programs which bring together individuals of different ethnic, racial, religious, and political backgrounds from areas of civil strife and war."

Through FY2012, Congress annually designated $10 million from CMM amounts for initiatives in the Middle East. Starting in FY2013, Congress removed the directive. Nevertheless, the executive branch continued allocating a portion of the CMM funds appropriated for global use for

[92] White House, "Remarks by President Biden Before the 76th Session of the United Nations General Assembly," September 21, 2021.

[93] Edward Wong, "U.S. Is Eliminating the Final Source of Aid for Palestinian Civilians," *New York Times*, September 15, 2018.

Israeli-Palestinian people-to-people initiatives. CMM projects for Israelis and Palestinians have been administered through USAID, the U.S. Embassy to Israel, and the U.S. consulate general in Jerusalem (before it was subsumed into the embassy in 2019).

In September 2018, the Trump Administration changed the CMM program by halting new grants for initiatives involving Palestinians in the West Bank and Gaza. New people-to-people projects were limited to including Arab citizens of Israel as the counterparts to Israeli Jews.[94] This change took place as part of the Trump Administration's general suspension in 2018 and 2019 of most U.S. aid benefitting Palestinians.

In April 2021, the Biden Administration announced a resumption of many types of U.S. aid for the Palestinians, including $10 million for people-to-people programs involving Israelis and Palestinians.[95] In May 2021, USAID sent formal notification to Congress of its intent to obligate $10 million in DA funding for these programs, rebranded as Conflict Mitigation and Stabilization (CMS).[96] In April 2022, it notified Congress of its intent to obligate nearly $15 million in FY2017-FY2020 ESF funding for CMS, saying that "funds for scientific exchanges and cooperative research support the objectives of advancing Middle East peace and improving security in the region. [Middle East Regional Cooperation] research grants provide opportunities for peaceful engagements between Palestinian and Israeli researchers, students, and stakeholders, and provide a forum to engage on social and economic issues affecting their lives and livelihoods."[97] USAID provided additional notification in April 2022 of $5.4 million in similar FY2021 ESF funding for CMS programs involving Israel and various Arab neighbors (to potentially include Palestinians, Egypt, and Jordan).[98]

Middle East Partnership for Peace Act (MEPPA) Funds

As part of the FY2021 Consolidated Appropriations Act enacted in December 2020, the Nita M. Lowey Middle East Partnership for Peace Act of 2020 (MEPPA, Div. K, Title VIII of P.L. 116-260) authorized the establishment of the following two funds, as well as $50 million in ESF (Congress can specify how to allocate any future appropriations among the two authorized funds) for each year from FY2021 to FY2025):

The People-to-People Partnership for Peace Fund (PPPPF) was established in 2021 by the Administrator of USAID. The fund supports dialogue and reconciliation programs, as well as other projects designed, as stated in MEPPA, "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."

Section 8004 of P.L. 116-260 provided authorizing language for the fund by adding Section 535 at the end of Chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.). This section provides that the fund

[94] Ibid. A 2020 USAID factsheet describing ongoing CMM grants for Israeli Jews and Arabs is available at https://www.usaid.gov/sites/default/files/documents/FINAL_2020_WBG_CMM_Fact_sheet.pdf.

[95] State Department, "The United States Restores Assistance for the Palestinians," April 7, 2021.

[96] USAID underwent an organizational restructuring under the Trump Administration. For more, see the relevant section in CRS Report R46656, *Selected Trump Administration Foreign Aid Priorities: A Wrap-Up*, coordinated by Emily M. Morgenstern. USAID FY2021 Congressional Notification #153, May 13, 2021.

[97] USAID FY2022 Congressional Notification #129, April 22, 2022.

[98] USAID FY2022 Congressional Notification #128, April 21, 2022.

- could work through Israeli, Palestinian, or international organizations committed to its purposes, including those that promote reconciliation between Israeli Jews and Arabs;
- could receive contributions, such as from foreign governments and international organizations; and
- would have an advisory board of experts appointed in a bipartisan fashion.

The Joint Investment for Peace Initiative (JIPI) was established in 2021 by the Chief Executive of the U.S. International Development Finance Corporation (DFC). As stated in MEPPA, the initiative provides "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 prioritizes "support to projects that increase economic cooperation between Israelis and Palestinians." A former PLO adviser raised concerns that the authorizing legislation does not explicitly preclude Israeli settlers in the West Bank from receiving funding from the initiative.[99]

Appropriations for the PPPPF and JIPI are subject to the same mission directives and vetting practices that USAID applies to bilateral economic aid for the West Bank and Gaza. Section 8006(d) of P.L. 116-260 requires that USAID and DFC submit a joint report to Congress no later than 90 days after the end of each fiscal year describing lessons learned and best practices from their respective projects and investments, and how those projects and investments have contributed to the funds' purposes.

Congress appropriated $50 million in ESF for each of FY2021 and FY2022, to be allocated between the two MEPPA funds, and the Administration is requesting the same for FY2023. Funding is going toward cooperative Israeli-Palestinian programs as well as programs solely for Palestinians (see **Table 4**). The Senate Appropriations Committee markup of the FY2023 Department of State, Foreign Operations, and Related Programs Appropriations Act (S. 4662), would require (in Section 7041(d)) that $1.5 million of the $50 million for FY2023 be used "for a new women's leadership program that brings together Israeli and Palestinian women who are committed to working in pursuit of Middle East peace."

Table 4. Details of January 2022 Congressional Notification for MEPPA

Amount	Implementing Partner(s)	Description
$18 mil (PPPPF)	TBD	**Conflict Mitigation and Stabilization.** Promote greater people-to-people understanding by increasing Israeli-Palestinian economic ties and enhance dialogue and reconciliation
$10.35 mil (PPPPF)	TBD	**Trade and Investment.** Support for Israeli-Palestinian-U.S. private sector partnerships that help integrate Israeli-Palestinian markets
$10.35 mil (PPPPF)	TBD	**Private Sector Productivity.** Promote the expansion of Israeli-Palestinian-U.S. economic and research partnerships
$5.5 mil (PPPPF)	TBD	**Civil Society.** Support organizations seeking to build Israeli-Palestinian cooperation.
$3.5 mil (JIPI)	Middle East Investment Initiative	**Financial Sector.** Technical assistance to increase the development impact of a loan guarantee facility that supports lending to small- and medium-sized Palestinian enterprises.

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

Amount	Implementing Partner(s)	Description
$2.3 mil (PPPPF)	TBD	**Workforce Development.** Promote Israeli-Palestinian exchange programs and mentorship/internship opportunities that build the capacity of the Palestinian workforce.

Source: USAID.

Notes: TBD = To be determined. Funding is from FY2021 ESF.

