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PALESTINIAN
REFORM**

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**Democracy and
Rule of Law Project**



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IN PALESTINE, CITIZENS HAVE RIGHTS OF FREE SPEECH and free assembly. The most independent judiciary in the Arab world adjudicates their disputes. Palestinians select their leaders freely in competitive elections overseen by an independent electoral commission. A representative assembly monitors the executive, granting and withholding confidence from ministers and reviewing the state budget in detailed public discussions. Elected councils manage local governments that are fiscally autonomous of the center.

Palestine is, in short, a model liberal democracy. Its most significant flaw is that it does not exist. This is true in two senses. First, Palestinians on the West Bank and Gaza are governed in many of their internal affairs by the Palestinian Authority (PA), an uncertain political hybrid that falls far short of sovereignty. This situation creates enormous obstacles that are well known—Palestine is still a political entity struggling to come into existence in the midst of one of the world's most intractable national conflicts. And, second, domestic problems as well as international obstacles have blocked the emergence of a liberal, democratic Palestine. Though widely acknowledged, these domestic obstacles are less well understood. Palestine on paper shows the Arab world a different kind of politics, one that avoids the authoritarian, unaccountable, and highly centralized practices prevailing in the region, but it has failed to build the institutions to give this politics full substance.

The logic of the PA's origins led it to develop in an authoritarian direction. It was built on foundations that were not designed to answer to the local population in any way. And the international agreements that allowed the PA to form—the Oslo Accords—were predicated on the ability of the PA to enhance Israeli security and thus focused on enabling the executive and placing few fetters on the security services in internal matters. To be sure, the PA emerged on the basis of a movement that posited itself as both revolutionary and popular. But rather than develop mechanisms of democratic accountability, this movement—embodied in Fatah (the largest political party), the Palestine Liberation Organization (PLO), and their common leader, Yasser Arafat—used its revolutionary legitimacy to advance its claim to represent Palestinians without any formal structures for doing so. Occasional international criticism and constant domestic criticism of the growing authoritarianism led PA leaders to develop (or allow to develop) a host of structures, laws, and plans promising to make Palestine democratic. But even as these grew more detailed, they were rarely allowed to develop in ways that would transform the nature of Palestinian governance.

To be fair, liberal democratic Palestine does not only exist on paper; important elements have actually moved toward implementation. In many critical respects, Palestine in reality compares favorably with many states in the region. For instance, the Palestinian parliament has asserted a central role in legislative drafting, review of the budget, constitutional reform, and oversight of the executive that remains virtually unparalleled in the region. But such successes are isolated and limited. Palestine remains far more impressive in theory than in practice. Most domestic problems

stem from an extreme institutional weakness, often enhanced by deliberate decisions by leaders to avoid formal constraints. In this sense, the problem for Palestinian reform is almost the precise opposite of that in most of the rest of the Arab world. Many Arab states such as Egypt, Tunisia, and Syria have well-established institutions but an extreme poverty of democratic procedures, but Palestinians have already established some democratic procedures and possess a more democratic culture than prevails elsewhere. Yet most of their institutions—especially those that form the basis of an embryonic state—are extremely weak.

Some Palestinians were critical of this pattern from the beginning, and in the past few years their criticisms have resonated broadly throughout the wider society. Reform is no longer a project for intellectuals but one that is broadly endorsed and part of everyday political discourse. Many of those who articulate the most comprehensive reform visions can be found in the parliament, nongovernmental organizations (NGOs), and academic institutions, but wide segments of Palestinian society have supported various aspects of reform as well. Younger activists within Fatah, junior members of the various professions, and grass-roots activists have all pursued reform within their own organizations and even within the PA as a whole. And the constituency for reform has become international. Some external actors have been supportive of Palestinian reform for years; more recently the senior U.S. leadership has joined them. The coalition supporting reform was often divided, especially in its attitude toward Yasser Arafat. Palestinian and European advocates of reform could be trenchant in their criticisms of him but tended to view him as an obstacle to be avoided. For U.S. (and Israeli) leaders, Arafat was not so much an obstacle as the primary object: Palestinian reform was seen as a way to end Arafat's leadership and therefore became a condition for serious diplomatic engagement.

Arafat's death on November 11, 2004, removed the major object of disagreement, although some significant differences of emphasis—especially over the priority of security issues—remain. Arafat's death also brought to the PA presidency a leader who has publicly committed himself to reform. Mahmoud Abbas (Abu Mazin), a longtime party and PLO apparatchik, was a late convert to the reform cause, but in his role as the PA's first prime minister, he demonstrated his commitment to reform. Upon succeeding to the presidency, he resumed where he had left off with his resignation as prime minister in the fall of 2003—moving toward legislative elections and broad-based institutional reform.

Yet if the new leadership's commitment is clear, its record to date is uneven at best. In the spring of 2005, having completed a round of presidential elections as well as some local elections, Palestinians prepared to hold more local elections, parliamentary elections, party primaries, and professional association elections. At the same time as this burst of voting, however, armed gangs broke up political party meetings with impunity, and the Land Bureau was forced to shut down all its offices in Gaza because of pressure, threats, and attacks on its employees. Nor were the symptoms of institutional chaos limited to mere thuggery. The Ministry of Justice and the judiciary have carried on a ten-year rivalry in which every attempt to move toward resolution only exacerbates conflict. Important pieces of legislation have remained unimplemented because the bodies responsible for issuing the necessary regulations have taken no action. And some ministries have virtually ceased functioning, paralyzed by the closure and disorder brought on by the second intifada.

Leadership succession offers the promise of a more faithful acceptance of established procedures and dedication to institutional development, which is coupled with substantial international

commitment to support Palestinian reform. But even with these positive conditions in place, several key questions remain. Without an unexpected sudden resolution of Palestine's national conflict with Israel, what sort of political reform might take place? Where should reformers concentrate their efforts to bring more of "paper Palestine" into reality? And how can outside political actors support the reform process?

THE FOUNDATION AND CURRENT CONDITION OF THE PALESTINIAN AUTHORITY

However democratic it sometimes looks on paper, the Palestinian Authority remains an authoritarian regime in a region rich with authoritarianism, but there are three unusual characteristics about its brand of authoritarianism.

First, Palestinian authoritarianism is highly personalized, even by regional standards. Although the PA assumed control of some institutions and built others, it did not allow them to develop strong roots. Most Arab political systems concentrate authority in the head of state, but most do so by attaching to the presidency (or monarchy) a host of standardized procedures and official bodies. The president (or king) heads almost all chains of command—especially those connected with security—but those chains of command are clear. By contrast, the PA has operated with weak institutions, poorly developed and routinely violated procedures, and overlapping responsibilities; it has been micromanaged by a president acting as head of household far more than as head of state.

Second, Palestinian authoritarianism has been combined with a strong, growing, and detailed verbal commitment to liberal democratic politics. The PA has passed laws, written a constitution, formed committees, issued proclamations, and occasioned speeches all promising a democratic Palestine. And the fairly open intellectual atmosphere has led to an unusually full set of reform projects, devastating critiques, and self-assessments. In contrast to other states in the region, where democratic pledges remain vague and full of loopholes, the PA has a set of detailed plans and commitments.

