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Re-Democratizing Palestinian Politics

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RE-DEMOCRATIZING PALESTINIAN POLITICS

*George E. Bisharat**

ABSTRACT

The main objective of this article is to examine the contemporary challenges to re-democratization in Palestinian politics. Such an examination is timely as the current leadership of the Palestinian people, institutionalized in the Palestine Liberation Organization (PLO) and the Palestinian Authority (PA), is viewed by many Palestinians as out of touch with their needs, and overly prepared to sacrifice their perceived rights and interests in negotiations with Israel. Palestinian politics have never been fully democratic. It follows that for Palestinian politics to be successfully democratized today, it is not sufficient to simply return to past practices nor to restore pre-existing institutions to their previous statuses.

This article analyzes the impact of two persistent obstacles to Palestinian democratic development—geographic dispersion and fragmentation of the Palestinians; and intervention by external powers, including the Arab states, the United States, and Israel—and considers the extent to which these obstacles were overcome in the past. It addresses the process of de-democratization to which Palestinian political institutions and practices have been subjected since the high water mark of Palestinian democratic achievement during the first intifada (1987-1993).

De-democratization is evident in two processes, characterized here as the “downsizing of Palestine” (by which Palestine has been reduced,

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conceptually and administratively, to the West Bank) and the “domestication of the Palestinians” (by which Palestinians, through their security forces, have become guardians of their own occupiers). The article reviews the intensifying demands for democratization that have been emerging in Palestinian society within the last several years and considers how these demands have articulated with the uprisings in other Arab countries, sometimes labeled the “Arab Spring.” The prescriptions that Palestinians themselves are currently discussing for strengthening their own practice of democracy include national reconciliation between Fateh and Hamas, reform of the PLO, and abolition of the PA. All of these prescriptions hold some promise, particularly as each would help revive political interaction and discussion among all Palestinians, wherever they are situated. But none is truly sufficient, and each bears potentially significant costs. One of the most difficult questions currently facing Palestinians is whether to reorient their struggle from one aiming to achieve national liberation in an independent state - the prospects of which seem increasingly dim, in light of ongoing Israeli colonization of the West Bank - to one seeking equal civil and political rights in what has emerged as a functionally unitary state in Israel and the Palestinian territories it occupies. This might require a fundamental reevaluation of what it means to be “Palestinian,” and the abandonment of ethno-religious criteria for identity in favor of a new concept of democratic citizenship.

INTRODUCTION	3
I. THE RISE OF PALESTINIAN DEMOCRATIC PRACTICE.....	5
a. Geographic Dispersion and Fragmentation.....	5
b. External Intervention	8
c. The Rise of Palestinian Democratic Practice	10
II. THE DE-DEMOCRATIZATION OF PALESTINIAN POLITICS	14
a. Downsizing Palestine	14
b. Domesticating the Palestinians	17
III. PALESTINIAN DEMOCRACY AND THE ARAB UPRISINGS	19
IV. PRESCRIPTIONS FOR DEMOCRATIC REFORM	22
a. National Reconciliation.....	22
b. Rolling Back the Oslo Accords.....	23
c. Reforming the PLO	24
CONCLUSION.....	26

INTRODUCTION

The title of this article implies that Palestinian politics¹ have been more democratic in the past than they are today. That implication is fully intentional. This paper will argue that Palestinian politics, indeed, have been more democratic in the past than they are now. In this author's view, Palestinian politics reached their democratic zenith in the late 1980's and early 1990's, during the first Palestinian *intifada*.² Since that time, Palestinian democratic practices have been in gradual, if not precipitous, decline, so much so that Palestinians today face what might be fairly characterized as a crisis of representation and accountability. The depth of Palestinian public dismay with their leaders was palpable in a recent description by Omar Barghouti, a prominent activist in the Palestinian movement for boycotts, divestment, and sanctions against Israel, who referred to Palestinian leadership as "unelected, unrepresentative, unprincipled, and visionless."³

The main objective of this article is to both trace the arc of Palestinian democracy and try to explain it, while also offering some observations on how that arc may again be turned upward. It should be immediately clarified, however, that Palestinian politics have never been fully democratic. On the contrary, Palestinian democratic practice has fallen short in a number of significant respects—to be explored soon below.⁴ It follows from this, therefore, that for Palestinian politics to be successfully democratized today, it is not sufficient simply to return to past practices nor to restore pre-existing institutions to their previous status. More than that is required.

A disclosure here is necessary: in the view of this author, *genuine*

¹ By "politics" I simply mean the institutions, practices, and norms by which a society or group of people manages power and authority in public life.

² "*Intifada*" is derived from the Arabic verb meaning to "shake off;" it is commonly translated as "uprising." The term first began to be widely used in reference to the political upheaval that swept the Gaza Strip and West Bank beginning in late 1987, aiming to "shake off" or end Israeli military occupation that persisted for several years before tapering off inconclusively in 1992. See Mark Tessler, *Intifada: 1987-1992*, in *ENCYCLOPEDIA OF THE PALESTINIANS* 182, 182-90 (Philip Mattar ed., 2000). A second Palestinian *intifada* broke out in October 2000 that is sometimes identified as the "al-Aqsa *intifada*" because it followed a politically provocative visit by Ariel Sharon, campaigning to become prime minister of Israel, to the "Haram ash-Sharif" or Holy Mount that includes al-Aqsa Mosque. A variety of perspectives on the second or "al-Aqsa" *intifada* are offered in *THE STRUGGLE FOR SOVEREIGNTY* (Joel Beinin & Rebecca L. Stein eds., 2006).

³ OMAR BARGHOUTI, *BDS: BOYCOTT, DIVESTMENT, SANCTIONS* 7 (2011).

⁴ See *infra* Part II.

democracy—defined most broadly as any set of institutions, practices, and norms that enact the people’s will in public policy—is good, for Palestinians and for others.⁵ Palestinian leaders *should* represent and strive to implement the interests of their people and mechanisms of accountability should exist and function if and when Palestinian leaders fail in their essential responsibilities. Needless to say, this is a normative position to which not all need subscribe. But it is one to which this author subscribes and, moreover, is a point of departure for this article and therefore will be assumed rather than defended here.

Notwithstanding the fact that the most progressive and democratic forces in Palestinian society have historically, been hostile to Israel and its government’s policies, it is likely that genuine democracy among Palestinians ultimately will be good for their neighbors, particularly for Israeli Jews.⁶ Unfortunately, there are real and seemingly intractable differences of interest and aspiration between Palestinian Arabs and Israeli Jew that must one day be reconciled. There is little to gain, however, in maintaining a Palestinian leadership that does not honestly, forthrightly, and firmly articulate its people’s positions on issues of critical concern. The absence of a truly representative Palestinian leadership simply means that the difficult challenges in negotiating a fair accommodation with Israeli Jews will continue unresolved.

The reader will note the stress in the paragraph above on *genuine* democracy. I stress the term *genuine* democracy so as to highlight the distinction between it and *apparent* democracy. This distinction seems necessary because of the occasional tendency in popular thinking to confuse or mistake the conduct of elections, and the resulting *apparent* democracy, for *genuine* or actual democracy. Elections certainly can and often do contribute to establishing a democratic system. However, elections can also be turned to anti-democratic ends, especially through the manipulation of the franchise. As shall be seen below, this is a particularly salient consideration in recent Palestinian political history.⁷

This article next examines the substantial obstacles to Palestinian

⁵ There are many definitions of democracy, but at its bare minimum it means “rule of the people.” How democracy has been realized (or perhaps better, approximated) in various societies has varied through time and space, whether through direct or representative versions; my definition hews closely to the basic meaning of “rule of the people.”

⁶ Moshe Ma’oz, *Democratization Among West Bank Palestinians and Palestinian-Israeli Relations*, in *DEMOCRACY, PEACE, AND THE ISRAELI-PALESTINIAN CONFLICT* 213, 237-38 (Edy Kaufman, Shukri B. Abed & Robert R. Rothstein eds., 1993).