PA West Bank Leadership Concerns

Uncertainty surrounds the future of Palestinian leadership and democracy. Questions include

- Who might eventually succeed Mahmoud Abbas (see text box below for his biography) as leader of the national movement?
- Are future elections likely and what factors might influence their being held?
- What challenges exist to rule of law and civil liberties in the West Bank?

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 shortly after 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.[100]

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.[101] 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 decision-making authority and control over security services. Abbas resigned as prime minister in September 2003, reportedly as a result of frustration with Arafat, the George W. Bush Administration, and Israel.[102]

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

[100] 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.

[101] 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.

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

praises "martyrs" for the Palestinian cause, he also has made repeated public calls for nonviolent approaches to resolving Palestinian disputes with Israel.

A complex combination of factors may drive Abbas's actions. These potentially include safeguarding his personal authority and legacy, preventing destabilization and violence, and protecting his family members.[103] 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.[104]

Succession

Speculation surrounds who might lead the PA, PLO, and Fatah upon the end of Abbas's tenure—whether via elections or otherwise.[105] Political differences within Fatah and growing violence and unrest in the West Bank suggest that competition for power between different Fatah-affiliated individuals and groups could lead to some type of geographical or bureaucratic division of control, or to periods of political or armed struggle to resolve leadership and succession questions.

Marwan Barghouti—a 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.[106] Barghouti joined a breakaway electoral list during the abortive campaign in early 2021 (discussed below). A major obstacle to Barghouti assuming PLO/PA leadership is his imprisonment in Israel since 2002 on multiple murder charges in connection with the second intifada (he was convicted in 2004).

Other Palestinian leaders who could be involved in succeeding Abbas include

- **Hussein al Sheikh** (a senior PLO and PA official close to Abbas), **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.
- **Mahmoud al Aloul** and **Jibril Rajoub** have political heft within Fatah, but relatively less international experience.
- **Nasser al Qudwa** (a former PLO diplomat and Arafat's nephew) is an internationally visible figure who was expelled from Fatah in March 2021 for forming a breakaway electoral list (which Barghouti later joined).
- **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.[107] 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

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

[104] Ibid.; Freedom House, *Freedom in the World 2022*, "West Bank."

[105] Nathan J. Brown and Vladimir Pran, "A Procedural Guide to Palestinian Succession: The How of the Who," Carnegie Endowment for International Peace, September 27, 2022.

[106] PCPSR, Public Opinion Poll No. 85, September 13-17, 2022.

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

2014 a PA court convicted him in absentia of libel, slander, and contempt of Palestinian institutions.

Elections

Since divided rule took hold in 2007—with the Abbas-led PA in the West Bank, and Hamas in Gaza—no PA presidential or legislative elections for the West Bank, Gaza, and East Jerusalem have occurred, and the Palestinian Legislative Council has ceased to function. During the 15-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. Municipal elections for some West Bank cities and towns occurred in 2012, 2017, and again in 2021-2022 as described below.

In 2021, the PA announced and then postponed plans to hold legislative and presidential elections. President Abbas stating he was postponing elections because Israel was unwilling to allow East Jerusalem residents to vote. Some observers argue that Abbas may have been more concerned that Fatah could fare poorly in elections because of two breakaway electoral lists headed by former Fatah members, and the possibility that these lists might coordinate with Hamas to marginalize him and Fatah.[108]

In his September 2021 U.N. General Assembly speech, Abbas said that the PA was still planning to hold elections as soon as Israel would allow the participation of Palestinians from East Jerusalem. He said that in the meantime, he would continue pursuing efforts to forge a unity government that would end the West Bank-Gaza split, and that additional municipal elections would occur.[109] Municipal elections did take place in the West Bank in December 2021 and March 2022. Hamas did not permit them to take place in Gaza. Most candidates were nominally independent, which obscured how the contest between Fatah and Hamas loyalists played out.[110] However, some other elections for university student councils in the West Bank suggest that momentum among younger voters may favor Hamas and work to Fatah's detriment.[111] See **Figure 5** for public opinion polling in the past year regarding popular support for Hamas and Fatah.

[108] Daoud Kuttab, "Palestinian president decides —on his own— to postpone elections," *Al-Monitor*, April 30, 2021.

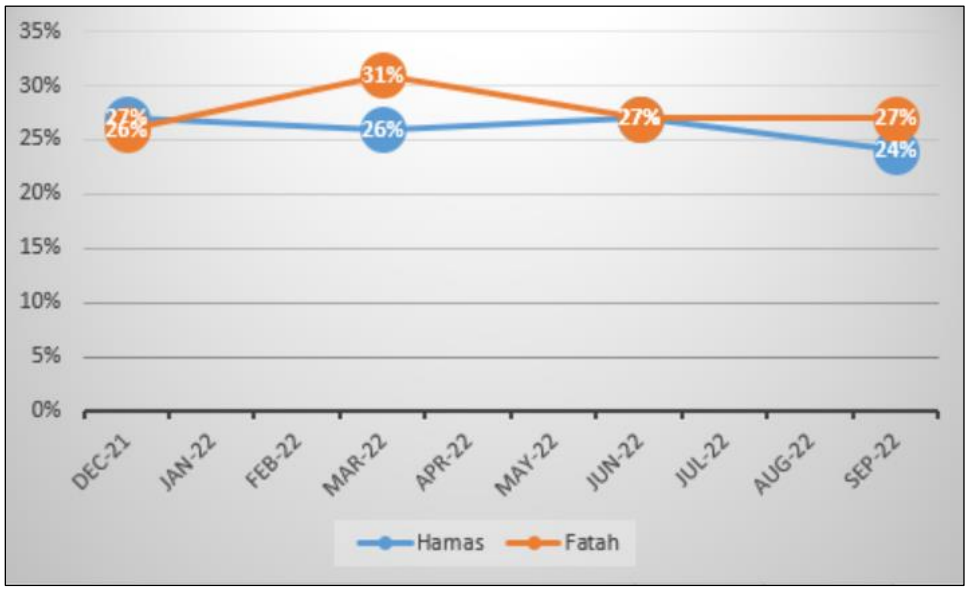
[109] Transcript of Abbas's speech (September 24, 2021).

[110] Ahmad Melhem, "West Bank local elections bring Hamas, PFLP closer," *Al-Monitor*, March 28, 2022.

[111] Basil Adraa, "Hamas' landslide student election win marks major shift in Palestinian politics," *+972 Magazine*, May 31, 2022.

Figure 5. Public Opinion Polling: Support for Domestic Political Factions

(Palestinians in the West Bank and Gaza Strip)



Source: CRS graphic, based on underlying polling data from Palestinian Center for Policy and Survey Research.