And, third, Palestinian authoritarianism quite frankly has failed. The failure manifested itself even before Arafat's death. The strong and paternalistic presidency at the heart of the system was already showing clear signs of decay in 2002 when Arafat's grip on PA institutions began to relax. Arafat managed to maintain some semblance of control by continuing to resist reform and institutional development and by emphasizing his position as a unifying national symbol, but these techniques could not survive his death. By that time, the system, such as it was, had failed not only in institutional but also in policy terms: It could not deliver war, peace, or prosperity. The crisis of the PA opens reform possibilities, but these opportunities must be exploited soon before they are lost.

Creation of the Palestinian Authority

The Palestinian Authority was created in 1994 as part of a process of negotiations between Israel and the PLO. Its jurisdiction was limited in ways that led many Palestinians to be skeptical about it from the beginning. Despite the PA's limitations, in most civil affairs, Palestinians in the West Bank and Gaza found themselves governed by the new structure. The PA was able to operate to a much more limited extent in East Jerusalem, but it quickly worked to render some of the other restrictive provisions of the peace accords less relevant.

The machinery of the PA itself was built from two sources, each of which betrayed a strong bias toward autocracy. First, Israel transferred responsibility for managing existing civil institutions—such as schools, courts, and tax collection—to the PA. For the most part, these structures were rudimentary and had decayed during the first Palestinian uprising; they had also been operated by a succession of regimes (British Mandate, Egyptian and Jordanian rule, and Israeli rule) that gave little voice to the administered population. Second, much of the PLO leadership (arriving generally from Tunis, where the PLO had been headquartered since 1982) placed itself at the apex of the system, dominating senior administrative slots, top political positions, and many of the security services. Those who had insisted that the PLO was the sole legitimate representative of the Palestinian people witnessed the realization of their wish with a quiet ambivalence. Although the dedication of external leaders to the national cause was not questioned, their unfamiliarity with the population they were to govern and their modes of operation—cultivated for a revolutionary movement rather than a democratic state—suggested that a period of adjustment would be necessary. As a leading educator in Ramallah said in the autumn of 1993, after the signing of the first Oslo agreement, “We kept on insisting that the U.S. and Israel deal with the PLO, and one of the results is that now *we’re* dealing with the PLO.”¹

That these twin bases were insufficient in themselves for building an effective and democratic state apparatus should have been no surprise. That they were also authoritarian should not have been much more of a surprise. They had been built by those who viewed democracy, at best, as premature. But their continued development after 1994 in an authoritarian and patrimonial direction was not only explained by history. The international logic of the peace process augmented these tendencies. To be sure, many of the international actors supporting the development of the PA had a mild preference for democratic governance, but there were more pressing concerns. Israel understandably focused primarily on its own security. The United States exerted tremendous energy to move toward a permanent agreement between the Palestinians and Israel; its conception of the peace process also focused on security rather than governance. Such priorities suggested establishment of a strong presidency and effective security services. Thus the PA presidency and its security apparatus were built two years before the first democratic elections and the convening of the Palestinian Legislative Council (PLC). PA revenue, largely derived from taxes collected by Israel on goods that entered Israeli ports destined for Palestinian markets, was placed under the personal control of the PA president.

Palestine was on the road to autocracy following a pattern familiar in the region. When it came time to expand beyond the rudimentary bureaucratic and legislative framework bequeathed by Israeli occupation to the PA, authoritarian models were used. When drafting a law for NGOs, the press, or political parties, Palestinian legal experts turned to either Jordan or Egypt, faithfully copying most of the restrictive provisions of those authoritarian legal orders. If a newspaper treated the president with insufficient respect, its distribution was disrupted or its editor detained.

Attempts to Reverse Course

From an early date, however, two different political processes obstructed the development of authoritarian institutions. At first the effect of these processes was to inhibit institutionalization more than authoritarianism, but over the longer term, a solid basis was built for an emerging reform movement.

First, in 1996, Palestinians elected the president and the PLC. Yasser Arafat won the presidential elections easily, but the results of the PLC elections were less decisive. Most parties boycotted the elections out of opposition to the Oslo Accords that had made them possible, but many from Fatah and a large number of independents did run. The result was an elected body that was dominated by Fatah in theory, but which proved far less cohesive in practice—and far more difficult for the presidency to dominate. The PLC proved fairly jealous of its prerogatives and capable of developing an agenda independent of Arafat's. In any direct confrontation with the president, the PLC almost always backed down, sometimes in a humiliating fashion. But in a large number of matters where the confrontation was less than direct, the PLC could show its independent streak. For example, the PLC reviewed the budget regularly, complaining of legal violations and fiscal irregularities, but in the end gave its approval each year. The PLC also investigated corruption by top officials and issued a scathing report recommending that some ministers be referred for prosecution but then gave these same ministers a vote of confidence when Arafat invited them back into the cabinet. Less dramatic—but ultimately more significant—the legislature passed a series of laws, many of which departed from the authoritarian drafts prepared by the executive: Most significant were the Basic Law (an interim constitution) and a series of laws on the judiciary, labor, civil service, NGOs, public meetings, public tenders, and finances. In all these areas, the PLC frequently bucked the will of powerful executive branch officials, including the president himself, sometimes scrapping an entire law prepared by the cabinet and beginning the process of legislative drafting on its own. As time went on, the PLC built bridges with affected constituencies, making the legislative process far more participatory than is the norm in the region. Yet free as it was to draft and pass its own laws, the PLC discovered that it was powerless to force the president to approve them. On occasion, intensive lobbying (as well as a willingness to compromise) led to presidential approval of laws covering the budget and NGOs. On many other matters—including the Basic Law itself—the PLC had to satisfy itself with periodic assurances from the president that he was mulling over the matter.

Second, while the bulk of international attention focused on security issues and the peace process, the construction of the Palestinian Authority also occasioned a massive assistance program that often had a very different agenda from security. Even as the United States trained Palestinian security forces, endorsed security courts that convicted many of those accused within hours after they had been charged, and focused much assistance on important but largely technical areas such as water, the U.S. Agency for International Development (USAID) also supported the development of the PLC and later the NGO sector and the judiciary. European donors did not challenge the overall thrust of U.S. diplomacy, but they could be far bolder in funding a host of human rights and other NGOs that monitored and challenged the work of the PA.

The existence of such internal structures and external efforts might be expected to have blunted the authoritarianism of the PA, perhaps liberalizing without fully democratizing the political system. And at times that seemed to be precisely the effect. NGOs, intellectuals, and parliamentarians had more room for maneuver and criticism than their counterparts in most of the Arab world, but the most immediate effect of the construction of liberal Palestine on paper was far different. The work of the PLC and international assistance often backfired by leading the Palestinian leadership not so much to accept modest limits on its authority but to bypass legal and institutional development completely.

When the PLC decided to reject the executive's attempt to dominate the writing of the Basic Law, the executive responded by dropping its objections to the PLC's independence and merely ignored

the entire process, including the final draft approved by the PLC. When judges issued orders to release those detained without charges, the executive responded by simply ignoring court orders on such matters.