⁷ See *infra* Part III.

democratic practice were negotiated and the extent to which they were overcome. Part II addresses the process of “de-democratization” to which Palestinian political institutions and practices have been subjected since 1993. In Part III, the article discusses the intensifying demands for democratization that have been emerging in Palestinian society within the last several years, and considers how these demands have articulated with the uprisings in other Arab countries, sometimes labeled the “Arab Spring.” Part IV reviews and evaluates some of the prescriptions that Palestinians themselves are currently discussing for strengthening their own practice of democracy. The final part draws some brief conclusions.

I. THE RISE OF PALESTINIAN DEMOCRATIC PRACTICE

A comprehensive historical survey of the rise of Palestinian democratic practice is beyond the scope of this article.⁸ Instead, the focus of this section is on two enduring obstacles to the achievement of Palestinian democracy: geographic dispersion and the fragmentation of Palestinian societies on the one hand, and external intervention on the other hand. Thereafter, we will turn to the rise of Palestinian democratic practice in the late 1960’s, in particular through the Palestine Liberation Organization, and the extent to which the aforementioned obstacles were overcome.

a. Geographic Dispersion and Fragmentation

In 1948, more than half of all Palestinians—in other words, between 700,000 and 800,000 persons—were either forced from their homes by Jewish militias or fled in fear in anticipation of the same. Palestinians refer to this event as the “Nakba” or “Catastrophe.”⁹ The majority took refuge in the West Bank or Gaza Strip, although large numbers reached Lebanon,

⁸ Nor, unfortunately, is there a single source that undertakes this task. Ma’oz, *supra* note 6, presents a brief sketch of democratic practices among Palestinians from the early twentieth century until 1993. RASHID KHALIDI, *THE IRON CAGE* (2006) (providing many great insights into the political challenges faced by Palestinians, although the author’s preoccupation is the failure of the Palestinian national movement to achieve statehood, not democracy as such).

⁹ Three important studies of the Palestinian exodus of this period are NUR MASALHA, *EXPULSION OF THE PALESTINIANS* 198 (1992) (placing the number of Palestinian refugees at “some 750,000”); BENNY MORRIS, *THE BIRTH OF THE PALESTINIAN REFUGEE PROBLEM REVISITED* 604 (2004) (characterizing 700,000 as a “fair estimate”); and ILAN PAPPE, *THE ETHNIC CLEANSING OF PALESTINE* xiii (2006) (placing the number of displaced Palestinians at “close to 800,000”). Meanwhile the pre-hostilities Arab population of Palestine was 1.25 million. MORRIS, *supra*, at 7.

Syria, Jordan, and Egypt. According to Israeli sources, the June 1967 war caused the flight of between 200,000 and 250,000 Palestinians; some were refugees from 1948 while others were residents of the West Bank or Gaza Strip, which fell under Israeli rule for the first time.¹⁰ Most 1967 refugees fled eastward to Jordan. While these two dramatic upheavals were the cause of flight of most Palestinians from their homes and homeland, many others have subsequently left due to political repression, land confiscations, restrictions on movement and economic opportunity, and a variety of other Israeli policies that seem calculated to continue the “Nakba.”¹¹ For example, between 1967 and 1994, the Israeli government denied residency permits to nearly a quarter of a million Palestinian residents of the West Bank and the Gaza Strip who had left those territories to go abroad for work, study, or other reasons.¹²

Geographic dispersion and fragmentation has been an obstacle to democratic development among Palestinians in at least four significant ways. First, it created distinct living conditions and experiences for differently situated Palestinian communities. Such communities include minority citizens of the state of Israel; the descendants of the roughly 140,000 Palestinians who did not flee beyond the areas controlled by Israeli forces in the 1948-49 fighting today number 1.623 million.¹³ Others include more than four million refugees living in the surrounding Arab countries as well as

¹⁰ TOM SEGEV, 1967: ISRAEL, THE WAR, AND THE YEAR THAT TRANSFORMED THE MIDDLE EAST 410 (Jessica Cohen trans., 2005).

¹¹ See Alan Hart, *Never ending Nakba*, ALAN HART (May 15, 2012), <http://www.alanhart.net/never-ending-nakba/>.

¹² Akiva Eldar, *Israel admits it revoked residency rights of a quarter million Palestinians*, HAARETZ (June 12, 2012, 1:18 AM), <http://www.haaretz.com/news/diplomacy-defense/israel-admits-it-revoked-residency-rights-of-a-quarter-million-palestinians-1.435778>.

¹³ See MORRIS, *supra* note 9, at 603 (discussing Israeli government figures suggesting 102,000 Palestinians remained in areas under Israeli control after 1948 and an additional 30,000-40,000 who, after fleeing, infiltrated back); Moti Bassok, *Israel's population stands at nearly 8 million on its 64th Independence Day*, HAARETZ (Apr. 24, 2012, 11:08 PM), <http://www.haaretz.com/news/national/israel-s-population-stands-at-nearly-8-million-on-its-64th-independence-day-1.426381>. It should be noted, however, that Israel's Central Bureau of Statistics counts the 360,000 Palestinian residents of East Jerusalem as part of Israel's population, notwithstanding the fact that few of them have accepted Israeli citizenship. See Nir Hasson, *Report: 78% of East Jerusalem Palestinians live in poverty*, HAARETZ (May 20, 2012, 1:08 AM), <http://www.haaretz.com/news/national/report-78-of-east-jerusalem-palestinians-live-in-poverty-1.431384> (noting the current Palestinian population of East Jerusalem). The number of Palestinian citizens of Israel, therefore, is between 1.2 and 1.3 million.

further abroad,¹⁴ and four million residents of the West Bank and the Gaza Strip, both under Israeli military occupation or control for the last forty-five years.¹⁵ These differences in daily life experience have, quite naturally, given rise to somewhat distinct identities that challenge the unity of the Palestinian people. Needless to say, democracy can only be developed within a “demos,” or people; when the boundaries of that “people” are contested, the task is all the more fraught.

Second, geographic dispersion and fragmentation have positioned the various Palestinian communities to be differentially impacted by different prospective resolutions of the Palestinian-Israeli conflict. This is especially true of the two-state solution that has been formally adopted by the international community as its preferred model for resolution of the conflict in United Nations Security Council Resolution 1515.¹⁶ The Palestinian community with the most to gain by that resolution’s passing would be those currently suffering under Israeli military occupation in the West Bank and the Gaza Strip, who would achieve at least nominal sovereignty and greater freedom over their lives. Palestinian citizens of Israel, however, would

¹⁴ Exact figures on the numbers of Palestinian refugees living outside the borders of former Mandate Palestine are not easy to find. The United Nations Relief and Works Agency places the number of formally registered Palestinians in its camps in Jordan, Syria, and Lebanon, at nearly 3 million, while those residing in the West Bank and Gaza Strip together just exceed 2 million. U.N. Relief and Works Agency for Palestine Refugees in the Near East, UNRWA Statistics-2010 5 (Nov. 2011), <http://www.unrwa.org/userfiles/2011120434013.pdf>. This does not count Palestinians who were refugees but did not register as such with UNRWA, nor does it include Palestinian refugees living in other countries, such as Iraq or Egypt, or Europe and the Americas. Badil, the Bethlehem-based Resource Center for Residency and Refugee Rights, estimated the total number of Palestinian refugees at 6.6 million in its 2008-2009 survey. *Survey of Palestinian Refugees and Internally Displaced Persons 2008-2009*, BADIL (BADIL, Palestine, Bethlehem), at ix, available at http://www.badil.org/en/publications?page=shop.product_details&flypage=garden_flypage.tpl&product_id=119&category_id=7. Assuming these figures are accurate, this means there are approximately 1.6 million unregistered Palestinian refugees, distributed between the West Bank and the Gaza Strip and those outside the borders of former Mandate Palestine. It seems likely that the majority of these are outside, thus the estimate of “greater than four million.”

¹⁵ The CIA world fact book estimates the total West Bank population as of July 2012 as just over 2.6 million, of who just over 300,000 are Israeli Jewish settlers. WORLD FACTBOOK: WEST BANK, <https://www.cia.gov/library/publications/the-world-factbook/geos/we.html> (last updated Feb. 6, 2013) (click on “People and Society” tab). The same source, meanwhile, estimates the July 2012 population of the Gaza Strip at just over 1.7 million. WORLD FACTBOOK: GAZA, <https://www.cia.gov/library/publications/the-world-factbook/geos/gz.html> (last updated Feb. 5, 2013) (click on “People and Society” tab).