The historical memory of Hamas's surprise victory in the last PA elections to be held—the legislative elections of 2006—could affect various actors' views on whether and how to hold future PA elections. 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.[112] If the PA government is "Hamas-controlled," PATA applies additional conditions, limitations, and restrictions on aid.

If future elections happen, it is unclear what implications they will have for Palestinian governance and international relationships. Open questions include whether elections can take place in a free and fair manner, include international observers, and garner acceptance from both Fatah and Hamas in the event of adverse outcomes for either.[113]

[112] P.L. 117-103, §7040(f).

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

Governance and Human Rights Concerns

The PA has executive, legislative, and judicial organs of governance (see **Appendix C** for an overview), but in practical terms, President Abbas has few domestic checks on his power. The West Bank-Gaza split rendered the Palestinian Legislative Council (PLC) inoperative in 2007. Since then, Abbas has appointed prime ministers and other cabinet officials without legislative approval and has governed by presidential decree. He dissolved the PLC in 2018 pending future elections. Some Palestinian judges and other observers have protested President Abbas's heightened control over the judiciary.[114] In 2016, he created a new Constitutional Court made up of his appointees, and in 2019 he restructured the High Judicial Council that supervises the judicial system and nominates judges.[115]

In 2021, President Abbas issued a decree that requires NGOs to submit their yearly plans of action and budgets to the PA.[116] Because of the layer of requirements that the decree has added to existing regulations on NGOs, some observers interpret it as giving the PA significant control over the civil society sector in the West Bank.[117]

Within this governing context, Abbas and the PA routinely face allegations of corruption and non-transparency.[118] The State Department has noted continuing claims of corruption among Fatah officials, "particularly related to favoritism and nepotism in public-sector appointments."[119] Some Palestinians directly associate Israel's occupation with this claimed corruption by arguing that privileges accorded by Israel to PA elites tie those elites to the system of overarching Israeli control.[120]

Some sources highlight domestic and international concerns about PA governance and repressive measures against public dissent. In June 2021, Nizar Banat, a prominent activist from Hebron who also had been a candidate in the postponed legislative elections, died shortly after PA forces detained him for posting online critiques of PA policies. Claims from Banat's family and other evidence suggest that the authorities may have beaten him to death.[121] The State Department spokesperson expressed deep disturbance over Banat's death and its reported circumstances and called for the PA to ensure a thorough and transparent investigation and full accountability.[122] The PA charged 14 security personnel in a military court in connection with Banat's death, but some observers expressed skepticism that the proceedings would significantly change the PA's

[114] Freedom House, *Freedom in the World 2021*, "West Bank."

[115] European Council on Foreign Relations, Mapping Palestinian Politics website, https://ecfr.eu/special/mapping_palestinian_politics/justice_system/.

[116] Isabel Kershner and Adam Rasgon, "Critic's Death Puts Focus on Palestinian Authority's Authoritarianism," *New York Times*, July 7, 2021; Qassam Muaddi, "Palestinian Authority's push to regulate NGOs raises fear of power grab," *Middle East Eye*, March 3, 2021.

[117] Muaddi, "Palestinian Authority's push to regulate NGOs raises fear of power grab."

[118] "Criticism of Palestinian security forces raises pressure on Abbas," *Reuters*, June 30, 2021.

[119] State Department, Country Reports on Human Rights Practices for 2021: Israel, West Bank, and Gaza.

[120] Mukand, "A year on, Nizar Banat's killing sheds light on PA corruption."

[121] Joseph Krauss, "Critic of Palestinian Authority dies after violent arrest," *Associated Press*, June 24, 2021.

[122] State Department, "Death of Palestinian Activist Nizar Banat," June 24, 2021.

approaches to dissent.[123] The defendants were released on bail in June 2022,[124] and the trial is ongoing as of October 2022.

Additional concerns expressed by governments and human rights monitors regarding PA practices on rule of law and civil liberties include

- **Internet restrictions.** In 2017, President Abbas issued the Electronic Crimes Law, prescribing heavy fines and lengthy prison terms for a range of vaguely defined offenses, including the publication or dissemination of material that is critical of the state, disturbs public order or national unity, or harms family and religious values.[125]
- **Criminal justice.** Reports persist of arbitrary arrest, detention without trial or charges, torture, abuse, and isolation.[126]
- **Treatment of women.** Reports persist of employment discrimination and repressive work conditions for women. Additionally, while the PA has taken some steps toward greater legal protection for women, stronger laws or enforcement of the laws may be possible in preventing forms of discrimination or ill-treatment, including rape and harassment. One in five married women state that their spouse has abused them.[127]

Gaza's Challenges: Hamas, Conflict, and Humanitarian Concerns

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 occasional violence between Israel and Hamas (along with other Palestinian militants based in Gaza) that could recur in the future.

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.[128]

The possibility that humanitarian crisis could destabilize Gaza has prompted some efforts aimed at improving living conditions and reducing spillover threats. Hamas and Israel reportedly work through Egypt and Qatar to help manage the flow of necessary resources into Gaza and prevent or manage conflict escalation. Since 2018, Egypt and Hamas (perhaps with implied Israeli approval)

[123] Adam Rasgon, "Palestinian Authority Indicts 14 Security Force Members in Activist's Death," *New York Times*, September 6, 2021.

[124] Mukand, "A year on, Nizar Banat's killing sheds light on PA corruption."

[125] Freedom House, *Freedom in the World 2022*, "West Bank."

[126] State Department, Country Reports on Human Rights Practices for 2021: Israel, West Bank, and Gaza.

[127] Ibid.

[128] 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.

have permitted some commercial trade via the informal Salah al Din crossing that bypasses the formal PA controls and taxes at other Gaza crossings.[129]

Four large-scale conflicts took place between Israel and Gaza-based militants in 2008-2009, 2012, 2014, and 2021. In each of these conflicts, the militants fired rockets into Israel, while Israel conducted airstrikes in Gaza targeting militants (for more information on threats to Israel from Palestinian violence, see the text box in **Appendix B**). Israel also launched some ground operations in the 2008-2009 and 2014 conflicts. In the aftermath of each conflict, significant international attention focused on the still largely unfulfilled 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. Major progress in reconstruction might require one or more of the following: (1) a political reunification of Gaza with the West Bank, (2) reduced Israeli and Egyptian restrictions on access and commerce, and/or (3) a long-term Hamas-Israel cease-fire. Egypt plays a key role in both Israel-Hamas and Hamas-Fatah mediation.[130]

Political reunification would appear 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.[131]

Because of the PA's inability to control security in Gaza, it has been unwilling to manage donor pledges toward post-conflict reconstruction, leading to concerns about Hamas diverting international assistance for its own purposes.[132] With sensitivity to Israel's worries about diversion, Qatar—which had been providing cash assistance to Gaza since 2018—began an arrangement after the 2021 conflict to provide money transfers to needy families through the United Nations.[133] Qatar and Egypt also established a mechanism—with Israel's tacit approval—to provide assistance toward Gaza civil servants' salaries.[134]

For three days in early August 2022, Israel and PIJ militants in Gaza exchanged fire. Hamas stayed out of the violence, with some sources intimating that Israeli measures loosening access restrictions on goods and permitting thousands of Gazans to work in Israel may have provided Hamas with economic incentives not to fight.[135] A similar round of violence between Israel and PIJ (with Hamas abstaining) took place in November 2019.