The PA budget was the most measurable way the president bypassed most institutions—even those directly reporting to him. In 1995, 16 percent of PA revenues were diverted away from the Ministry of Finance and placed under the direct—and unaccountable—control of the president. By 1997, the PLC's second year of operation, 26 percent of revenues were diverted. In absolute terms, Arafat's direct share leaped from \$69 million to \$214 million.²

Why the sudden upsurge? Between 1995 and 1997, the Ministry of Finance had been brought under parliamentary oversight. In 1996, the PLC asserted its prerogative to review the budget on an annual basis and eventually convinced a reluctant president to sign a law establishing clear mechanisms of parliamentary oversight. The executive—in this case largely the president himself—reacted to the loss of authority on paper by paying the law's provisions little respect. The budget was routinely submitted late, final accounts at the end of the year were not submitted at all, and the information that did reach the PLC was fragmentary or vague. The minister of finance was regularly embarrassed in public PLC sessions by his inability to provide accurate information or explain irregularities, but his humiliation was a price that Arafat seemed quite willing to pay. After Arafat's death, his former finance minister publicly unburdened himself, explaining that Arafat had simply told him to resign if he did not like the grilling he received.

Therefore, after 1996, the divergence between Palestine on paper and Palestine in reality widened. Many laws passed by the PLC were not signed; those that were signed were not implemented; and the presidency and other bodies in the executive moved completely outside the formal legal framework when they wished. For example, the executive shut down a local broadcaster, created a ministry (and appointed a minister), ignored court orders, appointed a judicial council, and hired officials—all outside of the existing legal structures.

Palestinian reformers—intellectuals, parliamentary deputies, and isolated individuals in the bureaucracy frustrated with the lack of institutional development—complained repeatedly about the state of Palestinian institutional development but made little headway. Calls for reform resonated domestically, often becoming entwined with other conflicts, as Palestinians from the West Bank and Gaza came to resent the role of PLO cadres who had arrived from Tunis, as younger Palestinians complained about the older generation of nationalist leaders, and as party activists—especially within Fatah—came to resent the failure of party leaders to democratize their movements. But such calls for reform prompted few changes and attracted little external support. The international community focused on diplomacy rather than on questions of internal governance. There were, to be sure, some accomplishments during this period. In 1999, a combination of international and internal pressure forced a decline in transfer of revenue away from the Ministry of Finance and a disclosure of the PA's holdings overseas (earnings of which were part of the amount diverted from the ministry).

Hopes for progress on reform collapsed along with the peace process in September 2000. The resumption of Israeli–Palestinian violence with the second intifada undercut all attempts to reform the PA. Internally, those who called for reform found that their message was seemingly irrelevant in the midst of bitter and violent national conflict. Externally, the United States led an international retreat from engagement; when international diplomacy did focus on Palestinians, institutional

development seemed far from the most pressing priority. But 2002 brought a very dramatic change. The conflict with Israel was far from resolved and in many ways had deepened. On March 29, 2002, in the wake of a bloody suicide bombing in the Israeli city of Netanya, the Israeli government announced that

Israel will act to defeat the infrastructure of Palestinian terror in all its parts and components; to this end, broad action will be undertaken until this goal is secured. Arafat—who set up a coalition of terror against Israel—is an enemy; at this stage, he will be isolated.

In concrete terms, this meant a reoccupation of Palestinian cities in the West Bank, house-to-house searches and widespread arrests, and attacks on a disparate set of Palestinian institutions. Some institutions, such as the security services, were targeted because of their plausible relationship to anti-Israeli violence; others, however, such as some NGOs and government ministries, were targeted for unknown reasons. Arafat himself was besieged in the presidential compound in Ramallah, and he did not leave until he was mortally ill in 2004.

The PA seemed not only irrelevant but also on the brink of collapse. But for very different sets of reasons, many domestic and international actors became convinced that the shortcomings of Palestine's domestic institutions and the failure to follow through on reform plans was not a sidelight to the conflict with Israel but was vitally connected to it.

THE REFORM WAVE OF 2002–2003

For many Palestinians, the Israeli reoccupation of the West Bank in 2002 demonstrated the centrality of Palestinian institutional development not its irrelevance. Their president was now literally rather than merely metaphorically besieged, their security forces were in a shambles with half converted to ad hoc gangs attacking Israeli targets and the other half essentially dissolved, many of their public services were on the verge of collapse, their broadcasting stations were destroyed, and some of their private businesses and NGOs were ransacked. Palestinians faced not only war but anarchy.

But it was not Palestinians alone who wished to rebuild and reform their institutions. The European Union (EU) realized that the new situation placed it in a very influential position. With the beginning of the intifada, Israel had stopped transferring the taxes it collected on products entering Palestinian markets through Israeli ports—revenues that formed the backbone of Palestinian public finances. The EU stepped into the breach by loaning funds to the PA, thus preventing the PA's fiscal collapse. In May 2002, the EU formally conditioned its continued support on a host of reform measures. Israel resented the EU's financial support of its adversary but did not protest too much, realizing that the collapse of Palestinian institutions would return the burden of providing basic public services to the shoulders of the Israeli government. In addition, the call for Palestinian reform could easily be personalized as a struggle against Arafat, whom the Israeli government held responsible for the violence of the conflict. After some hesitation, the George W. Bush administration embraced a version of this vision. Although the United States also spoke of broad-based democratic and constitutional reform, not merely replacement of the Palestinian president, it did not give serious support to any reform measure (such as elections) that did not undermine the president.

Those suddenly enthusiastic about Palestinian reform had a large menu of projects from which to choose. An enormous body of proposed laws, lists of priorities, and reform blueprints greeted anyone preparing a Palestinian reform plan. The Palestinian cabinet, the PLC, and international actors all developed their catalog of proposed reforms. None of these lists established clear priorities, however, and thus they had the general effect of simply adding to the long list of areas where the PA had to improve. Each would-be reformer tended to stress particular areas (for instance, domestic reformers emphasized constitutional issues and the judiciary, whereas international actors focused on security and financial reform). There was, however, significant overlap, and where the various agendas converged there were real opportunities for progress.

The result was a set of reforms that tended to follow demands drawn up by Palestinian reformers but that moved forward only where there was strong international backing. And with the United States publicly proclaiming Arafat himself as the problem, reform was most possible in those two areas where it was clearly directed at the president personally: public finances (wresting control of PA funds away from direct presidential control) and constitutional change (transferring authority away from the presidency). Fiscal reform was ultimately more complete than constitutional reform, but in both areas there were significant structural changes in the way the PA was governed.

Some elements of the ambitious reform plans were implemented in 2002 and 2003, culminating in the appointment of Abu Mazin as prime minister. However, the reform momentum ground to a halt in the fall of 2003 with Abu Mazin's resignation, but not before some significant accomplishments.