¹⁶ See S.C. Res. 1515, U.N. Doc. S/RES/1515 (Nov. 19, 2003).

witness their subordinate status in Israeli society consecrated and perpetuated, especially if Israel's status as a "Jewish state" is formally recognized in a peace agreement. Meanwhile, Palestinian refugees living in exile would benefit from a two-state solution only to the extent that they receive the rights to return to their homes and homeland and to receive compensation for their losses. As many Palestinian refugees fled from areas that will remain within Israel under a two-state solution, their rights of return will be only imperfectly realized.¹⁷ Fragmentation, therefore, has introduced deep differences of interests among different segments of the Palestinian people.

Minor internal differences are not fatal to democratic development. Indeed, all democratic societies live with them. Deep schisms, however, are difficult to resolve via democratic means. It is particularly challenging to resolve deep differences in the absence of opportunities for national dialogue. This is the third respect in which geographic dispersion and fragmentation have inhibited Palestinian democratic development: by frustrating, to the point of impossibility, a coherent and consistent national dialogue that encompasses all three major segments of the Palestinian people (citizens of Israel, residents of the occupied West Bank and Gaza Strip, and refugees living in exile). Travel restrictions and other limitations on communication have virtually barred Palestinians from conducting the debate necessary to democratic decision-making regarding their respective futures.

Finally, geographic dispersion and fragmentation established what were essentially Palestinian hostage communities that gave a particularly vital form of leverage to surrounding Arab regimes. Regimes that hosted Palestinian populations could, by implicit threat if not explicit action, exert pressure on Palestinian leaders and force them to answer not only to the needs of the Palestinian people, but also to the preferences of those regimes.

b. External Intervention

The key reality to highlight here is that Palestinians have never had the space—that is to say, their own state—within which to elaborate democratic

¹⁷ These rights were first recognized by the international community in United Nations General Assembly Resolution 194 of 1949. G.A. Res. 194 (III), ¶ 11, U.N. Doc A/RES/194 (III) (Dec. 11, 1948). The author provides a fuller exploration of the differential impact of a two-state solution on differently situated Palestinian communities in George E. Bisharat, *Maximizing Rights: The One-State Solution to the Palestinian-Israeli Conflict*, 8 GLOBAL JURIST, Issue 2, art. 1, 2008, available at <http://www.degruyter.com/view/j/gj.2008.8.2/gj.2008.8.2.1266/gj.2008.8.2.1266.xml>.

practices. While no political entity is entirely impervious to external influences, state borders erect a permeable barrier to such influences. This in turn enables a sovereign people to experiment with, gain experience in, and institutionalize democracy. In short, geographic borders frame the political space for democratic development and, in the view of some analysts, are vital to democratic development.¹⁸ That claim may go too far; that is, it is theoretically possible to imagine the emergence of democratic practices at the sub-state and supra-state levels. Indeed, such emergence is empirically observable in the case of the Palestinians in local level organizing and political organizations (such as the Palestine Liberation Organization, and a number of its constituent organizations) that have spanned across state borders. But there is little question that the absence of the protective shield of a state has rendered the Palestinians persistently vulnerable to other state authorities that have not hesitated to intervene in Palestinian affairs, often to radical effect.

This intervention has assumed two broad forms: (1) repression, including limitations on movement, free expression, free association, imprisonments, banishments, and ultimately, assassinations of Palestinian political leaders and (2) co-optation, meaning the provision of positive emoluments including tangible assets (money), access to power or office, business licenses, and the like. The mix of these two broad forms of intervention—repression and co-optation—has varied over time and space, but a high level of outside intervention has been a constant feature of Palestinian political life.

Outside intervention in Palestinian political life has had anti-democratic effects for two main reasons. First, repression has often forced Palestinian politics underground; and secrecy and democracy, while not directly at odds, are certainly not easily reconciled. Second, Palestinians' aspirations for freedom and independence in their homeland has been consistently opposed by a series of powerful outside parties, who have intervened to install or support Palestinian leaders who were compliant to their wishes, not the wishes of the Palestinian people.

This was true, for example, of the British Mandate that ruled Palestine from 1923 to 1948, in which ruling authority was exercised by a British

¹⁸ In the view of some political scientists, state borders are a necessary but not sufficient condition for the establishment of a democratic system—the other condition being a balance of power between internal social forces that bars domination and the imposition of the will of some over others. *See generally* LEV LUIS GRINBERG, *POLITICS AND VIOLENCE IN ISRAEL/PALESTINE* (2010).

High Commissioner appointed from London. Palestinian demands for democratic government during the Mandate period—one that would defend the interests of Palestinian Arabs, who were a majority of the population of the state—were consistently spurned by their British rulers.¹⁹ Instead, a Legislative Council was formed that joint-appointed British colonial officers with elected Palestinian and Jewish members. Together the British appointees and Jewish members outnumbered the Palestinian members, despite the fact that Palestinians were 90% of the population at the beginning of the Mandate, and still 65% at the end of the Mandate after massive Jewish immigration.²⁰ The British, of course, were compelled to deny the Palestinian drive for democratic government because the overwhelming majority of Palestinians staunchly opposed one of the prime objectives of the Mandate, to establish a Jewish national home in Palestine. Virtually every powerful actor since then, including Israel, the Arab countries, and the United States, has similarly intervened to foil Palestinian democratic aspirations; not out of any hostility to democracy itself, but because of fear and hostility to the predicted outcome of democratic processes among Palestinians.

c. The Rise of Palestinian Democratic Practice

Despite these two formidable and enduring obstacles—geographic dispersion and external intervention—real progress began towards Palestinian democracy began with the takeover of the Palestine Liberation Organization (PLO). The PLO, it will be recalled, was created by the Arab states in 1964 precisely as an instrument of co-optation and control of the Palestinian national movement. It was headed by individuals appointed by the Arab League.²¹ Fateh, the Palestinian guerrilla organization that was founded in 1959 and had launched its first military operation against Israel in January 1965, engineered the takeover.²² The takeover was consummated by the election of Yasser Arafat as Chair of the Executive Committee of the PLO at the fifth meeting of the Palestine National Council in 1969. Fateh faced a strategic decision at the time whether or not to monopolize the resources of the PLO. Under the leadership of Yasser Arafat and others,

¹⁹ KHALIDI, *supra* note 8, at 33-36.

²⁰ See VICTOR KATTAN, FROM COEXISTENCE TO CONQUEST 62-63 (2009).

²¹ See HILLEL FRISCH, COUNTDOWN TO STATEHOOD 17 (1998); JOOST R. HILTMANN, BEHIND THE INTIFADA 38 (1991).

²² The campaign by Fateh to take control of the organization is described in detail in HELENA COBBAN, THE PALESTINIAN LIBERATION ORGANIZATION (1984).

Fateh opted for the principle of political pluralism—that is, fostering representation of other Palestinian political parties and resistance groups.²³ The Palestine National Council (PNC), the supreme policy-making body of the organization under the PLO's Constitution, became a forum for vibrant, open, and democratic debate of the direction of the Palestinian national movement.²⁴ The PLO encompassed not just resistance organizations, but also a variety of unions—of Palestinian workers, women, students, engineers, writers, and others—achieving very high levels of popular mobilization.²⁵ In what ways did all this fall short of democratic practice? First, despite a clause in the PLO Charter requiring direct elections to the PNC, such elections never took place. Instead, PNC members were nominated according to a quota system negotiated among leaders of the various Palestinian political organizations. Nominated members were then confirmed by a vote of currently sitting PNC members. This provided a veneer of democracy to what was functionally a top-down selection process.²⁶ This pattern of elections that served to ordain outcomes orchestrated in advance by political elites has been characteristic of Palestinian politics in a number of other contexts as well.²⁷ Second, while lateral political pluralism prevailed among organizations under the PLO umbrella, the internal administration of Palestinian political groups was not terribly democratic. For some Palestinian groups, this was a legacy of their military natures. Meanwhile, Palestinian leftist organizations, such as the Popular Front for the Liberation of Palestine (PFLP) and the Democratic Front for the Liberation of Palestine (DFLP), had been steeped in the Leninist vision of democratic centralism.²⁸ In either case, it was top-down management by the Palestinian political class that prevailed more often than bottom-up leadership from grassroots activists and local level leaders.