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[129] Ahmad Abu Amer, "Egypt, Qatar agreement with Israel, Hamas provides boost for Gaza economy," *Al-Monitor*, November 23, 2021; Neri Zilber, "New Gaza Crossing Raises Questions About Blockade Policies," Washington Institute for Near East Policy, October 23, 2019.

[130] Maged Mandour, "Egypt's Shifting Hamas Policies," Carnegie Endowment for International Peace, July 26, 2021.

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

[132] Ibid.

[133] Aaron Boxerman, "UN to begin dispensing Qatari cash to needy Gazan families Monday under new deal," *Times of Israel*, September 12, 2021.

[134] Yaniv Kubovich, "Egypt, Qatar Reach Breakthrough on Hamas Civil Servants Salaries," haaretz.com, November 29, 2021; Abu Amer, "Egypt, Qatar agreement with Israel, Hamas."

[135] See, for example, Dov Lieber et al., "Hamas Considers Cost of Conflict," *Wall Street Journal*, August 22, 2022.

Diplomatic and Economic Measures

Although Biden Administration officials state their intention to preserve the viability of a negotiated two-state solution to the Israeli-Palestinian conflict, they have played down near-term prospects for direct Israeli-Palestinian negotiations. While voicing support for a two-state solution in his September 2021 U.N. General Assembly speech, President Biden also said, "We're a long way from that goal at this moment, but we must never allow ourselves to give up on the possibility of progress."[136]

In a September 2022 U.N. General Assembly speech, President Abbas expressed frustration with U.S. and Israeli statements that support a two-state solution but do not set forth a specific timetable for negotiations:

> I listened in the last few days what US President Joe Biden, Israeli Prime Minister Yair Lapid and other world leaders said in support of the two-State solution, and this is positive. The real test of the seriousness and credibility of this position is for the Israeli government to sit at the negotiating table immediately to implement the two-State solution on the basis of the relevant United Nations resolutions and the Arab Peace Initiative and the cessation of all unilateral measures that undermine the two-state solution.[137]

In October 2022, Abbas openly criticized the United States during a meeting with Russian President Vladimir Putin and said that the Palestinians do not trust America as the sole party to mediate Israeli-Palestinian disputes. A National Security Council spokesperson defended the Administration's commitment to working toward lasting peace, and said that Russia was not a credible partner on issues of justice and international law given its actions in Ukraine.[138]

U.S. and Israeli Engagement

Biden Administration officials have repeatedly encouraged measures that can preserve or enhance prospects for Israeli-Palestinian peace negotiations and have spoken out against unilateral steps that could risk sparking violence and undermining the vision of two states.[139] At a September 2022 U.N. Security Council briefing, Ambassador Thomas-Greenfield said

> This [type of unilateral action] includes terrorist attacks and incitement to violence against Israelis. This includes plans to develop Har Gilo west [a proposed Israeli settlement just south of Jerusalem], which would further fragment the West Bank—and possible demolitions in Masafer Yatta [a West Bank community that Israel considers to be in a closed military zone]. And this includes violence inflicted by Israeli settlers on Palestinians in their neighborhoods, and in some cases escorted by Israeli Security Forces….
>
> The United States is doing its part to help. This July, while in the region, President Biden announced a number of measures to improve conditions for the Palestinian people in the West Bank and Gaza, including additional funding for UNRWA. We're now working to expand 4G digital connectivity to Gaza and the West Bank and improve accessibility to the Allenby Bridge [the Israeli-administered crossing point between the West Bank and

[136] White House, "Remarks by President Biden Before the 76th Session of the United Nations General Assembly," September 21, 2021.

[137] "President Abbas at UNGA: Our confidence in achieving peace based on justice and international law is waning," *WAFA*, September 23, 2022.

[138] Barak Ravid, "White House 'very disappointed' by Palestinian president's remarks to Putin," *Axios*, October 15, 2022.

[139] See, for example, State Department, "Secretary Antony J. Blinken at a Press Availability," Jerusalem, May 25, 2021.

> Jordan]. And we encourage the Government of Israel to move these projects forward quickly.[140]

Since 2021, Israel has taken some steps aimed at assisting Palestinian economic stability and living conditions, including loaning $186 million to the PA and expanding the availability of work permits for Palestinians from the West Bank and Gaza.[141] A September 2022 public opinion poll suggested that 69% of Palestinians there support such steps,[142] but some critics charge that the measures mirror past Israeli efforts to manage the conflict's effects unilaterally rather than address its causes through dialogue and negotiation with Palestinians.[143]

Israel continues to generally restrict Palestinian businesses from accessing Area C of the West Bank. The World Bank has calculated that permitting such access could "boost the Palestinian economy by a third and increase revenues by 6% of GDP," which could help address current Palestinian economic challenges that include (1) lingering negative effects from the COVID-19 pandemic, (2) significant inflation largely tied to the Russia-Ukraine war, and (3) systemic debt problems exacerbated by a bloated public sector payroll and a drop in external donor aid as a share of GDP (from 27% in 2008 to 1.8% in 2021).[144] See **Appendix D** for more background on Palestinian economic issues.

Israeli Terrorist Designations Against Palestinian Civil Society Groups

In October 2021, Israel announced the designation of six Palestinian civil society groups as terrorist organizations under Israeli law because of purported links to the Popular Front for the Liberation of Palestine (PFLP, a U.S.-designated terrorist organization).[145] According to the *New York Times*, "The six [groups] are variously involved in highlighting rights abuses by Israel, the Palestinian Authority and Hamas, as well as in promoting the rights of Palestinian prisoners in Israeli jails, women, farmworkers and children."[146] According to one source, "Palestinian senior human rights experts believe that Israel wants to restrict the activities of the Palestinian human rights institutions that worked to submit files to the International Criminal Court and were able to change world opinion about Palestinian human rights issues."[147]

Israel has provided information to U.S. and European officials and lawmakers in support of its designations, but the European Union and various EU countries have decided to continue supporting the organizations, with some EU member states saying that they had not received information justifying Israel's allegations against the groups.[148] Israeli assertions have not changed U.S. policy, and some Members of Congress reportedly did not consider

[140] U.S. Mission to the United Nations, "Remarks by Ambassador Linda Thomas-Greenfield at a UN Security Council Briefing on the Situation in the Middle East," September 28, 2022.