Fiscal Reform

The most impressive set of reforms—especially given the PA's murky fiscal history—was in the realm of public finance. In 1999 and 2000, the combined pressure of the PLC and international donors had brought about greater disclosure and a significant decrease in the practice of holding a segment of public revenues directly under presidential control. In 2002, the PA staved off fiscal collapse only by agreeing to implement a far broader set of reforms and placing them under the oversight of the new Minister of Finance, Salam Fayyad, a Palestinian International Monetary Fund official who had negotiated some of the earlier changes. Fayyad worked to end the diversion of revenue from the Ministry of Finance, subject other ministries and the security services to greater control, and ensure that PA holdings were not only disclosed but also better managed. For only the second time in PA history, the cabinet submitted the annual budget to the PLC before the beginning of the fiscal year, and Fayyad worked closely with the body rather than stonewalling its attempts to gain information and influence. Seemingly elementary steps (such as complying with the provisions of the budget law) or technical ones (such as directly depositing the salaries of some members of the security forces, removing senior officers from a payroll process they had manipulated) earned the PA a new reputation for fiscal probity unequaled by any Arab state. Fayyad's appointment reversed the previous relationship of dependence between the president and the minister of finance: Rather than the minister meekly requesting that Arafat make modest changes, now the minister stood as Arafat's main link to international actors and respectability. The bitterness of the second intifada and pre-2002 practices made the PA's poor reputation in broader international discussions difficult to rehabilitate, but those who followed the process closely in the United States, Israel, the EU, and the international financial institutions showed strong approval of Fayyad's work. Israel even resumed the revenue transfers required under the Oslo Accords that it had suspended earlier in 2000.

The fiscal reforms returned stability and solvency to the PA, but Fayyad could not address every problem. The economic crisis attendant to the second intifada led to new budgetary difficulties, even after Israel resumed transfers. Pledges of assistance were slow in being honored, especially by Arab states. And although Fayyad had managed to garner impressive international and domestic support for reform, his program focused understandably on the most basic and obvious steps. Further steps would require some difficult choices. For instance, the PLC passed a generous civil service pay schedule, but implementing it required substantial expenditures. The PA payroll ballooned, even after the beginning of the second intifada, as public employment became a critical tool for the leadership's courting of individuals and constituencies. Moving toward a leaner and more merit-based bureaucracy would be a difficult political step in this environment. Revenue sharing with local and municipal governments was required by law but to this day has not been fully implemented.

Constitutional Reform

Many Palestinian reformers worked to close the gap between Palestine on paper and the reality of PA governance through specifying the PA's constitutional structure. In 2002, they obtained one of their critical demands when Arafat signed the Basic Law, finally giving PA governance a constitutional basis and specifying the authority of the presidency, the PLC, and the judiciary. But the Basic Law was not the only achievement with constitutional dimensions. Other critical pieces of legislation with implications for Palestine's constitutional structures were dusted off, signed, and promulgated. Most significant was the law of judicial organization, providing for a judiciary that would be able to operate independently of the executive branch.

Having accomplished this step, however, reformers wished to move further by implementing the legal changes that they had won. And here they ran directly into the Basic Law itself—a document that had many liberal and democratic features but also created a strong presidency with only vague and untested limitations. Convinced that Arafat would minimize or even ignore its provisions, reformers began lobbying to amend the document to create a prime ministerial position—an old idea that resurfaced in 2002 because it offered to take authority out of Arafat's hands, transferring it to an official responsible to the parliament. International actors—especially the United States and the European Union—embraced the proposal, motivated less by abstract principles and more by the opportunity to circumscribe Arafat. In 2003, the Basic Law was amended in a far-reaching manner, not only creating the position of prime minister but also transferring most executive responsibilities to the new post or to the cabinet as a whole.

Reformers also called for new elections, hoping to revive Palestinian institutions that had lost energy—and sometimes even the attention of their own members. From the point of view of most Palestinians, elections were long overdue. Local elections for municipal councils had been postponed since 1996, most likely because the Palestinian leadership feared that the Islamist opposition would poll very strongly. National elections were staved off for a more complex set of reasons. The 1996 elections for the presidency and the PLC were intended only for the interim period that was slated to expire in 1999. When the expiration date came with no agreement with Israel on a final settlement, some Palestinians pressed for a declaration of statehood or at least new elections. Tremendous international pressure led the Palestinian leadership to postpone any decision in the interest of pursuing further negotiations. The collapse of negotiations in 2000 led to some interest in reviving the call for elections, but the second intifada made such a step very difficult.

So when the reform wave of 2002 began, elections seemed an obvious place to start. International support for Palestinian democracy made the domestic and international agenda seem to coincide, and Palestinians moved ahead with plans for three sets of elections: presidency, PLC, and local councils. However, U.S. enthusiasm in particular waned, because it was clear that presidential elections would result in a strong Arafat victory. External diplomatic support was vital, especially because Israeli reoccupation of Palestinian areas meant that holding elections was no longer simply a Palestinian decision. A presidential decree to hold elections was thus effectively forgotten, but the PA still trudged on creating some of the necessary mechanisms. Two independent electoral commissions were formed: one for local elections and one for national elections. The PLC also began work—admittedly very slowly—on a new election law. In 2004, a voter registration drive was initiated for local elections, with the hope that by the end of the year a series of staggered local elections could be held. The death of Yasser Arafat on November 11, 2004, broke the international logjam. Not only could local elections proceed, but on January 9, 2005, presidential elections were held in accordance with the Basic Law and the 1995 electoral law. Palestinian opposition groups wished to hold PLC elections at the same time, but these were postponed until July 17, 2005.

Loss of Reform Momentum

On both the fiscal and constitutional fronts, Palestinian reformers had genuine and serious accomplishments to their credit. But there were deeper frustrations, especially on the constitutional front. Abu Mazin's brief period as prime minister brought many promises of change, but the gap between paper Palestine and Palestinian political realities remained huge. Most notable in this regard was the battle for control of the security services. The amended Basic Law placed the security services under control of the cabinet, while acknowledging the president's role as "commander in chief." In most constitutional systems, this ambiguity would have been resolved by having the president act through the cabinet in his command functions, but Arafat avoided this outcome by creating a new body—the National Security Council—which he headed to oversee the security services. The absence of any legal or constitutional basis for the new body indicated that some things had not changed in Palestinian politics.

The security services were hardly the only area where change was staved off: Judicial reform was stymied by institutional rivalries; corruption allegations remained uninvestigated; and many important pieces of legislation remained unimplemented. As Abu Mazin's government was stymied, none of those who had pressed for his appointment—the PLC, Israel, the EU, and the United States—offered him political support. Never interested in battling for authority, Abu Mazin resigned in the fall of 2003.

The reform wave that began in 2002 gradually petered out, leaving behind some institutional changes as well as more blueprints and drafts for further reform. Those areas that did see significant reform were notable for the way in which all efforts were structured around the personality of Arafat. Fiscal reform made headway not simply in the interests of transparent, efficient, and responsible government but because it took the purse strings out of Arafat's hands. The position of prime minister was created not out of any preference for more parliamentary government but because it transferred authority away from Arafat. Thus, Arafat and his leadership style served simultaneously as a primary obstacle to reform and a leading motivation for it.

With Arafat's death, a major challenge to reform was removed, but his passing also illustrated some of the problems with personalizing reform. Arafat had been able to limit the impact of reforms aimed primarily at sidelining him. His death led to an ironic situation: The presidency had been diminished in ways that sometimes made it more difficult for his successor—a man committed to reform—to move forward. And it left the position created to further reform, that of prime minister, in the hands of Ahmad Qurei, the former speaker of the PLC. As speaker and then as Abu Mazin's successor as prime minister, Qurei had developed strong skills in mediating between liberalizing reformers and an autocratic president, which in many cases meant deflecting calls for reform. Abu Mazin was sometimes able to promote reform only by maneuvering around the prime minister and the limitations that had originally been placed on presidential authority in order to enable reform.