Another significant flaw in Palestinian democracy was the fact that the PNC and the PLO disproportionately represented the Palestinian diaspora at

²³ The reasons for this choice are discussed in ALAIN GRESH, *THE PLO: THE STRUGGLE WITHIN* 11-14 (A.M. Berrett trans., 1983). Chief among them, however, was the desire for unity as a means to foil the interference of Arab states in Palestinian affairs.

²⁴ See GRESH, *supra* note 23.

²⁵ COBBAN, *supra* note 22, at 13 (providing an organization chart of the PLO).

²⁶ *Id.* at 11.

²⁷ For example, this pattern can be seen in the internal leadership selection processes of the main Palestinian political and guerrilla organizations. HILTERMANN, *supra* note 21, at 14.

²⁸ Both the PFLP and DFLP were outgrowths of the Arab Nationalist Movement, which Yezid Sayigh describes as mirroring the “classic pyramid of communist parties.” YEZID SAYIGH, *ARMED STRUGGLE AND THE SEARCH FOR STATE* 73-74 (1997).

the expense of Palestinian citizens of Israel and those living under Israeli military occupation in the West Bank and the Gaza Strip. This was due to a variety of factors, perhaps chief among them the preeminence of the PLO and its constituent organizations “that matured in the diaspora and whose program and ideology reflected that of the diaspora.”²⁹ Meanwhile, Palestinians living within Israel or in the territories it occupied in 1967 were inhibited, barred from participation in national politics by the prospect of arrest, deportation, or other sanction by Israeli authorities.³⁰ Finally, the PLO tacitly abandoned the task of representing the concerns of the Palestinian citizens of Israel as an outgrowth of its mid-seventies strategic shift away from the goal of a democratic secular state in all of former Mandate Palestine in favor of a Palestinian state in the West Bank and the Gaza Strip only.³¹ Whatever these democratic shortcomings, Palestinians tended to chalk them up to the hostile environments they faced. As long as the PLO leadership was pursuing policies supported by a broad national consensus, conditions seemed adequately, if not perfectly, democratic. The most significant rupture in the overall pattern described above occurred during the first *Intifada*, which erupted in late 1987 before waning in the early 1990s. This was the Palestinian people’s most democratic movement—a true upswelling of grassroots sentiment and activism that momentarily shifted the political initiative out of the hands of diaspora elders and political fixers and into the hands of a youthful decentralized leadership in the West Bank and the Gaza Strip. The *Intifada* was managed on a day-to-day basis by a “Unified National Leadership of the Uprising.” Its rotating membership both practiced and preached respect for democracy.³² This period was characterized by the invigoration of civil society thanks to a host

²⁹ HILTERMANN, *supra* note 21, at 5.

³⁰ Under Israeli military orders long in force in the West Bank, mere membership in an organization whose other members commit an offense, such as possession of a firearm, is punishable by life imprisonment. Order Regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651) 5770-2009, Article 231, *available at* <http://nolegalfrontiers.org/en/military-orders/mil01/69-security-provisions-chapter6-209-262> (military order 1651 consolidates several military orders from 1967-1970 among others). A few Palestinian citizens of Israel gained prominence in the PLO, such as lawyer Sabri Jiryis and poet Mahmoud Darwish, but only by emigrating from Israel and accepting permanent exile from their homeland. Others achieved positions in the PLO following deportation by Israeli authorities. *See* COBBAN, *supra* note 22, at 171.

³¹ *See generally* GRESH, *supra* note 23 (providing reasons for and debates surrounding this shift).

³² *See* GLENN E. ROBINSON, BUILDING A PALESTINIAN STATE xi (1997); Ma’oz, *supra* note 6, at 235.

of new non-governmental organizations (NGOs)—human rights groups, women’s groups, medical societies, and the like—that mobilized broad segments of Palestinian society in largely non-violent resistance to Israeli occupation.³³ In the words of political scientist Glenn Robinson:

This new elite mobilized a transformed society in order to better confront the occupation. By so doing, authority was pushed downward in a society away from the notable elite and toward a much broader spectrum of individuals. The devolution of authority was seen directly in the Intifada by the emergence of thousands of popular institutions which organized Palestinian society under emergency conditions and which Israel found to be impossible to eliminate. Sustained collective action, then, was directly linked to the reorganization of authority in Palestinian society by the mobilization efforts of the new elite.³⁴

The first *Intifada* also witnessed a visible increase in the public political role of Palestinian women. And while the *Intifada* by no means permanently altered the patriarchal structure of Palestinian society, “women made important progress in raising consciousness of their rights in society, and more women were mobilized than ever before in organizational structures that channeled their energies toward satisfying, beyond demonstrations, the needs of a society under siege.”³⁵ Against these positive, democratizing trends that characterized the first *Intifada*, however, we must note other troubling developments. First, this was also the era in which Palestinian Islamist organizations such as Palestinian Islamic Jihad and Hamas rose to prominence.³⁶ To be clear, these organizations were not inherently anti-democratic. Indeed, there is good evidence that Hamas, at least, has conducted its internal affairs in a far more democratic and disciplined manner than any of the secular nationalist Palestinian organizations.³⁷ However, Hamas and other religiously-inspired Palestinian groups still raised the difficult and as yet unresolved issue of whether and how to integrate divergent Palestinian outlooks into a single national representative body. Second, the *Intifada* was never simply a spontaneous outburst of

³³ The best study of the role of these NGO’s in the *intifada* is HILTERMANN, *supra* note 21.

³⁴ ROBINSON, *supra* note 32, at xi.

³⁵ HILTERMANN, *supra* note 21, at 193.

³⁶ Palestinian Islamic Jihad had been formed in the early 1980’s, while Hamas, an offshoot of the Muslim Brotherhood, was founded after the commencement of the first *Intifada*. ROBINSON, *supra* note 32, at 145-46, 149-50.

³⁷ See generally KHALED HROUB, *HAMAS: POLITICAL THOUGHT AND PRACTICE* (2000).

Palestinian popular resentment against Israeli occupation giving rise to wholly new and independent political forces. It was always simultaneously structured and guided by pre-existing Palestinian political groups; the Unified National Leadership of the Uprising, for example, consistently consulted the PLO leadership, then based in Tunis, on its proposed actions.³⁸ In any case, the old guard soon reasserted its hegemony over the Palestinian national movement, riding the wave of popular revolt into the Madrid peace talks in 1991, and as the Palestinian public was later to learn, the secret negotiations leading to the Oslo accords in 1993. This, in a sense, was the beginning of the process of “de-democratization” of Palestinian politics that is the topic of the next part.

II. THE DE-DEMOCRATIZATION OF PALESTINIAN POLITICS

There are a variety of ways to frame the development of Palestinian politics in the era that began with the signing of the Oslo accords³⁹ on the White House lawn in September 1993 and continues to the present. In the opinion of this author, the period may be best characterized by two processes: the “downsizing of Palestine,” and the “domestication of the Palestinians.”

a. Downsizing Palestine

Downsizing Palestine as used in this article refers to the conceptual and administrative reduction of “Palestine” to the West Bank and the Gaza Strip, or to whatever remnants of those regions remain under effective Palestinian control. Among Palestinians themselves, as well as among supporters of Palestinian national rights, the most common meaning of “Palestine” was traditionally the territory of former Mandate Palestine, which was viewed as the historic homeland of the Palestinian people. Using the term “Palestine” in the aftermath of the founding of Israel in 1948 involved a symbolic denial of the legitimacy of Israel’s existence, and a normative assertion of the continuity of Palestine’s existence despite its actual demise as a political entity. Prior to 2002, Israeli leaders, and their supporters, including U.S. politicians, rarely if ever used the term.