[141] Shrock et al., "Responding to the PA's Mounting Fiscal Crisis"; Danny Zaken, "Israel adds 2,000 work permits for Gaza Palestinians," *Al-Monitor*, June 17, 2022.

[142] PCPSR, Public Opinion Poll No. 85, published September 20, 2022 (poll taken September 13-17, 2022).

[143] Neri Zilber, "Israel's new plan is to 'shrink,' not solve, the Palestinian conflict," *CNN*, September 16, 2021.

[144] World Bank press release, "Coordinated Efforts Are Required to Avoid a Worsening Economic and Fiscal Outlook in the Palestinian Territories," September 18, 2022; World Bank, *Economic Monitoring Report to the Ad Hoc Liaison Committee*, September 22, 2022.

[145] "Shin Bet, Foreign Ministry rep heading to US over outlawed Palestinian groups," *Times of Israel*, October 24, 2021.

[146] Patrick Kingsley, "Palestine Rights Groups Called Terrorists by Israel," *New York Times*, October 23, 2021.

[147] Mohammed Najib, "Palestinian rights groups defy Israeli threats, reopen offices, resume work," *Arab News*, August 26, 2022.

[148] Rami Almeghari, "EU resumes funding for six Palestinian NGOs branded as terrorists by Israel," *Radio France Internationale*, August 7, 2022.

Israel's evidence to be sufficient.[149] The State Department spokesperson has said that the United States has never funded any of the organizations.[150]

In August 2022, Israeli authorities formally ordered the closure of all six organizations, searched their offices, and confiscated or destroyed files and equipment. The groups continue to operate in defiance of the closure orders.[151]

U.S. Consulate in Jerusalem

As Israelis and Palestinians continue to vie for U.S. and international validation of Jerusalem's role in their respective national narratives, Israeli-Palestinian tensions over Jerusalem persist, including on issues such as

- Access to, worship at, and Israeli security measures at holy sites, especially the Temple Mount/Haram al Sharif "status quo."[152]
- East Jerusalem property issues, particularly actions by Israeli officials toward building new Jewish settlements and neighborhood, or favoring Jewish residents or claimed historical sites over Palestinian ones.[153]

Biden Administration officials have said that they plan to reopen the U.S. consulate in Jerusalem that had previously functioned as an independent diplomatic mission in handling relations with the Palestinians, without specifying when the consulate might reopen.[154] The Trump Administration merged the consulate into the U.S. Embassy in Israel in March 2019, with the consulate's functions taken over by a Palestinian Affairs Unit (PAU) within the embassy (see **Figure 6**). Competing Israeli and Palestinian national narratives influence this issue, with both sides appealing to U.S. officials about the importance of Jerusalem and its holy sites to their domestic constituencies.[155]

[149] Isaac Scher, "CIA unable to corroborate Israel's 'terror' label for Palestinian rights groups," *Guardian*, August 22, 2022.

[150] State Department Press Briefing, August 18, 2022.

[151] Najib, "Palestinian rights groups defy Israeli threats."

[152] CRS Report RL33476, *Israel: Background and U.S. Relations*, by Jim Zanotti.

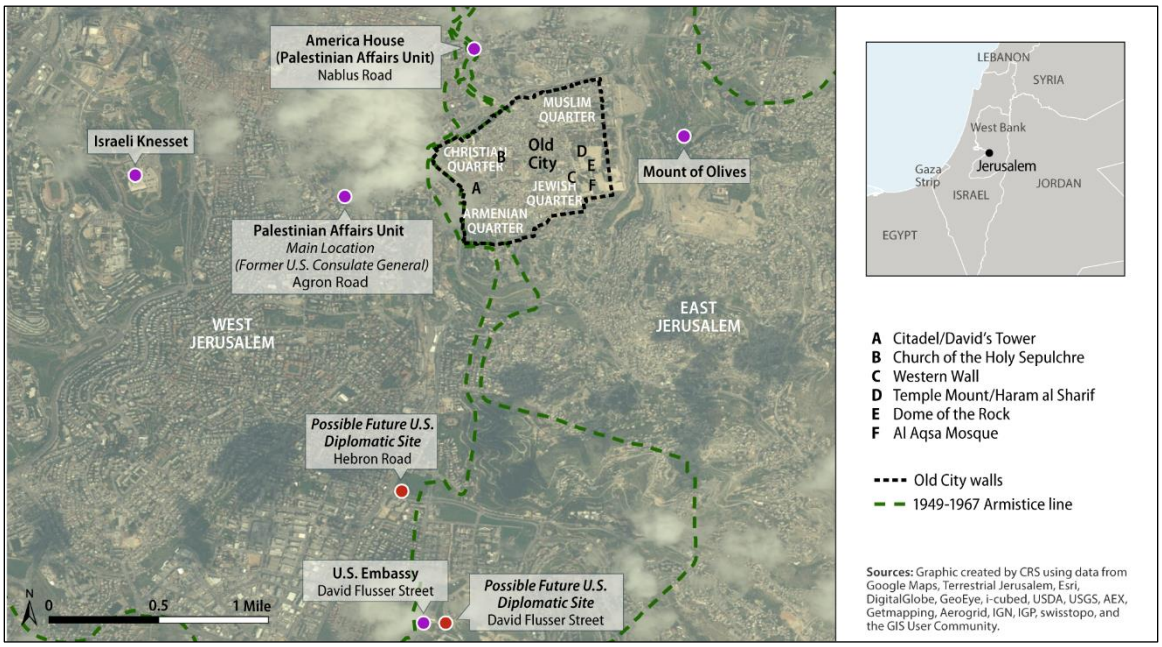
[153] Ibid.

[154] State Department Press Briefing, May 31, 2022.

[155] Barak Ravid, "U.S. and Israel to form team to solve consulate dispute," *Axios*, October 20, 2021; Jack Khoury and Jonathan Lis, "Palestinian Officials Say U.S. Seeks to Reopen Consulate Serving East Jerusalem After Israel Approves Budget," haaretz.com, October 3, 2021.

Figure 6. Jerusalem: Key Sites

(including various facilities of the U.S. Embassy to Israel)



Note: All boundaries are approximate.