With much of the reform effort designed to limit Arafat's power, his death meant that reform agendas had to be rethought. How should the moment of opportunity be approached? How would analysts be able to distinguish between furthering liberal democratic Palestine on paper and making real progress on reform? Where would reform likely have the most impact?

REALISTIC PRIORITIES FOR REFORM

With a fairly open intellectual atmosphere, some pluralism in political life, and the unmaking of the authoritarian political order, Palestinian society already has some democratic characteristics. The accomplishments of the past few years have led to a considerable degree of fiscal transparency and accountability as well as the diminution of the executive branch. In these ways, the Palestinian political system presents genuine openings for political reform that are unusual in the region. In a sense, then, what paper Palestine needs is not greater democracy but stronger institutions designed in such a way as to undermine neither horizontal nor vertical accountability. The experience of the past decade—in which institutional development and reform depend on the confluence of domestic and international factors—suggests that the present moment is particularly propitious for reform efforts, perhaps in ways that are unlikely to recur any time soon. The series of elections, the commitment of the Palestinian leadership to reform, the high-level international attention, and the strong U.S. interest have all combined to revive a host of reform plans.

Yet the experience of the last reform wave also suggests other lessons. It is vital to prioritize elements of reform; overly ambitious and indiscriminate shopping lists can inspire those who strive for an ideal Palestine but can provide no guidance on how to achieve realistic goals. Nor can those priorities center only on individuals or security lest the results will be restricted and perhaps difficult to sustain. Personalities are relevant—Arafat obstructed reform and Abu Mazin supports it. And security can be critical—it is difficult to envision any significant reform taking place without some professionalization of the Palestinian security services. But fuller Palestinian institutional development cannot be built solely on personalities and security services.

In selecting areas for priority over the medium term, it makes most sense to concentrate on those areas where a solid basis has been built and a clear vision articulated so that efforts are focused and realistic and do not start from scratch. At the same time, it is also critical to discover fields where there will be significant and broad impact on governance. Given a PA that is institutionally weak and far from sovereign, there are not many areas that satisfy both conditions. Perhaps the most promising is that of political parties (which have a strong basis in Palestinian society but are not

oriented toward democratic politics), security services (which form a significant portion of the PA budget but badly need professionalization), the judiciary (which has begun to obtain some autonomy but has not used it to develop institutional capacity), and the media (which have a surprisingly strong basis for independence but have generally fallen short in the sort of professionalization necessary to play a sustained watchdog role). A PA with electoral parties, professional security services, a capable judiciary, and watchdog media would be qualitatively improved and a very large step toward closing the gap between Palestine on paper and Palestine in reality.

Political Parties

Palestinian political life stands out in the Arab world for the pluralism of its party structure. The more common regional pattern—a single dominant party formed by (and sometimes indistinguishable from) the regime—has shown some signs of emerging in Palestine, especially after Fatah became dominant in the PLO in 1969 and formed the backbone of the PA in 1994. Such single-party domination has sometimes left the distinction among PLO, PA, and Fatah quite unclear. And intra-Fatah struggles often seem more significant than those between Fatah and other parties. But Fatah has never edged other political parties out of existence, and indeed a group of leftist and Islamist parties has maintained some ideological distinctiveness and party structure. Although divisions among the parties are real, they often operate under an ethos that stresses national unity and thus places some limits on competition among them. The PLO has sometimes served as a forum for the parties to meet (the Islamists have stood aloof from the PLO, but recently there have been some indications that the PLO and Islamist leaderships are moving to diminish the obstacles to Islamist participation). More locally, a forum referred to as the National and Islamic Forces has attempted to coordinate among the various Palestinian parties. This organization was formed prior to the second intifada but took on greater significance after the outbreak of violence.

Thus, for all the weakness of Palestinian party life, the nucleus of a democratic political party system has been built: There is a plurality of parties; the parties are based on ideological differences but still operate within a national consensus; and they generally accept one another's legitimacy. Missing, of course, are the democratic institutions that would induce existing parties to channel their energies toward electioneering and governance. Indeed, almost none of the Palestinian parties call themselves "parties"; instead they are generally "movements" or occasionally "fronts." The terminology is very suggestive: Palestinian political parties have never been primarily concerned with electoral processes. They are not total newcomers to elections—student and professional associations have often seen stiff electoral competition as did municipal elections in 2004 and 2005—but outside of such restricted forums, the parties have not confronted one another at the polls. Nor have they organized themselves to turn out the vote. The 1996 presidential and PLC elections (and the 2005 presidential elections) proved partial exceptions, but the Islamist parties did not participate nor did some of the leftist parties.

Palestine's two largest parties, Fatah and Hamas, present somewhat different challenges in the move to develop electoral parties. Fatah is too indistinguishable from the PA and Hamas too removed from it. Fatah is a loose movement that has always identified itself as the central force for national liberation and has brought in a number of diverse tendencies and personalities; the little coherence it did have was shattered by the second intifada as it dissolved into rival and regionalized groups. Its experience as the governing party of the PA has further muddied the waters, with Fatah

cadres serving as the backbone of the security services, some Fatah organs surviving on PA financial support, and many positions in the bureaucracy awarded to party activists.

Hamas, by contrast, disassociated itself from the PA from the beginning, refusing to participate in its institutions or accept the binding nature of its decisions. This policy was never absolute, however. Hamas hesitated before deciding to boycott the first PLC elections in 1996; always showed an interest in local elections (although these were not actually held until 2004); and finally decided to enter the PLC elections of 2005. But even this last step is an ambiguous one. Hamas is likely to run not under its own banner but as part of an impromptu reform coalition that could leave the precise party status of elected deputies unclear. Hamas leaders have generally scoffed at the idea of entering the government, but some have left the door open to such a possibility. Where Hamas represents the greatest challenge to the PA, however, is in its refusal to surrender the option of “armed resistance” or submit to the command of the PA or PLO in such matters. At times it has acceded to a cease-fire with Israel, and it has also insisted that it would never foment intra-Palestinian violence. But its determination to retain all decision making over the use of violence limits the ability of the PA to pose as an authoritative voice for Palestinians and sharply raises Israeli suspicions of the PA’s viability. And it therefore indicates that Hamas continues to stand partly outside of the PA, with its horizons going beyond influencing PA policies.

Thus, a transition to an electoral party system would be a fundamental change for Palestinian politics. Most of the major parties have expressed an interest in such a transition to some degree, although none seem yet willing to renounce the status of revolutionary movement. Completion of the current round of local elections as well as the PLC elections will be an important step in the transformation, because it will be the first time all major parties have competed against one another in such a setting. Preparation for elections has forced the parties to promise significant organizational steps, such as determining their membership, internal procedures, selection of candidates, and decision-making structures.