³⁸ See HILTERMANN, *supra* note 21, at 174-76; Ma’oz, *supra* note 6, at 235.

³⁹ The “Oslo Accords” is the term commonly used to refer to a series of agreements reached between Israel and the PLO beginning with the first “Declaration of Principles” in 1993. See generally GEOFFREY R. WATSON, *THE OSLO ACCORDS: INTERNATIONAL LAW AND THE ISRAELI-PALESTINIAN PEACE AGREEMENTS* (2010).

The rhetorical or conceptual shift toward a reduced meaning for “Palestine” is mostly a feature of Western political and media discourse, and has unfolded gradually over the last two decades— although a decisive turn occurred in 2002 when U.S. President George W. Bush formally adopted support for the establishment of a Palestinian state as a key element of U.S. foreign policy toward the Middle East.⁴⁰ One notable public marker of the shift was Vice President Cheney’s repeated references to “Palestine” in his October 5, 2004, debate with John Edwards during the run-up to U.S. national elections.⁴¹ While the exact meaning of his reference cannot be firmly established, surely he did not intend the expansive meaning of “Palestine” used by Palestinians. His invoking the term as if “Palestine” was a present-tense reality strongly suggests that what he intended was the governing structures that had emerged as a consequence of the Oslo accords.

Other indications of the shift to a diminished meaning of “Palestine” are evident in common English-language media references to “Palestine,”⁴² or to Mahmoud Abbas as the “Palestinian president” (when he is, in fact, president of the Palestinian Authority, elected solely by the Palestinian residents of the Occupied Territories),⁴³ and in polling data that purports to represent what “Palestinians” believe—data that are almost inevitably culled solely from residents of the West Bank or Gaza Strip.⁴⁴ The usage of a

⁴⁰ President Bush first announced support for a Palestinian state in a speech delivered June 24, 2002. See *Full Text of George Bush’s Speech*, GUARDIAN (June 25, 2002, 4:28 EDT), <http://www.guardian.co.uk/world/2002/jun/25/israel.usa>.

⁴¹ *Transcript: Vice Presidential Debate*, WASH. POST (Oct. 5, 2004), http://www.washingtonpost.com/wp-srv/politics/debatereferee/debate_1005.html.

⁴² See, e.g., Tom Segev, *Salam Fayyad*, DAILY BEAST (Dec. 22, 2010, 8:00 AM), <http://www.thedailybeast.com/newsweek/2010/12/22/salam-fayyad-palestine-s-pm-on-building-a-state.html> (referencing Palestine’s Prime Minister).

⁴³ See, e.g., *Israeli and Palestinian Premiers Will Meet This Month for Talks*, N.Y. TIMES (Apr. 4, 2012), http://www.nytimes.com/2012/04/05/world/middleeast/israeli-and-palestinian-premiers-will-meet-this-month-for-talks.html?_r=1&ref=salamfayyad (referring to Abbas as “Palestinian president” and Salam Fayyad as “Palestinian prime minister”).

⁴⁴ See, e.g., Ron Ben-Tovim, *Poll: Majority of Palestinians Believe UN Statehood Bid Will Succeed*, HAARETZ (Sept. 18, 2011, 4:43 PM), <http://www.haaretz.com/news/diplomacy-defense/poll-majority-of-palestinians-believe-un-statehood-bid-will-succeed-1.385157>; Hugh Naylor, *Poll: Palestinians Believe Statehood Is Likely*, NATIONAL (Oct. 1, 2011), <http://www.thenational.ae/news/world/middle-east/poll-palestinians-believe-statehood-is-likely>; Khaled Abu Toameh, *Poll: Majority of Palestinians Think PA Is Corrupt*, JERUSALEM POST (May 29, 2012), <http://www.jpost.com/MiddleEast/Article.aspx?id=271912>.

diminished “Palestine” has also crept into some academic discourse on the region.⁴⁵

It should be noted, however, that Palestinian leaders and officials may have unwittingly participated in producing this new meaning for “Palestine,” for it is not uncommon for them, too, to refer to “Palestine” as if it were an existing entity.⁴⁶ Undoubtedly it is their intention in using this term to normalize the concept of “Palestine” as a concrete reality, and thereby to gain acceptance for recognition of Palestine as a full-fledged state—almost as if that state could be spoken into existence. We can think of this, perhaps, as Palestine in an “aspirational” sense. But if that is what Palestinian leaders intend, it seems equally likely that unsympathetic others may instead take away an entirely different and empirical meaning: if “Palestine” exists today, then that term can only refer to the sub-state entity that currently operates in the West Bank and that exercises minimal and ambiguous authority over just parts of the West Bank. Following the 2007 split in authority between Fateh, which controls the West Bank, and Hamas, which governs the Gaza Strip, it is no longer even self-evident that the Gaza Strip belongs to this “Palestine.” If this is correct, Palestinian leaders themselves could be helping to pave the way for broad international acceptance of a vastly downsized “Palestine”—downsized geographically and downsized in governing authority from the robust sovereignty that is exercised by genuinely independent states.

The administrative aspect of “downsizing” involves the progressive eclipse of the PLO by the Palestinian Authority (PA). The PA was established via the Oslo Accords and was originally intended to serve as an interim self-governing authority for the Palestinians while “final status” issues (borders, settlements, Jerusalem, refugees, security) were negotiated. Elections for a PA chief and for eighty-eight members of a new Palestinian Legislative Council (PLC) were held in the West Bank and the Gaza Strip in January 1996, purportedly for four-year terms.⁴⁷ In the early years of the

⁴⁵ See, e.g., Scott Lasensky, *Chequebook Diplomacy: The US, the Oslo Process and the Role of Foreign Aid*, in AID, DIPLOMACY AND FACTS ON THE GROUND: THE CASE OF PALESTINE 41 (Michael Keating, Anne Le More & Robert Lowe eds., 2005) (“As part of this new push for peace, the US is injecting additional economic assistance into Palestine, already one of the world’s highest per capita recipients of international aid.”). It is, of course, the PA that is the recipient of this aid, not “Palestine” as a whole.

⁴⁶ Saeb Erekat, *U.S. Elections: Palestine Can’t Wait*, HAARETZ (Nov. 5, 2012, 2:01 PM), <http://www.haaretz.com/opinion/u-s-elections-palestine-can-t-wait-1.475330> (PLO Executive Member and chief Palestinian negotiator referencing “Palestine” as if it were an existing entity).

⁴⁷ The membership of the PLC was increased in 2005 to 132. AARON D. PINA, CONG.

PA, the PLC developed into a dynamic organization and became the repository for Palestinian democratic hopes. Moreover, it was the main bastion against the emerging authoritarian tendencies of the Palestinian leadership, personified in Yasser Arafat.⁴⁸ But even under the best of circumstances, the PA, while sporting some of the trappings of democracy, functionally disenfranchised a majority of the Palestinian people who were not residents of the West Bank or Gaza Strip and therefore did not participate in PA elections.

Meanwhile the institutions of the PLO, long recognized internationally as the official representative of the entire Palestinian people, fell into disuse and atrophy. For example, after the birth of the PA, the PNC, which had met an average of once a year for its first two decades, met only in 1996, 1998, and then in 2009.⁴⁹ The de-democratizing aspect of these developments is thus characterized by the elevation of a body representing a part of the Palestinian people over one representing the whole.

b. Domesticating the Palestinians

The “domestication” of a people is an inherently demeaning concept. Domestication of animals, for example, typically involves penning them, feeding them, and reducing them to dependency on humans. Yet that is, with scarce exaggeration, what the Palestinians of the West Bank and the Gaza Strip have been subjected to over the last decade.

The “penning” of the Palestinians has been accomplished by smothering restrictions on the freedom of movement imposed by the Israeli military. Travel between the West Bank and the Gaza Strip has been almost completely barred, as has travel into East Jerusalem from the West Bank. Israel’s separation wall, road system, and associated administrative regime divide the West Bank into a series of geographically discontinuous cantons, or perhaps more accurately, bantustans.