Reestablishing the consulate would require Israeli cooperation, given the need for Israeli authorities to issue visas to and help protect U.S. diplomats.[156] In a November 3, 2021, hearing before the House Foreign Affairs Committee, Deputy Secretary of State for Management and Resources Brian McKeon said that "the practical reality is we would need privileges and immunities, which only the state of Israel can provide."[157] Several top Israeli officials have voiced strong opposition to a proposed reopening in Jerusalem.[158] In late 2021, Members of Congress introduced bills in both houses (S. 3063 and H.R. 6004) that would oppose reopening a consulate in Jerusalem to handle relations with the Palestinians, and prohibit funding for any diplomatic facility in Jerusalem other than the U.S. Embassy in Israel.

A December 2021 Israeli media report claimed that controversy on the issue led the Biden Administration to effectively shelve plans to reopen the consulate. It also said that the PAU was communicating directly with State Department officials in Washington, rather than working through other embassy channels.[159] In June 2022, the PAU was re-branded as the Office of Palestinian Affairs (OPA), with the OPA operating under the auspices of the embassy while reporting directly to Washington.[160] This type of direct communication was a core aspect of the

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

[157] Transcript available at http://www.cq.com/doc/congressionaltranscripts-6386943?16.

[158] "Next test for Israel PM: US plan for Palestinian mission," *Agence France Presse*, November 8, 2021.

[159] Jacob Magid, "US holding off on reopening Jerusalem consulate amid strong pushback from Israel," *Times of Israel*, December 15, 2021.

[160] Barak Ravid, "State Department separates Palestinian office from U.S. Embassy to Israel," *Axios*, June 9, 2022.

previous consulate general's independent status. Nevertheless, President Abbas has continued to press for the reopening of the consulate.[161]

PLO Office in Washington, DC

The possible reopening of the PLO's representative office in Washington, DC is another issue with resonance for U.S.-Palestinian relations. 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.

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 determines that "the PLO and its affiliates are a terrorist organization" and (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."[162] 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),[163] 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."[164] 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."[165]
2018	The State Department announces the closure of the PLO office in September.

It is unclear whether the executive branch 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 the Anti-Terrorism Act (ATA, Title X of P.L. 100-204) on a PLO office can generally only be waived by the President if he can certify that Palestinian leaders have not "actively supported an ICC

[161] White House, "Remarks by President Biden and President Abbas of the Palestinian National Authority in Joint Press Statement | Bethlehem, West Bank," July 15, 2022.

[162] 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.

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

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

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

investigation against Israeli nationals for alleged crimes against Palestinians." The State Department determined in November 2017 that this waiver requirement had not been met because of PLO/PA 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 the ATA 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."[166]

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.[167] The PSJVTA provision reportedly led to some Palestinian officials and advisers discussing in the Biden Administration's early days whether an amendment to the PSJVTA to facilitate the PLO office's reopening might be possible.[168]

The Two-State Solution Act (H.R. 5344), introduced by some Members of Congress in September 2021, would, among other things, amend the ATA to provide the President with a standing option to waive the prohibition on a PLO office in the United States for national security reasons (renewable every six months). The bill also would make it easier to terminate the ATA completely if the PLO/PA discontinues payments targeted by the TFA "for acts of terrorism."

International Organizations

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

Some international bodies have subjected alleged Israeli human rights violations against Palestinians to further legal and political scrutiny. In March 2021, the ICC prosecutor began an investigation into possible crimes in the West Bank and Gaza (see **Appendix E**). The investigation might draw from the findings of an ongoing commission of inquiry established by the U.N. Human Rights Council in May 2021 after that month's major Israel-Gaza conflict.[169] The Biden Administration responded skeptically to the creation of the "open-ended" commission

[166] 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.

[167] For background information on PSJVTA and this issue, see archived 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.

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

[169] U.N. document, A/HRC/RES/S-30/1, May 27, 2021. The Council mandated the commission "to investigate in the Occupied Palestinian Territory, including East Jerusalem, and in Israel all alleged violations of international humanitarian law and all alleged violations and abuses of international human rights law leading up to and since 13 April 2021, and all underlying root causes of recurrent tensions, instability and protraction of conflict, including systematic discrimination and repression based on national, ethnic, racial or religious identity." The commission of inquiry has issued reports in June and October 2022.

of inquiry.[170] Like its predecessors, the Administration has criticized the Human Rights Council for what it characterizes as a disproportionate focus on Israel.[171] In March 2022, 68 Senators signed a letter urging Secretary of State Antony Blinken to lead a multinational effort to end the commission.[172] That same month, the U.N. Special Rapporteur for the "situation of human rights in the Palestinian territory occupied since 1967" reported to the Council that Israel is practicing "apartheid" in that territory.[173] Proposed legislation to reduce U.S. contributions to the U.N. budget, based on a portion of the amount budgeted for the commission of inquiry, has been introduced in the Senate and House (S. 4389 and H.R. 7223).

Under U.S. laws passed in 1990 and 1994,[174] Palestinian admission to membership in the U.N. Educational, Scientific, and Cultural Organization (UNESCO) in 2011 triggered the withholding of U.S. assessed and voluntary financial contributions to the organization.[175] 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.[176] 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. In his September 2022 U.N. General Assembly speech, PA President Abbas said that the Palestinians would "initiate procedures" for joining the World Intellectual Property Organization, World Health Organization, and International Civil Aviation Organization.[177]

In both H.R. 8282 and S. 4662 for FY2023 appropriations, Section 7071 would waive the laws that require U.S. withholding from UNESCO through FY2025 if the President reports to Congress that the waiver would "enable the United States to counter Chinese influence or to promote other national interests of the United States." Any waiver would lapse if the Palestinians gain membership in the U.N. or a U.N. specialized agency outside of an Israeli-Palestinian negotiating context.

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:

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[170] U.S. Mission to International Organizations in Geneva, "Press Statement: UN Human Rights Council Session on the Israeli-Palestinian Situation," May 27, 2021.

[171] U.S. Mission to International Organizations in Geneva, "Secretary Blinken: Remarks to the 46th Session of the Human Rights Council," February 24, 2021. For more on Israel and the U.N. Human Rights Council, see CRS Report RL33608, *The United Nations Human Rights Council: Background and Policy Issues*, by Luisa Blanchfield and Michael A. Weber.

[172] The text of the letter is available at https://www.portman.senate.gov/sites/default/files/2022-03/2022-03-28%20Letter%20to%20Sec%20Blinken%20on%20UNHRC%20Commission%20of%20Inquiry%20on%20Israel.pdf.

[173] U.N. document A/HRC/49/87 (Advance Unedited Version), March 21, 2022. The international advocacy groups Amnesty International and Human Rights Watch also have labeled Israeli practices as "apartheid." For general information on Israeli human rights practices regarding Palestinians, see State Department, 2021 Country Report on Human Rights Practices: Israel, West Bank and Gaza.