Liberal democracies show great diversity in their party systems, and it certainly makes no sense to judge Palestine by a highly specific standard when assessing the degree to which its political system is witnessing genuine reform. A tightly organized party system would have real costs because some of the most active advocates of reform in the PLC have been those without (or with merely nominal) party affiliation. Nonetheless, three minimal steps must be taken in order to further democratic transition. First, Fatah must be disentangled from the PA. While Fatah very much hopes to hold on to its standing as the governing party, the close overlap among PLO, party, and PA leadership—extending even to the security services—must be ended. The formation of a “technocratic” cabinet in 2005—filled with figures who were more prominent for their professional qualifications than for their party activity—was an acknowledgement of the need to separate Fatah and the PA. The separation, of course, need not take such an extreme form as disallowing leading party figures from heading ministries. But when politicization of official positions runs deeply throughout the bureaucracy, and where there is a conflation of roles and of ruling bodies—such as existed under Arafat when a vague “leadership” would meet in place of the cabinet—mechanisms of horizontal and vertical accountability begin to break down.

Second, the parties need to construct clear structures of internal governance. Most have indicated an interest in doing so in a democratic fashion—such as by the use of primaries and party congresses.

Third, parties must orient themselves primarily for electoral competition. This will be the most difficult and controversial part of any transition, because it is premature in the mind of many Palestinians. The current situation—in which many parties have armed wings, generally loosely controlled—illustrates the difficulty of constructing democratic politics in the midst of active conflict. Any measure that forces parties to choose between their status as revolutionary movements and as electoral organizations assists in fostering democratic transition.

Security Services

Reform of the security services has been a prominent element in international reform plans. For some external actors—especially Israel—security forms the basic logic of the reform process. Given the history of Israeli–Palestinian relations over the past decade, this concern is understandable. It has had some influence on the international approaches to reform, to the extent that some Palestinians have complained that the thrust of reform should not amount to an attempt to guarantee Israeli security. But while Palestinians view reform differently from Israelis, most would agree that the security services in their present state pose as much a problem as a solution. Israeli leaders at their most critical look to Palestinian security services and see either terrorists or an ineffectual barrier against terrorism, but Palestinians worry instead that they have created a series of competing protection rackets.³ The performance of the security services is closely related to issues of authoritarianism, human rights violations, and corruption.

Palestinian security services provide security poorly even when they are allowed freedom of movement and action by the Israelis, for three main reasons. First, they lack professionalism. Most members obtained their position because of service to, or membership in, the Palestinian national movement (especially Fatah). With a senior leadership that is focused on political struggles as much as on internal security and a rank-and-file that has obtained employment as a sinecure for political work, the security services have been staffed with an enormous number of individuals who do not necessarily possess the professional skills necessary for security work.

Second, there is no clear oversight of the security services. This is true in the formal democratic sense: The PLC has never been able to exercise any kind of parliamentary oversight partly because it never managed to write any governing legal framework and partly because Arafat held the interior portfolio in his own hands even while serving as president (making any sort of questioning or withdrawal of confidence politically unthinkable). But a series of interior ministers appointed since 2002 has revealed that problems of oversight go deeper. The security services effectively answered to the president regardless of the content of the Basic Law. And when Arafat was president, he encouraged multiple security services but declined to draw clear divisions of responsibilities among them. Some organs were internally divided as well, sometimes between the West Bank and Gaza, but sometimes even fragmented among smaller branches. When Arafat fell ill and left for Paris, the leadership of the National Security Council—the extraconstitutional body Arafat had created to keep ultimate command of the security forces under his control—fell to Qurei as prime minister. But without the political standing to exercise any genuine command authority, Qurei gradually lost influence to President Abu Mazin.

Third, the security services have become involved in ancillary activities that will be difficult to disentangle from their main work. As one of the first of the PA's institutions to begin functioning, the security services were called on from the beginning to perform a large number of roles—and not

just by Palestinian leaders. Those who were locked in a dispute with a neighbor or had a car stolen learned that the security forces would react quickly to their complaints. But not all of the additional duties taken on by the security services showed such a helpful attitude. Some personnel were involved in monitoring border crossings, facilitating passage for a fee or for a share of the business; others collected local taxes at their own initiative.

As with most other reform areas, the basic path toward security reform is clear. The myriad layers of overlapping forces and command structures need to be replaced with a consolidated and transparent organization with clear lines of command to a democratically accountable official or set of officials. Such officials could include the minister of interior—the Basic Law requires a measure of cabinet involvement—but the president, as commander-in-chief, might in some circumstances also play a significant role. The PLC must be granted the authority to examine the budget of the security services, and it must also finish drafting the legal framework for their operation. Members of the security services need to develop a professional ethos; that is, their training should focus not only on developing technical expertise but also on fostering a sense of what security services should *not* do.

Some steps toward consolidation and the development of a legal framework have been taken; there were some tentative moves toward professionalization before the outbreak of the second intifada. How will it be clear if such measures materially affect the nature of Palestinian politics? We should not expect immediate success. Indeed, since the security forces may be expected to take in members of various paramilitary groups that operated during the second intifada, a long period of adjustment may be necessary. But Palestinian reform will clearly be moving forward if the minister of interior exercises real oversight, if the PLC passes (and monitors compliance with) a set of laws governing security forces, and if the regular reporting of human rights groups and other NGOs suggests that the security forces are more respectful of the limits to their authority.

Judiciary

In most internally generated reform proposals, building a strong and independent judiciary is identified as an area for immediate attention. This emphasis on judicial reform at first may seem an odd choice because building a strong judiciary is a complex project and the payoff for this type of reform, while quite real, is often slow. There are, however, three convincing reasons to look to the judiciary as an area for immediate attention.

First, some of the groundwork has already been laid for an independent judiciary. Indeed, since the judicial organization law was promulgated in 2002, the judiciary has been managed by an extremely independent judicial council. Most efforts to increase judicial independence in the Arab world focus on building a judicial council that is headed by—and largely composed of—judges and on ensuring that the council has oversight over as many aspects of the court system as possible (such as hiring judges and overseeing court employees, judicial discipline, and budgets). The Palestinian judiciary has achieved most of what other judiciaries in the Arab world have only dreamed of achieving.

But it must be admitted that the groundwork that has been laid has created its own set of problems, with the Palestinian judiciary now dominated by a group of senior judges very anxious to ensure their continued autonomy but inexperienced in the administrative matters they have taken on.⁴ Rivalries between the judiciary and both the executive (especially the Ministry of Justice) and

the PLC have stymied efforts at institutional development. The bar association—a past supporter of judicial reform—has turned against the judicial council, claiming that it is treating the judiciary as a “private estate.”⁵ Abu Mazin has reacted to such spats by creating a committee to draft a new judicial law and promote judicial reform. The committee has sought to introduce some pluralism into the judicial council and to spell out the responsibilities of the council and the Ministry of Justice. The committee’s draft judicial law has been referred to the PLC, but its work has still been eyed suspiciously by senior judges.

Second, the state of the Palestinian judiciary has attained significant symbolic importance and thus will be an important litmus test for many Palestinians of the significance of reform efforts. The Oslo period (from 1994 to 2000) saw the PA earn a domestic reputation for authoritarianism and corruption; the second intifada saw general lawlessness added to the list of domestic ills. Reviving and reforming the court system could play a significant role in convincing a domestic audience that the PA can deliver probity and order.