The “feeding” of the Palestinians and their reduction to dependency is manifest in massive infusions of foreign aid to the PA. Some \$7.5 billion was transferred to the PA from 2008-2010 alone, much of it from the United

RESEARCH SERV., RL33269, PALESTINIAN ELECTIONS 9 (2006).

⁴⁸ For example, the PLC drafted a law on the independence of the judiciary, largely to protect it against executive branch interference, and also a “basic law” that was intended to serve as a constitution installing separation of powers and other principles of democratic governance. NATHAN J. BROWN, PALESTINIAN POLITICS AFTER THE OSLO ACCORDS: RESUMING ARAB PALESTINE 79 (2003); see also George E. Bisharat, *Peace and the Political Imperative of Legal Reform in Palestine*, 31 CASE W. RES. J. INT’L L. 253-91 (1999).

⁴⁹ See GRESH, *supra* note 23, at 254-55, for a list of PNC meetings from 1964-1983.

States and the European Union but from other sources as well.⁵⁰ This aid has had a variety of adverse and anti-democratic effects.

To put it bluntly, though hopefully not simplistically, massive aid rendered the PA more answerable to donors than to the Palestinian public it allegedly served. Perhaps the most vivid demonstration of this fact is in the establishment of security forces—that Palestinians refer to as “Drayton’s brigades” for their trainer and organizer, U.S. General Keith Drayton—whose performance is measured by how well they defend not Palestinians, but Israelis. The Israelis in question, meanwhile, are not simply those living peacefully in Tel Aviv but include the soldiers and civilian settlers who are engaged in the continuing illegal settlement of the West Bank. One would have to search hard in history to find another example of an occupied people that is charged with the responsibility of guaranteeing the security of its occupiers.

Foreign aid also enabled the outside Palestinian leadership, returning to the Occupied Palestinian Territories in the mid-1990’s, to secure their political standing via patronage, rather than in earning legitimacy by actualizing Palestinian public aspirations and interests. This was accomplished mainly by providing employment in the PA, leading to a bloated bureaucracy of some 140,000 employees.⁵¹

A parallel development occurred as well at the level of civil society. NGOs that had played such a vital role during the First *Intifada*, or those founded after the Oslo accords, similarly went on the foreign aid dole, giving rise to a new highly-paid “NGO aristocracy.” Like the PA itself, these NGOs seemed to many Palestinians to be “cut off from the grassroots and democratic structures that existed to represent the plurality of views in Palestinian civil society.”⁵²

Much more could be written to elaborate on this period, but to summarize in the interest of brevity, this was an era of massive external

⁵⁰ Other major donors include the United Nations Relief and Works Agency, the United Arab Emirates, Norway, Germany, Spain, the United Kingdom, Japan and France. See Aid Statistics of West Bank & Gaza Strip, OECD, <http://www.oecd.org/dac/stats/XPA.gif> (last updated Feb. 19, 2013).

⁵¹ See WORLD BANK, STAGNATION OR REVIVAL? PALESTINIAN ECONOMIC PROSPECTS 13 (2012), *available at* <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WorldBankAHLCreportMarch2012.pdf>.

⁵² Karma Nabulsi, *The State-Building Project: What Went Wrong?*, in AID, DIPLOMACY AND FACTS ON THE GROUND: THE CASE OF PALESTINE, *supra* note 45, at 124; see also RLF Palestine, *Donor Opium, the Impact of International Aid to Palestine*, YOUTUBE (Dec. 20, 2011), <http://www.youtube.com/watch?v=wVTYyRMLjic>.

intervention in Palestinian political affairs that had mostly anti-democratic effects. It would be wrong, however, to claim that the downward turn in the arc of Palestinian democratic practice during this period were solely due to external influence. On the contrary, many Palestinians were active partners in this sordid venture. Both Palestinian governments, in the West Bank and the Gaza Strip, have imprisoned and tortured political opponents,⁵³ trampled press freedoms,⁵⁴ appropriated the resources of the Palestinian people for partisan or party gain, and have otherwise acted like petty tyrants. There is, unfortunately, plenty of blame to be shared.

III. PALESTINIAN DEMOCRACY AND THE ARAB UPRISINGS

The so-called “Arab Spring” had effects on the movement for democracy among Palestinians at both intangible and tangible levels. At the intangible level, the uprisings in Tunis and Cairo served to remind Palestinians of the power of non-violent grassroots activism, and offered an inspiring model for resistance to oppression by Arab youths equipped with the new tools of social media. The impending changes in neighboring Arab countries also boosted morale among Palestinians by promising to usher in Arab governments whose policies would more consistently reflect their peoples’ palpable sympathy for the Palestinian cause. For Palestinians both young and old, however, the uprisings in surrounding countries against indigenous autocracies raised additional complex questions: who would be the target of a new Palestinian uprising? Their own “unelected, unrepresentative, unprincipled, and visionless”⁵⁵ leaders or Israel, the most persistent and violent denier of their freedoms?

In fact, disillusionment if not disgust among Palestinian youths with their official leaders was manifest even before the outbreak of the so-called “Arab Spring.” A Facebook post by eight young men and women calling themselves “Gaza Youth Breaks Out” (GYBO) in late 2010 began strikingly

⁵³ *Annual Report: Palestinian Authority 2011*, AMNESTY INT’L USA (May 28, 2011), <http://www.amnestyusa.org/research/reports/annual-report-palestinian-authority-2011>; *Gaza: Hamas Should End Killings, Torture*, HUM. RTS. WATCH (Apr. 20, 2009), <http://www.hrw.org/news/2009/04/20/gaza-hamas-should-end-killings-torture>.

⁵⁴ See *Israeli-Occupied Territories and Palestinian Authority*, FREEDOM HOUSE (2011), <http://www.freedomhouse.org/report/freedom-press/2011/israeli-occupied-territories-and-palestinian-authority> (last visited Feb. 26, 2013); *Palestinian Authority/Israel: Escalating Assault on Free Expression*, HUM. RTS. WATCH (Apr. 3, 2012), <http://www.hrw.org/news/2012/04/03/palestinian-authorityisrael-escalating-assault-free-expression>.

⁵⁵ BARGHOUTI, *supra* note 3, at 7.

with an expletive-laced condemnation of both major Palestinian parties, Fateh and Hamas, along with Israel, the U.S., and the international community for their neglect of the aspirations of young Palestinians for basic freedoms.⁵⁶ The post created a firestorm of controversy, but seemed to open the floodgates of internal criticism within Palestinian society. One of the prominent grievances was the continuing split within the Palestinian movement between Hamas and Fateh, groups that since a violent rift in 2007, had ruled in the Gaza Strip and the West Bank respectively. As one of the GYBO members stated: "Politics is bollocks, it is screwing our lives up. Politicians only care about money and their supporters. The Israelis are the only ones benefiting from the division."⁵⁷

"National reconciliation" between Fateh and Hamas was a central demand of the "15 March Movement," the first visible response to the events in Tunis and Cairo to be reflected in the Palestinian territories. The short-lived "movement" was formed by a loosely coordinated group of Palestinian young men and women who were not affiliated with established Palestinian political parties. They called for mass demonstrations on March 15, 2011, in both the West Bank and the Gaza Strip, adding a call of direct elections to the Palestine National Council to their demands.⁵⁸ The demonstrations, ultimately, were sparsely attended, and were infiltrated by Fateh activists in Ramallah and Hamas activists in Gaza City, each seeking to co-opt the movement. Moreover, in Gaza City some demonstrators were beaten by Hamas sympathizers.⁵⁹

Despite the relatively modest showings by the March 15 Movement, it is clear that Palestinian officialdom in the West Bank and Gaza Strip took note of the challenges to their authority and reacted accordingly. National reconciliation talks between Fateh and Hamas were quickly revived, leading to the signing of a new unity agreement on May 11, 2011. New elections to the PLC were promised. Palestinian negotiators stiffened their spines in

⁵⁶ The text of the "Gaza Youth Manifesto" is viewable at *Gaza Youth Manifesto*, GAZA YOUTH BREAKS OUT, <http://gazaybo.wordpress.com/manifesto-0-1/> (last visited Feb. 26, 2013).