[174] 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).

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

[176] In May 2018, the Palestinians obtained membership in the U.N. Industrial Development Organization (UNIDO), but without consequences under U.S. law because the United States is not a member of or donor to UNIDO.

[177] "President Abbas at UNGA."

- various aspects of U.S.-Palestinian relations, including foreign aid and the possible reopening of diplomatic offices;
- the status of Israeli-Palestinian diplomacy and disputes over violence and incitement, settlements, human rights and humanitarian conditions, and other issues;
- Palestinian domestic governance and civil society issues;
- economic stability and development concerns;
- the role of Arab states in Israeli-Palestinian matters;
- Palestinian international initiatives and the ICC's investigation into possible Israeli and Palestinian war crimes in the West Bank and Gaza;
- countering terrorism from Hamas and other groups; and
- implications that regional and global issues have for the Palestinians, and vice versa.

Some key factors could influence issues for Congress. These factors include whether Israeli-Palestinian relations move toward diplomacy or violence; Israel-PA efforts (encouraged by U.S. and other Western officials) to address ongoing West Bank discontent over security, political, and economic problems; continuing dilemmas over Gaza's challenges; the status of PLO/PA welfare payments to or on behalf of individuals allegedly involved in acts of terrorism; and various PA domestic developments (elections, leadership succession, and governance concerns). Consideration of these factors takes place within the context of Biden Administration efforts, existing and proposed legislation, ongoing debate regarding various unilateral Israeli and Palestinian actions, and more visible Israel-Arab state relations.

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.[178]

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.[179] The PLO recognized the right of Israel to exist in 1993 upon the signing of the Declaration of Principles (also known as the Oslo Accord) between the two parties at the White House.

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,[180] 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

[178] 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.

[179] 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.

[180] 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 charter, dating back to the 1960s, still includes clauses calling for the destruction of the Zionist state and its economic, political, military, and cultural supports, despite the PLO's 1993 acknowledgment of Israel's right to exist.[181] 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.[182]

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.

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 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

[181] 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).

[182] See footnote 64.

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 2020, 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.[183] 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."[184]

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. In addition to military and political activities, Hamas also provides various social services to Palestinians.

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.[185] The militia, known as the Izz al Din al Qassam Brigades,[186] is led by **Muhammad Deif**,[187] 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.

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

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

[184] "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.

[185] Yaniv Kubovich, "There's Something New About Hamas' Leader in Gaza Since the War – and Israel Is Concerned," haaretz.com, July 20, 2021.

[186] 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.

[187] For a profile of Deif, see Joshua Nevett, "Mohammed Deif: The one-eyed Hamas chief in Israel's crosshairs" *BBC News*, May 31, 2021.

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.[188]

In 2014, a Treasury Department official stated publicly that Qatar "has for many years openly financed Hamas."[189] 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 2020, 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 media accounts allege that Hamas officials have used Turkey as a base of operations.[190] Turkish President Recep Tayyip Erdogan has hosted top Hamas officials and expressed support for the group's political aims. Amid Turkey-Israel rapprochement in 2022, an Israeli media source reported that Turkey had asked several Hamas activists to leave Turkey, but some pro-Hamas sources have disputed the report. One Gaza-based observer said that Turkey and Hamas have agreed that Hamas would only conduct political—rather than military—activities within Turkey.[191]

The Hamas International Financing Prevention Act (H.R. 3685) and Palestinian International Terrorism Support Prevention Act of 2021 (H.R. 261 and S. 1904) were introduced in 2021. The bills, which are 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.

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.[192] PIJ militants in Gaza sometimes take the lead in firing rockets into

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

[189] 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.

[190] "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.

[191] Mai Abu Hasaneen, "Hamas fears Turkish pressure will follow Israel-Turkey normalization," *Al-Monitor*, August 31, 2022.

[192] 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. 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 2020, "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 2020 Country Reports on Terrorism, PFLP-GC's operates in Syria, Lebanon, and Gaza and has several hundred members. Its founder, Ahmed Jibril, died in Damascus (presumably of natural causes) in July 2021. His longtime deputy, Talal Naji, was elected to replace him.[193]

Salafist Militant Groups

A number of small Palestinian Salafist-Jihadist militant groups evincing affinities toward groups such as Al Qaeda or the Islamic State operate 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.

[193] Albert Aji, "Syria-based breakaway Palestinian faction elects new leader," *Associated Press*, July 18, 2021.

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

Appendix B. Historical Background

Various perspectives exist on the nature of Palestinian political identity while the area of historic Palestine was a part of the province of Greater Syria within the Ottoman Empire.[194] This identity developed further during the British Mandate period (1923-1948). Although in 1947 the United Nations intended to create two states in Palestine—one Jewish and one Arab—with its partition plan (General Assembly Resolution 181), only the Jewish state came into being.[195]

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, but were subject to martial law until 1966. 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.

The year 1967 marked a significant turning point. 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 effectively annexed East Jerusalem (as well as the Golan Heights from Syria), 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 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

[194] See, for example, Rashid Khalidi, *Palestinian Identity: The Construction of Modern National Consciousness*, New York: Columbia University Press, 1997; James L. Gelvin, *The Israel-Palestine Conflict: One Hundred Years of War*, New York: Cambridge University Press, 2014.

[195] See, for example, Rashid Khalidi, The Iron Cage: The Story of the Palestinian Struggle for Statehood, Boston: Beacon Press, 2006; Edward Said, The Question of Palestine, New York: Times Books, 1979; Benny Morris, 1948: A Story of the First Arab-Israeli War, New Haven: Yale University Press, 2008; Barry Rubin, Israel: An Introduction, New Haven: Yale University Press, 2012. See also CRS Report RL33476, *Israel: Background and U.S. Relations*, by Jim Zanotti.

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.

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.[196] 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.[197] 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,[198] some through acts of terrorism aimed at civilians.[199]

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.[200] Although Palestinian militants maintain rocket and mortar arsenals, Israel's Iron Dome defense system reportedly has decreased the threat to Israel from these projectiles.[201] Additionally, tunnels that Palestinian militants in Gaza used somewhat effectively in a 2014 conflict have been

[196] 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."

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

[198] Ibid.

[199] 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.

[200] 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.

[201] Sebastien Roblin, "How Hamas' Arsenal Shaped the Gaza War of May 2021," forbes.com, May 25, 2021. For more on Iron Dome, see CRS Report RL33222, *U.S. Foreign Aid to Israel*, by Jeremy M. Sharp.

neutralized to some extent by systematic Israeli efforts, with some financial and technological assistance from the United States.[202]

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.[203] 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.[204]

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**).