Third, judicial reform is a logical priority because it can be a genuine tool—not simply a symbolic one—in addressing the corruption that is perhaps one of the most corrosive issues for Palestinian governance. If corruption is defined as the use of public authority for private gain, then it is virtually inevitable in any new political entity where the boundaries between public and private have not been well delineated. The legacy of the PLO—based on leading personalities rather than institutions—and Arafat’s management style both undermined the ability to develop clear standards of conduct. Yet some considerable progress has been made on paper. There are now laws governing civil service hiring and public tenders; senior political officials are required to disclose personal finances; and some bodies have been authorized to monitor the use of public funds. The problem has been implementing those standards and prosecuting violators. The PA has yet to witness a serious, high-level prosecution for corruption, and officials whose activities have been publicly documented have escaped any accountability. Trials of corrupt officials are a necessary step in Palestinian reform, but they cannot occur in the absence of a strong and capable judiciary. In this regard, the office of public prosecution—a quasijudicial body in most Arab systems, including Palestine’s—may be a more important target for reform than judges sitting on the bench. The battle over judicial independence has diverted attention from the need to build a strong, expert, and politically courageous public prosecution system.

It is not difficult to set realistic targets for judicial reform. Given deeply ingrained patterns of social and political behavior as well as a shortage of trained personnel, we should expect problems to continue with both lawlessness and corruption. But we will know that progress has occurred if we see a Palestinian entity where the political struggles regarding the relationship of the judiciary to the legislature and the Ministry of Justice have been resolved, ordinary citizens have begun to return to the courts, and public officials have been given a clear message that they risk prosecution if they violate the legal and ethical standards that have been set.

Media

From the perspective of political reform, Palestinian media currently have a number of surprising strengths. First, most important media outlets are privately owned. Even the broadcast sector—generally under nearly total state control in the Arab world—is partially private in Palestine. The independence of Palestinian media should not be overstated, however. All three daily newspapers

depend heavily on PA support either in the form of direct subsidies or advertising and other ancillary businesses. (For instance, the staff of *Al Hayah Al Jadida* is on the PA payroll; *Al Ayyam* is kept in financial health with a significant textbook publishing contract with the minister of education).

Second, foreign media cover Palestinian news extensively and have hired Palestinians to assist their efforts, so that many Palestinian journalists have received on-the-job training producing news for highly professionalized international operations. And since most Palestinians follow news on Arabic satellite channels and other international sources, they have a clear measuring stick by which to judge their local media's performance.

Third, the PA, even at its most authoritarian, never developed the stultifying control over public expression that has occurred elsewhere in the Arab world. Opinion articles and regular columns are fairly freewheeling, and the delivery of domestic news is generally faithful, if somewhat stodgy. To be sure, high PA officials can act in a heavy-handed manner to constrict debate in some serious ways—for example, the doings of Islamist parties and leaders are not well covered, senior officials have never been above using intimidation to affect what is (and what is not) written, and internal discord and clashes are often covered elliptically (by reference to unspecified “regrettable events”) by journalists unwilling to alienate powerful movements.

At their best, Palestinian media have helped build a nonpartisan public sphere where vital public issues can be openly debated. The cause of political reform, however, demands that they be at their best more consistently. Indeed, if the PLC becomes a more partisan body (with the partial switch to a party-list system) and if political parties reorient themselves more toward domestic issues, the importance of independent media as a nonpartisan forum will probably increase. Between 1994 and 2000, there were significant steps taken in that direction. Since 2000, the return to nationalist struggle has affected Palestinian media in predictable ways: Coverage of workshops has been partly edged out by lurid photographs of those shot by Israeli forces, and headlines about budget debates have been placed in inside pages so that marches and demonstrations can feature on page one. But the transformation is not complete, and the decay of PA institutions under the weight of the intifada has probably loosened press controls overall. The basis for independent media that can facilitate reform, therefore, is still solid.

Two important developments are necessary for the media to play a more significant role. First, existing print and broadcast media have to find a more secure footing as businesses. Of the three dailies, only *Al Quds* seems to operate primarily as a business (and attracts derision from journalists from the number of its advertisements as a result). Newspapers are expensive (two of the three dailies cost half a U.S. dollar), and the local market is depressed and small. Publishers do not disclose much information about advertising, likely because rates are negotiated and often discounted. In their present form, it is not clear whether the dailies could survive a removal of PA support. Broadcast media are similarly uncertain operations from a business perspective. On the West Bank (and to a lesser extent in Gaza), a large number of independent local broadcasters play music, relay news broadcasts from other sources, and host interviews, appearing limited in both their technical and business operations. For both print and broadcast media, establishment of a sound business foundation would likely be a painful process.

Second, the professionalism of Palestinian journalists needs to be enhanced. Most Palestinian media are fairly new creations—only one of the dailies (*Al Quds*) dates to the period before the PA, and Palestinian broadcasting is just as new—and journalists often speak of being torn between their

national and professional roles. Part of the conflict is generational. Senior journalists, schooled in the PLO and exile politics, view the national cause as trumping any professional concerns, though even among this group a number have shown a growing spirit of independence. Younger journalists, especially during the Oslo period, showed an interest in professional training and investigative journalism, anxious to throw off the yoke imposed by the older generation, the senior political leadership, and even the hegemony of the nationalist struggle. Institutional development could enhance professionalization. Perhaps the most important structure in this regard is a professional association for journalists (who are currently represented by an ineffectual writers union that has remained under the control of an old PLO figure). A professional association could offer journalists greater protection, professional identity, and possibilities for training and the development of professional standards. A group of younger journalists attempted to build an alternative to the official writers union in 1999 and 2000, but their effort was forgotten in the second intifada. A revival of this effort—or a successful reform of the existing official body—would be an important step to constructing a body that could offer journalists some protection as well as opportunities for practical training in the craft.

THE WAY FORWARD: TO WHAT EXTENT CAN THE OUTSIDE HELP?

A liberal, democratic Palestine will continue to exist only on paper as long as its institutions lack the ability to deliver on their promises. Political parties that orient themselves toward obtaining the electoral support of the Palestinian population and governing in accordance with electoral programs, security services that define their task in a narrow and professional manner, and autonomous judicial structures and independent media that both act to enhance the accountability of public officials are all possible and would bring paper Palestine much closer to reality.

And these developments would have significant international as well as domestic support. Indeed, Palestinian reform has many wealthy and powerful friends throughout the world. Even though high-level attention to the subject is episodic, a number of improvised structures has been built to coordinate monitoring and assistance of Palestinian reform. International donors formed an ad hoc liaison committee at the beginning of the Oslo process to coordinate assistance activities; in the past few years, this committee has transformed into a significant monitoring body. In 1999, the Independent Task Force on Strengthening Palestinian Public Institutions released a comprehensive report calling for a large number of changes. An international group oversaw the task force, but Palestinian academics and technical experts developed much of the research and recommendations. And it continues to issue periodic updates on the progress of the reform effort. The Quartet, another ad hoc body bringing together the United States, the EU, Russia, and the United Nations, established their own International Task Force on Reform to meet periodically and coordinate political support for the process. In 2003 and 2005, interested parties gathered in London to discuss ways of furthering Palestinian reform. And individual actors—chiefly the United States, the EU, individual European countries, international financial institutions, and the United Nations—all have separate structures that monitor and assist Palestinian reform in areas of particular interest. It is difficult to think of any precedent for the complex set of international structures that has arisen focused solely on Palestinian governance.

