

# Palestinian State Formation since the Signing of the Oslo Accords

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## Summary.

The Oslo Accords and the successor Road Map were based on assumptions about state formation in Palestine that proved to be false. By not responding to the changing facts on the ground donors contributed to the catastrophic decline in the unity of the Palestinian liberation movement and the collapse in the legitimacy of its secular wing. It is critical that donors recognize the interdependence of Oslo and the state formation crisis in Palestine, and recognize that Palestine has now reached a state of *indefinite transition* which is likely to last for a long time. It is vital to take a step back from policies which presume that a Palestinian state is just round the corner and focus on programmes appropriate for a long transition when Palestinians will effectively remain under Israeli occupation.

Contemporary thinking about state viability has been driven by a focus on building functional capabilities of states and has ignored the fundamental importance of legitimacy and its two-way relationship with effectiveness. Legitimacy in the Palestinian case is even more complicated because a Palestinian state did not exist and a liberation leadership was attempting to achieve independence and sovereignty while managing an authority with limited self-governance rights. The Oslo Accords were based on the assumption that Israel's self-interest would rapidly result in the creation of a viable Palestinian state. But the Accords bound the Palestinians to agreements which significantly reduced their bargaining power vis-à-vis Israel and allowed the creation of new Israeli facts on the ground *after the signing of the Accords*. This resulted in a vicious cycle of diminishing legitimacy of the Palestinian leadership, their diminishing ability to deliver vital 'state' functions like security, which in turn allowed Israel to create further facts on the ground and increase its bargaining power in the next round of negotiations. The ultimate result was the rupture of the Palestinian movement in 2007-8, an event whose long-term implications we have probably yet to fully appreciate.

In this context, the most responsible strategy for donors is to support enabling conditions for the Palestinian economy and polity during a long period of 'transition' when the occupation will continue. The UN concept of 'larger freedoms' allows us to frame an alternative agenda. Ensuring the freedom from want should now focus on long-term Palestinian coping strategies. The freedom from fear now requires not just policing but a political process that provides hope for the future and this requires a Palestinian debate about credible strategies of liberation. Finally, the freedom to live in dignity requires a focus on domestic and international mobilizations to protect Palestinian political and civil rights.

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## 1. Background

The devastating Israeli attacks on Gaza beginning in December 2008 have shattered any remaining complacency about the feasibility of the route to a Palestinian state established by the Oslo Accords. After more than fifteen years of negotiations without any end game, Palestinians have paid a very heavy price in lost lives and severe economic hardship. Yet the Oslo Accords signed between 1993 and 1995 had been the source of considerable optimism at the time. Many Palestinians hoped that a Palestinian state with legitimate borders and true sovereignty would follow, even if it was based only on the occupied territories of 1967. Israel's response to the Accords was so unexpected that analysis took some time to catch up with what was happening. Instead of withdrawing from the territories and encouraging economic integration with Israel, Israel penetrated further into the territories with new settlements and set up multiple barriers to the movement of people and goods that undermined the integration that already existed. After fifteen years, it is clear that these developments were not accidents or temporary aberrations. The present impasse has a lot to do with structural weaknesses in the Oslo process and the constraints it set on the interim authority that was set up under its auspices (Khan, et al. 2004).

Despite these constraints, the Palestinian Authority (also referred to by many Palestinians as the Palestinian National Authority) was for a time quite successful in attracting expatriate investment and converting aid flows into infrastructure. This resulted in an initial period of moderately high growth. Between 1995 and 1999 growth averaged 6 per cent a year (World Bank 2008: 3). In reality this figure is exaggerated by two years of double-digit growth in 1997 and 1998 and by 1999 growth was already coming under increasing strain (Khan 2004: Table 1.1). The second *Intifadah* in 2000 allowed Israel to fully activate its newly constructed system of checkpoints and controls that choked the Palestinian territories into a large number of disconnected patches. Not surprisingly, Palestinian incomes collapsed precipitately (World Bank 2004). After a moderate recovery in 2004 and 2005, another precipitate collapse began after the Hamas electoral victory of 2006. Gaza was blockaded, besieged, bombed and finally invaded.