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

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

[204] 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 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.[205] 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.[206]

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, and also includes a High Judicial Council and separate security courts. As mentioned above, President Abbas created and appointed justices to a new Constitutional Court in 2016. 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.

Article 37 of the Palestinian Basic Law[207] says that in the event of a vacancy in the office of PA president, the speaker of the PLC 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. However, because Abbas dissolved the PLC by decree in 2018, it is unclear what role a PLC speaker (at the time of Abbas's 2018 action, the speaker was Aziz Dweik of Hamas) might play, if any. Two analysts of Palestinian politics wrote a 2022 report presenting various scenarios, including the possible involvement of the PA's Central Elections Commission and Constitutional Court, or PLO action that claims to supersede the PA.[208]

[205] 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.

[206] 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.

[207] 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.

[208] Brown and Pran, "A Procedural Guide to Palestinian Succession: The How of the Who."

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 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).[209] 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.[210]

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, Conflict, and Humanitarian Concerns."

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. The State Department and some NGOs have raised concerns about possible Hamas violations of the rule of law and civil liberties.[211]

Since Hamas's 2007 takeover of Gaza, Israeli and Egyptian authorities have maintained strict control over Gaza's border crossings.[212] Israel justifies the restrictions it imposes as a way to deny

[209] 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.

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

[211] State Department, 2021 Country Reports on Human Rights Practices: Israel, West Bank, and Gaza; Amnesty International, Palestine (State of) 2021/22.

[212] 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

Hamas materials to reconstitute its military capabilities. However, the restrictions also limit commerce, affect the entire economy, and delay humanitarian assistance.[213] 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.[214] Israel disputes the level of legal responsibility for Gaza's residents that some international actors argue 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**.

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 Movement, *Gaza Up Close*, September 1, 2021. Widespread unemployment and poverty persist.

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

[214] See, for example, 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.[215] Palestinians' livelihoods largely depend on their ties to Israel's relatively strong economy. Israel is the market for about 85% of West Bank/Gaza exports, and the source for about 56% of West Bank/Gaza imports.[216] Palestinians are constrained from developing other external ties because of the layers of control that Israel has put in place to enforce security.

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 more than $1 billion, PA officials have traditionally sought aid from international sources to meet the PA's financial commitments. As of August 2022, the PA had received around $190 million in external donor funding (almost exclusively from Western governments and the World Bank) for the calendar year. Its budgeted target amount is around $510 million.[217]

Part of the PA's financial problems stem from a payroll that has become increasingly bloated over the PA's 28-year existence. Domestic corruption and inefficiency also appear to pose difficulties.[218] Absent fundamental changes in revenue and expenses, the PA's fiscal dependence on external sources is likely to continue.

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 or sources of income.

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.[219] 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. The PA has a co-development agreement with Egypt for Gaza's offshore Marine gas field that might provide future revenue to it and Israel. While prospects to

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

[216] Economist Intelligence Unit, Palestine Country Report (accessed October 17, 2022), based on 2021 figures.

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

[218] See, for example, World Bank, September 22, 2022; Shrock et al., "Responding to the PA's Mounting Fiscal Crisis."

[219] World Bank, September 22, 2022.

develop the field may have increased in light of Europe's interest in non-Russian energy sources, they remain uncertain.[220] Israel reportedly favors development.[221]

[220] "Egypt mediates talks to develop Gaza offshore gas," *Agence France Presse*, October 14, 2022; Rasha Abou Jalal, "Egypt persuades Israel to extract Gaza's natural gas," *Al-Monitor*, October 6, 2022.

[221] "Egypt, Israel and PA agree to develop natural gas field off the shores of Gaza," *Egypt Independent*, October 19, 2022.

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 139 out of 193 U.N. member states reportedly have formally recognized the state of Palestine that the PLO declared in 1988.[222] Palestinian leaders also have taken actions to facilitate an International Criminal Court (ICC) investigation into possible crimes in the West Bank and Gaza.

U.N.-Related Issues

Many of 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.[223] 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).[224] As mentioned above (see "International Organizations"), this development triggered withholding of U.S. contributions to UNESCO under U.S. law.

The following are some other significant steps for the PLO in international fora:

- 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."[225]

[222] A list from the PLO's observer mission to the United Nations is available at https://palestineun.org/about-palestine/diplomatic-relations/. It does not include the United States, Canada, Japan, or most Western European countries, but does include China, India, and Russia.

[223] 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."

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

[225] 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.

- In 2016, the Palestinians acceded to the U.N. Framework Convention on Climate Change (UNFCCC).[226]
- In 2017, the Palestinians obtained membership in Interpol.
- In 2018, the Palestinians applied to join the U.N. Conference on Trade and Development (UNCTAD)[227] and deposited an instrument of accession to the Chemical Weapons Convention (CWC) with the U.N. Secretary General.[228]

International Criminal Court (ICC) Actions[229]

Background

The International Criminal Court (ICC) has an open 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.[230]
- 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

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

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

[228] 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.

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

[230] 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.

67/19.[231] 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 the West Bank. In May 2018, Palestinian leaders made a formal referral of the "situation in Palestine" to the Prosecutor.[232]

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.[233] 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, then-ICC Prosecutor Fatou Bensouda announced that she was opening an investigation of possible ICC crimes in the West Bank and Gaza.[234] 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.[235] 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

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

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

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

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

[235] 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.

Party to the Rome Statute.[236] Israel had argued that the ICC should not have jurisdiction in those territories because Palestinians do not have sovereign control there.[237]

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." According to one commentator, Palestinians and other international actors could use the decision to support for Palestinian statehood and territorial claims.[238]

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

> 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.[239]

Later in March 2021, 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."[240]

While Palestinian leaders (from both the PLO/PA and Hamas) welcomed the news of an ICC investigation,[241] leading Israeli political figures roundly denounced it, with then-Prime Minister Benjamin Netanyahu calling the decision to investigate biased and anti-Semitic.[242]

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[236] 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.

[237] 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.

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

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

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

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

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

The investigation under the current Prosecutor, Karim Khan,[243] 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 and 2021 Gaza conflicts;
- 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;
- 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 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).[244]

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. 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.[245] In September 2020, the Trump Administration imposed sanctions under E.O. 13928 against Prosecutor Bensouda and another top ICC official in connection with an investigation regarding Afghanistan.[246] President Biden

[243] Before becoming the ICC Prosecutor in June 2021, Khan 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.

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

[245] 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.

[246] 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.

lifted these sanctions in April 2021 while stating continued U.S. objections to ICC assertions of jurisdiction over U.S. and allied personnel.[247]

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[247] White House, "Executive Order on the Termination of Emergency with Respect to the International Criminal Court," April 1, 2021.