⁵⁷ Ana Carbajosa, *Gazan Youth Issue Manifesto to Vent Their Anger with All Sides in the Conflict*, GUARDIAN (Jan. 1, 2011), <http://www.guardian.co.uk/world/2011/jan/02/free-gaza-youth-manifesto-palestinian>.

⁵⁸ A full list of 15 March Movement demands may be viewed at *The Demands of the #Mar15 Movement Youth of Palestine*, OCCUPIED PALESTINE (Mar. 19, 2011), <http://occupiedpalestine.wordpress.com/2011/03/19/the-demands-of-the-mar15-movement-youth-of-palestine/>.

⁵⁹ Karl Vick, *On the Run, the Palestinian Youth Movement May Yet Get Its Way*, TIME (Mar. 27, 2011), <http://www.time.com/time/world/article/0,8599,2061661,00.html>.

discussions with Israel, insisting, in particular, on a freeze in Israeli settlement activity as a condition for resuming broader peace negotiations. The PLO's Fall 2011 campaign for upgraded status in the United Nations may also have been stimulated in part by the leadership's need to demonstrate initiative in the face of stagnation in the two decade long "peace process."

While the March 15 Movement later dissipated without apparent lasting impact, other similar groups have proved somewhat more durable. Hirak al-Shababi al-Mustaqil, the "Independent Youth Movement" (IYM), has continued to organize protests and other events. On May 15, 2012, for example, IYM contributed to organizing a march to Ofer military prison in the West Bank, highlighting the concerns of Palestinian political prisoners facing administrative detention and other forms of long-term incarceration without trial.⁶⁰

The regional political changes wrought by the Arab uprisings have also exercised more tangible effects on Palestinian politics as well. Civil unrest in Syria, for example, led to Hamas's external wing's evacuation from Damascus to Cairo by February 2012. More importantly, however, are the tangible changes that have occurred along the border between the Gaza Strip and Egypt. Prior to the fall of the Mubarak regime, Egypt had mostly cooperated in Israel's siege of the Gaza Strip by keeping its border with that region tightly restricted, if not closed. Partly due to the chaos that has reigned in the Sinai Peninsula after Mubarak's fall, and partly due to the deliberate policy of the interim Egyptian government to ease travel and trade restrictions across the Gaza border, traffic of both people and goods has now soared. Building materials formerly banned by Israel are pouring into the Gaza Strip, leading to a 220% increase in housing starts. Gaza officials have accordingly reduced time estimates for repairing the damage to housing caused by Israel's 2008-2009 Operation Cast Lead from eight decades to as little as five years.⁶¹

Not surprisingly, the economic boom in the Gaza Strip is contributing considerably to the revival of the political fortunes of Hamas, which arguably has demonstrated that steadfastness in the face of sanctions can be a viable strategy. This, in turn, may point a way forward for the Palestinians as a whole, and create pressure on the Palestinian leadership to adopt

⁶⁰ *Tomorrow - Nakba Commemoration March to Ofer Prison*, STOP WALL (May 14, 2012), <http://stopthewall.org/2012/05/14/tomorrow-nakba-commemoration-march-ofer-prison>.

⁶¹ Nicholas Pelham, *Gaza's Tunnel Complex*, 261 MIDDLE E. REP. 30, 32-33, available at <http://www.merip.org/mer/mer261/gazas-tunnel-complex>.

strategies that more accurately reflect the interests and demands of their people.

Yet just as the apparent gains of the Arab uprisings have been ephemeral, so too is the ultimate impact of those uprisings on the direction of Palestinian efforts to achieve democracy. As one Palestinian commentator was moved to observe: “the Palestinian people living in their occupied homeland have remained quiescent. Neither have mass protests targeted the Palestinian ‘regime’s’ policies or negotiating performance, nor has resistance to Israeli occupation escalated or taken more effective forms.”⁶² For many Palestinians, the scenes of unarmed Arab civilians facing armed state authority were highly reminiscent of their own first *Intifada*, a comparison that was implicitly referenced in the description of the multiple uprisings as “*intifadat*” (plural of *intifada*). While Palestinians may have experienced pride in knowing that they had, with their first *Intifada*, led the way for other Arabs by more than two decades later, the successes of their neighbors must also have acted as poignant reminders of how far the Palestinians had fallen short in their ultimate aims of freedom and independence.

IV. PRESCRIPTIONS FOR DEMOCRATIC REFORM

In this part we will consider the major prescriptions that Palestinians themselves have propounded for democratic reform: national reconciliation, rolling back of the Oslo Accords, and reforming the PLO. None of these prescriptions are straightforward, easy to achieve, or without risks or costs.

a. National Reconciliation

National reconciliation, meaning a healing of the rift between Fateh and Hamas and the restoration of political unity, is the first demand of almost all those who seek reform of the Palestinian movement. Like the GYBO member quoted above, virtually all Palestinians recognize that division has hurt their political interests. National unity, moreover, may be a necessary condition for Palestinians to effectively field a strategy of non-violence. As political scientist Wendy Pearlman argues, only cohesive movements for self-determination can enforce discipline among followers and achieve the levels of mass mobilization necessary for effective non-violence.⁶³

⁶² Raja Khalidi, *After the Arab Spring in Palestine: Contesting the Neoliberal Narrative of Palestinian National Liberation*, JADALIYYA (Mar. 23, 2012), http://www.jadaliyya.com/pages/index/4789/after-the-arab-spring-in-palestine_contesting-the-

⁶³ WENDY PEARLMAN, VIOLENCE, NONVIOLENCE, AND THE PALESTINIAN NATIONAL

It is fair to view national reconciliation as a form of democratization; it would bring all Palestinian politics into one forum and would force open debate over the direction of the national movement. But insofar as it would reinstate the former hegemony of the Palestinian political class without challenging its top-down style of management, national reconciliation is necessary but not sufficient to foster true democratization. Moreover, discussions of national reconciliation do not typically address how the political parties would engage with the vibrant movement that has emerged since 2005 in Palestinian civil society in support of boycotts, divestment, and sanctions.⁶⁴

Finally, it is almost certain that national reconciliation between Fateh and Hamas would lead Israel to suspend all efforts to resume negotiations with the Palestinians. Israeli Prime Minister Benjamin Netanyahu has repeatedly warned PA President Mahmoud Abbas that “[i]t’s either a pact with Hamas, or peace with Israel . . . you can’t have them both.”⁶⁵ Furthermore, the U.S., like Israel, considers Hamas a “terrorist organization,” and is likely to suspend aid to the PA should reconciliation lead to the appointment of Hamas members to senior PA posts.⁶⁶ How great a loss these developments would cause Palestinians is questionable: negotiations over more than two decades seem only to have provided Israel a screen behind which to continue its inexorable colonization of the West Bank, and U.S. aid has come at great expense to Palestinian political independence and freedom of operation.

b. Rolling Back the Oslo Accords

Rolling back the Oslo Accords could potentially involve a variety of measures, from ending security cooperation with Israel to abolishing the PA altogether. In Palestinian discussions regarding these possibilities, the measures are not generally conceptualized as means of democratization, but rather as a way to throw back the administrative costs of military occupation of the West Bank on Israel. To the extent that the PA has supplanted the PLO and functionally disenfranchised Palestinian citizens of Israel and Palestinian refugees, the abolition of the PA might begin to restore the PLO

MOVEMENT, (2011).

⁶⁴ See generally BARGHOUTI, *supra* note 3.

⁶⁵ *Fatah-Hamas Unity Government: Israel Condemns Move*, BBC (Feb. 6, 2012, 11:29 PM), <http://www.bbc.co.uk/news/world-middle-east-16918834>.

⁶⁶ Ethan Bronner, *Abbas Will Lead The Palestinians in a Unity Pact*, N.Y. TIMES, Feb. 6, 2012, at A1, available at <http://www.nytimes.com/2012/02/07/world/middleeast/palestinian-factions-reach-unity-deal.html?pagewanted=all>.

to its former centrality in Palestinian political life and bring with it a more frank and fulsome consideration of the interests of the Palestinian people as a whole.