Not surprisingly, Palestinian per capita incomes in 2008 were a third lower than in 1999, with effective unemployment in the region of 26 per cent in the West Bank and 36 per cent in the Gaza Strip (World Bank 2008: 3). The official poverty rate in the West Bank was 19.1 per cent in 2007 and 51.8 per cent in Gaza: the figures after the 2008 war on Gaza can only be imagined (World Bank 2008: 3). While the siege of Gaza has been devastating, the 723.3 km Separation Barrier that carves into vital territories of the West Bank and separates East Jerusalem from the West Bank is roughly two-thirds complete. According to the UN Coordinator for Humanitarian Assistance, there were 609 barriers to the movement of goods and people within the West Bank in 2008 (World Bank 2008: 2). The continued Israeli land grab has also been given an indeterminate degree of legitimacy by the Bush administration in the 2004 Bush 'letter of guarantees' to Sharon. Not surprisingly, the legitimacy of Oslo and the mainstream Palestinian leadership committed to these agreements is at its lowest ebb. The chances of a viable Palestinian state have never looked so distant.

The vagueness of the end-game in the Oslo Accords made it easy for both sides to sign on in the first place. But it also doomed the outcome because it is now clear that

the parties envisaged quite different outcomes in the medium to long term. There is now considerable evidence that Israel was willing to concede at best Palestinian self-government with limited sovereignty. In particular on issues of border control, control over military capabilities, security, international treaties and even trade, Israel clearly intended to have a long-term say in Palestinian internal affairs. Its conditional withdrawal and 'disengagement' from parts of the West Bank and eventually from Gaza was consistent with this understanding. However, from the Palestinian perspective (and under international law) there is a wide gulf between disengagement and independence. Even a significant withdrawal from the West Bank with Israel controlling internal military roads and the Jordan border would essentially create a series of Gaza-like enclaves in the West Bank and not a sovereign Palestinian state. Not surprisingly, Israel's vagueness on critical issues like control over the West Bank aquifers, the Jordan border, military roads within the West Bank, and of course the settlement blocks and Jerusalem remain sources of bitterness on the Palestinian side.

At the same time, the Palestinian state-building strategy supported by donors and the 'international community' had features that proved to be deeply destructive for the legitimacy of the Palestinian Authority and its secular leadership. First, the Palestinian leadership had to publicly abandon all of its bargaining power against Israel *before* Israel had conceded any specific Palestinian demands. In particular it had to guarantee Israeli security, recognize Israel and commit itself to the two-state solution before Israel had recognized any substantive Palestinian rights let alone a Palestinian state. The effect was to significantly increase Israel's already dominant bargaining position and led to further annexations of territories and expansions of settlements in the West Bank that the Palestinian Authority had no capacity to resist.

Secondly, the Authority had to demonstrate attributes of a state before it was a state, in particular before it had *the legitimate monopoly of violence over a defined territory*. The list of requisite attributes gradually grew to include accountability, the effective control of corruption, delivery of development outcomes and *in particular* the provision of internal security and security to its 'neighbour' Israel. But if these functions could be provided without a state, why did the Palestinians need a state except in a cosmetic sense? By not asking deeper questions about what a legitimate and sovereign state means, international facilitators inadvertently contributed to the collapse in the legitimacy of the mainstream Palestinian leadership. It is not surprising that by the time of the Camp David talks in 2000, there was virtually no trust remaining on either side (La Guardia 2007: 291-301).

The failure of Camp David and the beginning of the second intifada marked the beginning of the collapse of the Oslo process. In 2003 a beleaguered Arafat was made to accept a new power-sharing arrangement with a prime minister, in a move that was intended to allow Israel to negotiate with the apparently more flexible Abu Mazen and bypass Arafat. But Abu Mazen only lasted a few months in power and resigned because he felt he had been betrayed by all sides, not least the Americans who failed to put pressure on Israel to stop pre-emptive attacks and assassinations of Palestinian leaders. Arafat's death in 2004 removed the one Palestinian leader with sufficient legitimacy across enough sections of the Palestinian people to have made a credible peace with Israel.

The outcome of the 2006 elections reflected deep Palestinian disappointment with the limited progress towards sovereignty and the significant negative outcomes due to encirclement and containment after a decade of negotiations. Hamas won 74 seats in the legislative body against Fatah's 45, securing a comfortable majority in the 132 seat legislative council. But now outside powers tried to isolate the Hamas Prime Minister and his government while continuing to deal with the Fatah President. This contributed to growing conflicts between Palestinian factions and the rupture of June 2007 when the Gaza Strip was effectively delinked from the West Bank by an armed Hamas takeover. Even compared to the limited trappings of the 'semi-state' constructed under Oslo, the Palestinian people currently face steadily growing 'statelessness'. The future prospects of Palestinian state-building have to be revisited in this context and the legacy of Oslo reconsidered.

Section 2 proposes a framework for assessing the viability of a state and the legitimacy of a liberation movement. The Palestinian movement is based both in an embryonic quasi-state, the Palestinian Authority, but it is also essentially a liberation movement that is still struggling to achieve its fundamental national rights. In both arenas, there are complex interdependent relationships between legitimacy and effectiveness. We argue that the crisis of legitimacy and the fragmentation of the Palestinian polity as a result of Oslo cannot be understood without looking at these two arenas together.