These structures have many points of entry into Palestinian politics. Palestine has grown extremely dependent on international financial support—for its annual budget and development projects—and many of its NGOs survive in their current form only because of very generous external assistance. The PA has found diplomatic support harder to obtain than financial aid, and it has therefore come to realize that any hope for transforming the PA into a state depends in part on the support of its patrons. Thus even international assistance that generated resentment among Palestinian officials—as often happened during the Oslo period—has almost always been tolerated.

This situation has led to close coordination among domestic and international reform advocates. The numerous blueprints for Palestinian reform borrow liberally from each other, so that discerning the origin of an idea is often an exercise in unearthing archeological layers. The governance requirements of the Road Map, for instance, imposed on Palestinians by the Quartet, were borrowed from reform documents that often had a domestic provenance. Some of the elements of those internal proposals in turn came from the suggestions of international experts.

With a Palestinian leadership eager for support and an international community insistent on reform, what keeps reform from moving forward? One frequently cited obstacle is the clash in reform visions. Some Palestinians complain that external support for reform has been highly selective. And in fact the United States and Israel were exclusively focused on Arafat, finances, and security, leaving other areas of PA reform without sufficient diplomatic support (despite the efforts of some Europeans). The clash in agendas was certainly an obstacle while Arafat was still alive: Internal reformers generally sought to bypass Arafat or diminish his centrality; international reformers were split between those who also wished to work around the president and those who saw his removal as the main benchmark (or even purpose) of reform. Yet this divergence should not be overstated. Even during Arafat's last two years, there was substantial overlap among the various reform programs, and with his death, the central difference has disappeared. The new president has committed himself forcefully to the reform project. And the United States has broadened its vision of reform, although the new emphasis remains vaguely defined.

A second obstacle is the persistence of old political elites, especially in senior leadership and party positions. This “old guard” (a term increasingly used by Palestinians themselves) continues to occupy critical positions and has continued the game of advocating change while burying it in committees. Nonetheless, the grip of this generation of leadership has already grown quite loose, and it is now more adept at delaying and complicating rather than preventing reform. The increasing popularity of the Islamist movement is also less of an obstacle to reform than it might initially seem because it has prompted efforts within Fatah to build itself into a more democratic party. Much of the contest between the nationalist (Fatah) and Islamist (Hamas) visions for Palestinian society focuses not simply on the approach toward Israel but also on issues of corruption, responsiveness, and accountability. Islamist movements have accentuated reform issues more than they have distracted from them.

The primary obstacle to further Palestinian reform lies in the international context: Political reform is difficult in the midst of an ongoing conflict. And it is here that international supporters of Palestinian reform can be most helpful, since Palestinian reform requires significant diplomatic space in order to emerge. Yet to date, international actors—most significantly the United States—have approached diplomacy and reform as sequential rather than interdependent.

But it is precisely the mutual dependence of reform and peace that make both so difficult to achieve. Palestinians have long wrestled with the complications. Since 1994, many Palestinians have been attempting to accomplish two daunting tasks at the same time: establish an independent state and build the structures that such a state needs to govern its people democratically and effectively. Simultaneous accomplishment of both tasks is probably impossible without tremendous domestic and international commitment. It is therefore no surprise that the international community has established priorities that emphasize peace or reform but rarely both at the same time.

From 1994 until the second intifada, the international community stressed the diplomatic and security levels so that an independent state could be established. As discussed above, matters of internal governance were viewed as secondary—sometimes an obstacle, sometimes an afterthought, but never a matter of central attention. Completion of the peace process would come first; all other matters could be addressed later.

The second intifada led to a different international consensus. For some—especially in Israel but also in the United States—the violence since September 2000 constituted evidence that the Palestinian leadership was unwilling to pursue a peaceful solution to the conflict. That leadership would have to change before any diplomatic process could be resumed. But even many of those who did not share this harsh view of the intentions of the Palestinian leadership came to doubt its ability to move forward. The PA was not emerging as the sort of structure on which a state could be based, either internally or internationally. By 2002, this had crystallized into the view that reform could no longer be postponed. And in the most extreme view—generally advanced by the Bush administration—reform had to come first. Even when the Sharon government moved toward unilateral withdrawal from Gaza, the United States did not retreat from the emphasis on Palestinian reform; if anything, it increased the concern regarding the PA's internal capabilities. The Palestinian response to the Israeli pullout—its ability to ensure order during the operation and security afterwards—became a litmus test for its reform efforts.

Yet if the logic of the Oslo period—“peace now, democracy later”—proved a failure, the current logic of “democracy now, peace later” is likely to be no more successful. To be sure, reform in the priority areas—political parties, security services, judiciary, and media—would all increase international (and even Israeli) confidence in the PA and enhance its ability to negotiate authoritatively on behalf of Palestinians. But building public institutions that are expected to establish authority and accountability while placing them in a context of extremely limited autonomy might work only for a short period at best; it is difficult to imagine them operating for long without losing legitimacy. This is most directly and obviously the case with security and legal institutions, but it is also true of the other areas identified as priorities for reform. In an atmosphere of unresolved conflict, security services are caught between their official duties and the call of national struggle; Palestinian political parties turn their attention away from domestic politics; courts operate only to the extent that the political and security environments allow; and media focus on the national struggle at the expense of more mundane governance matters.

In an odd way, the PA's early attempt to build an authoritarian system—however much it fell short of the ambitions of its leaders—may have combined with the failure of Palestinian–Israeli diplomacy to discredit authoritarianism in the minds of many Palestinians. The Oslo period seemed to be one in which Palestinians forfeited democratic rights without receiving any national ones. There is some danger that democratic reform can suffer the same fate.

So, extensive international funding and support for Palestinian reform can have some effects, but absent a broader political and diplomatic context favorable to institution building, it is unlikely that they will lead to a qualitative change in Palestinian politics. Integrating reform concerns into diplomatic initiatives may combine peace and democracy in a way that seems excessively ambitious, but such a combined effort is ultimately more realistic than those that depend on reform as a precondition for diplomatic progress.

NOTES

- ¹ Khalil Mahshi, interview with Joe Stork, *Middle East Report*, no. 186 (January-February 1994).
- ² A. Bennett, K. Nashashibi, S. Beidas, S. Reichold, and J. Toujas-Bernat , *Economic Performance and Reform under Conflict Conditions* (Washington, DC: International Monetary Fund, Middle Eastern Department, September 15, 2003), p. 91, available <http://www.imf.org/external/pubs/ft/med/2003/eng/wbg/wbg.pdf>.
- ³ For an assessment of the internal debate on the security services, see Roland Friedrich, *Security Sector Reform in the Occupied Palestinian Territories* (Jerusalem: Palestinian Academic Society for the Study of International Affairs, 2004).
- ⁴ Other countries have found that judicial councils are no panacea. For a valuable overview, see Linn Hammergren, "Do Judicial Councils Further Judicial Reform? Lessons from Latin America," Carnegie Paper no. 28 (Washington, DC: Carnegie Endowment for International Peace, June 2002), available at <http://www.carnegieendowment.org/files/wp28.pdf>.
- ⁵ See "Head of the Bar Association: The Judiciary Has Been Transformed into a Private Family Estate," *Al Hayah Al Jadida*, March 31, 2005.

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