Yet this option is fraught with concern as well. The welfare of the 140,000 PA employees and their families must be considered, not to mention the legal implications of what would seem to be a clear breach of the Oslo Accords. Nonetheless, it is an option that appeals to many Palestinians, including popular leaders such as Marwan Barghouti. Such an option deserves further study and discussion.⁶⁷

c. Reforming the PLO

Reform of the PLO has been a subject of discussion among Palestinian intellectuals and activists for much of the last decade. The two major contemplated reforms are the inclusion of Palestinian Islamist parties under the PLO rubric and direct elections for the PNC. The first, obviously, is a variation on the theme of national reconciliation and thus requires no further discussion here.

Direct elections to the PNC are, as previously noted, stipulated in the charter of the PLO and are difficult if not impossible to oppose in principle. Indeed, the ostensible reason for the resort to other means of selection for PNC membership was purely practical: given the geographic dispersion of the Palestinian people in 1948, it has simply never been possible to organize elections in which all Palestinians could vote.

Yet with the advent of new technology, the practical obstacles to direct Palestinian elections are becoming less formidable. That is the apparent logic behind a current web-based voter registration drive spearheaded by Palestinian diaspora activists dubbed "Palestinians Register."⁶⁸ The drive was publicly announced on November 11, 2011, and an online registration period was to commence in May 2012 and close in October 2012. As of now the campaign only seeks voter registration, and the campaign would end once the registry is complete. It seems evident that the ultimate aim of the organizers is to see that democratic elections actually occur. By assembling the necessary voting data, the organizers are seemingly depriving the current Palestinian leadership of any pretext for not conducting elections; they are

⁶⁷ See Avi Issacharoff, *Barghouti Calls on Palestinians to Launch Popular Resistance Against Israel*, HAARETZ (Mar. 27, 2012, 9:08 AM), <http://www.haaretz.com/news/diplomacy-defense/barghouti-calls-on-palestinians-to-launch-popular-resistance-against-israel-1.420954>.

⁶⁸ PALESTINIANS REG., <http://palestiniansregister.org> (last visited Feb. 26, 2013).

thus creating moral pressure on them to follow through on previous promises to do so.⁶⁹

One challenging issue that the campaign for direct PNC elections must face is the potential participation of Palestinian citizens of Israel, either as voters or as candidates for PNC membership. Prominent Israeli politicians, such as former foreign minister Tzipi Livni, have stated that Palestinian citizens of Israel should seek the fulfillment of their national aspirations in a Palestinian state.⁷⁰ At least some saw in this the hint that Palestinian citizens of Israel might face possible demotion to something like non-voting permanent residents. Current Israeli foreign minister Avigdor Lieberman has also proposed that Palestinian citizens of Israel be required to sign a loyalty oath to Israel, including avowal of it as a “Jewish and democratic state.”⁷¹ The question, then, for proponents of the participation of Palestinian citizens in PNC elections is: how would Israel’s politicians likely respond were Palestinian citizens of the state to avow affiliation to the PLO? Would this give right wing Israeli politicians the impetus they need to demote Palestinian citizens of Israel to non-voting status? The answer is not clear, but the danger may be averted by a commitment on the part of the PLO to assume a more active role in advocating the rights and interests of Palestinian citizens of Israel—a role long since abdicated—while not requiring their formal institutional affiliation with the PLO.

In light of current political challenges, another significant question concerns what further reforms to the PLO are due. In particular, once the reality sinks in more broadly that the two-state solution is not around the corner, as it has appeared for the last two decades, and that the Israeli colonizing juggernaut in the West Bank has not lost and will not lose any

⁶⁹ New elections not only for the PNC, but also for the PLC and PA presidency, have been repeatedly promised in a series of agreements reached between Fateh and Hamas over national reconciliation beginning with the Prisoners’ Document of May 26, 2006, *The Full Text of the National Conciliation Document of the Prisoners*, MIFTA.ORG (May 26, 2006), <http://www.miftah.org/PrinterF.cfm?DocId=10371>, and including the most recent agreement signed in Doha in February 2012, *Full Text of the Doha Declaration signed between Hamas and Fatah - Palestine*, OCCUPIED PALESTINE (Feb. 8, 2012), <http://occupiedpalestine.wordpress.com/2012/02/08/full-text-of-the-doha-declaration-signed-between-hamas-and-fatah-palestine/>.

⁷⁰ Livni: *National Aspirations of Israel’s Arabs Can Be Met by Palestinian Homeland*, HAARETZ (Dec. 11, 2008, 2:06 PM), <http://www.haaretz.com/news/livni-national-aspirations-of-israel-s-arabs-can-be-met-by-palestinian-homeland-1.259321>.

⁷¹ Harriet Sherwood, *Israel Proposes Jewish State Loyalty Oath for New Citizens*, GUARDIAN (Oct. 10, 2010, 13:20 EDT), <http://www.guardian.co.uk/world/2010/oct/10/israel-jewish-oath-new-citizens>.

momentum, what direction should the Palestinian national movement take? Will Palestinians shift, as former Israeli Prime Minister Ehud Olmert put it, from an “Algerian paradigm” of struggle to a “South African one”?⁷² And if it does, how must an organization cast in the Algerian model adapt?⁷³ That is one of the most salient questions facing the Palestinian people today.

CONCLUSION

In view of what has transpired since early 2011 in the surrounding Arab countries, and considering the histories of their own uprisings against Israeli military occupation, must the quest of Palestinians for democratization be advanced through another, third *Intifada*? There is no clear response to this question. At the time of this writing, the progress of the various Arab uprisings in achieving democratic change is decidedly mixed. And if it is true that Palestinian democratic practice reached a peak in the first *Intifada*, the same cannot be said for the second or “*Al-Aqsa Intifada*” that broke out in October 2000 and extended into 2005-2006.⁷⁴ Certainly, the causes and surrounding circumstances of the two Palestinian *Intifadat* differ in a number of critical respects, and any comparison should be made with circumspection. Perhaps the most visible difference is in the relative militarization of the second *Intifada*. While the first *Intifada* involved mostly unarmed Palestinian civilians and achieved high levels of mass mobilization, the second *Intifada* involved considerably greater armed violence, including, infamously, suicide bombings, that consigned the vast majority of Palestinian citizens to the sidelines. There is at least a suggestion in this contrast that a non-violent uprising has greater democratizing potential than a violent one.⁷⁵

Israel, of course, violently repressed both Palestinian *Intifadat*, although it employed vastly more lethal weapons in the second than in the first. This calls to mind another, darker interpretation of the consequences of the Palestinian uprisings: both offered Israel opportunities to consolidate its

⁷² *Is the Two-State Solution in Danger?*, HAARETZ (Apr. 13, 2004, 12:16 PM), <http://web.archive.org/web/20060303151605/http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=383879>.

⁷³ FRISCH, *supra* note 21, at 5-6.

⁷⁴ Like the first *intifada*, the second one had a definitive beginning but not a definitive end. See *Al-Aqsa Intifada*, GLOBAL SECURITY, <http://www.globalsecurity.org/military/world/war/intifada2.htm> (last visited Feb. 26, 2013).

⁷⁵ For a comparison of the two *intifadas*, see generally Rema Hammami & Salim Tamari, *Anatomy of Another Rebellion: From Intifada to Interregnum*, in *THE STRUGGLE FOR SOVEREIGNTY*, *supra* note 2, at 263.

control over the West Bank, although in different ways. Indeed, Israeli journalist Amira Hass argues that the Israeli right wing is spoiling for a third *intifada*: “[n]ot because they want an intifada, but because they want to suppress it. They want an outbreak to occur, while the Arab world is mired in civil wars both hot and cold. Their interest is in reaping demographic and territorial dividends from that uprising. How? For example in a mass expulsion of Palestinians to Jordan—the “Palestinian State” according to many a settler.”⁷⁶

In some respects, then, the challenges to Palestinian democracy seem only to have mounted. Whether the Palestinian people are able to meet these challenges will only be known over time, and likely after long, bitter, and painful struggle.

⁷⁶ Amira Hass, *The Warnings We Should Be Hearing*, HAARETZ (June 13, 2012, 7:32 AM), <http://www.haaretz.com/opinion/the-warnings-we-should-be-hearing-1.436061>.