Section 3 looks at how Oslo changed the nature of the Palestinian movement and affected its legitimacy by not being able to ensure a legitimate outcome. The Oslo process was based on the assumption that a particular set of negotiating principles where the Palestinians gave up critical bargaining power in advance could lead to a settlement of the conflict through the creation of a viable Palestinian state. In the absence of any credible sanctions on Israel, this expectation was based on three sets of interdependent assumptions about Israeli strategic objectives, the likely effect of Palestinian capacity-building in specific areas and the likely effect of external involvement in the process. The interdependence of these assumptions meant that if one or more of these assumptions were false, the persistence of policy in a particular direction had the effect of making things worse.

Section 4 draws together the analysis of the previous two sections to show how the Oslo process resulted in putting the mainstream Palestinian movement into a cumulative vicious cycle of declining legitimacy and effectiveness. The effect was to also fragment Palestinian society and its polity. The current dire situation is in terms of this analysis neither accidental nor temporary but a manifestation of a deeper structural problem. The mainstream leadership is likely to find it very difficult to extricate itself from the trap it finds itself in not only because of its own commitment to a particular course, but also because of its financial and political dependence on external supporters of this peace process. The irony is that external powers have damaged and are continuing to damage the secular mainstream Palestinian leadership by not understanding the implications of their policies, and not fully understanding the requirements of creating a legitimate and therefore viable solution to the conflict. We argue that it is imperative for Palestinian and international supporters of a viable peace to recognize that Palestine is trapped in a state of *indefinite transition* where feasible solutions will take time to construct, and where moreover, the immediate

priority is to reconstruct the fragmented Palestinian society and polity. Without this work no feasible solution is possible.

Section 5 is the concluding section. It draws out the implications of this analysis for the Palestinian political process and for donors. It argues that the only responsible way to address the crisis is to recognize its deep roots and structural nature, much of it the outcome of ill-conceived aspects of the Oslo process. The United Nations' recognition of the importance of 'larger freedom' and the attention it draws to the interdependence of economic and political freedoms provides a framework for identifying immediate tasks for social reconstruction and development in Palestine. The principle of Freedom from Want in a context of indefinite transition draws our attention to the urgency of developing alternative coping strategies that will allow Palestinian populations to survive long periods of encirclement and containment. The principle of Freedom from Fear in this context suggests that a simple emphasis on policing is insufficient. The depth of the breakdown in the Palestinian polity suggests that space and opportunity have to be created for Palestinians to discuss and construct more credible strategies of liberation. We refer to some interesting work that has already begun along these lines and argue that this will be an important priority for all parties to support if Palestinian society is not to collapse into even more dangerous desperation and acts of violence. Finally, the Freedom to Live in Dignity is likely to emerge as one of the most important areas where the international community has a responsibility to support local and international campaigns to recognize and protect the civil and political rights of Palestinians during a prolonged and certainly indefinite transition period. A combination of policies and interventions along all these fronts will be necessary to halt and to begin to reverse the cumulative decline that Palestinian politics and development is confronting.

## **2. A Framework for Assessing Progress in Palestinian State Formation**

The hybrid Palestinian Authority created as a result of the Oslo Accords sat unhappily in the grey area between a liberation movement and a state. The international community consistently failed to recognize the implications of its dual nature. This failure played a significant role in the gradual but eventually catastrophic collapse in the legitimacy of the Palestinian Authority. A liberation movement has to bargain with a colonial occupier to achieve sovereignty on the best possible terms. Historically, these have never been very polite negotiations about the details of when and how freedom should be granted. Colonial powers and occupiers have only conceded freedom to a subject population when faced with significant costs for continuing an occupation. A state, on the other hand, once it achieves a monopoly of violence over a defined territory, has a very different set of requirements for maintaining its viability. Its viability now depends primarily on its success in satisfying the economic and social requirements of its core constituencies.

Much of the literature on state failure has looked at technocratic functions that a state has to perform to maintain its effectiveness and thereby remain viable. This understanding has informed a lot of state-building initiatives in Palestine and elsewhere. But this literature has typically ignored the ways in which legitimate authority (or sovereignty) is essential for the effective performance of any state functions, and the political conditions underpinning the creation and maintenance of sovereignty in different contexts. The obvious limitations of ignoring these issues

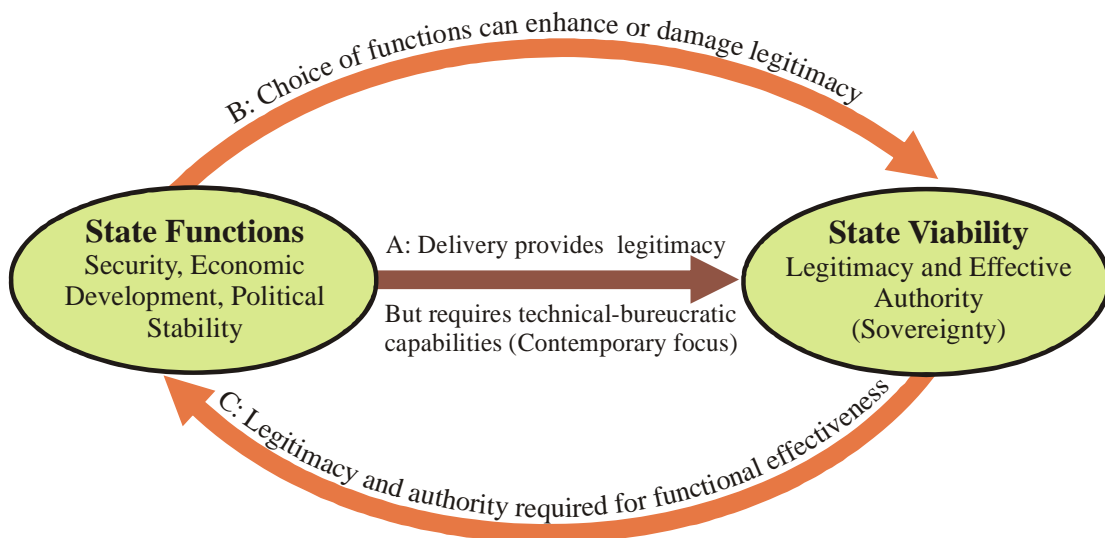
have become painfully apparent in places like Iraq and Afghanistan where attempts by external powers to construct viable states have been undermined by the failure of these states to achieve legitimate authority and therefore effectiveness, despite the expenditure of significant resources on security and technical capacity building. Not surprisingly, a number of analysts have begun to point out that these failures cannot be understood without looking at the role of the outside powers themselves in undermining the legitimacy of the states they were trying to construct (Ghani, et al. 2005; Woodward 2006; Sogge 2008).

A liberation struggle is similar in that it has to ‘deliver’ liberation and its effectiveness in this struggle also depends on its legitimacy. But clearly, liberation is a different game and success here depends on the ability of a leadership to mobilize against the colonial power to end the occupation rapidly and on the best possible terms. In a hybrid case where a national leadership is trying to lead both a liberation movement as well as administering limited areas as an embryonic state, the interaction of the conditions of legitimacy in its two roles is problematic and need to be properly understood, particularly by external powers. In the case of the Palestinian Authority, the persistent confusion of its status as embryonic state and its status as liberation movement has had disastrous consequences for the legitimacy of the mainstream Palestinian leadership in both arenas: both in leading the national movement and as the body governing limited territories with limited sovereignty.

To explore these contradictions we begin by looking separately at some of the linkages between legitimacy and capabilities in a state and a liberation movement. We then explore the dual aspect of the Palestinian leadership as leaders of a national liberation movement and leaders of a quasi-state to explain why the Oslo process has had such damaging consequences for the Palestinian secular leadership and its overall legitimacy in Palestinian society. The Palestinian case is perhaps the most extreme example of a failure of an externally sponsored state formation process because here there was not even a state, but a hybrid ‘authority’ that was also negotiating for the achievement of a state.

### ***State Functions and State Viability***

There is clearly a two-way relationship between the functions a state performs and its legitimacy. In this two-way relationship, the technical-bureaucratic capability of a state to perform critical *functions* is essential if its legitimacy is to be sustained. On the other hand, the effective performance of these functions requires not just bureaucratic capabilities but also political legitimacy and the authority to enforce the requisite rules and rights. The *viability* of a state ultimately depends on its legitimacy and authority, because without these a state cannot achieve a monopoly of violence or the capacity to enforce the critical rights and rules that are necessary for its economy and polity. Some of the important relationships between state functions and its viability are shown in Figure 1.



**Figure 1: Relationships between State Functions and State Viability**

A state is *viable* if it has the legitimate and effective authority to enforce the rules and rights required for economic development and political stability. At the minimum it has to enforce a monopoly of legitimate violence over a defined territory. A state with these characteristics is *sovereign* and is likely to be ‘viable’ because it has the requisite enforcement capabilities for achieving viability. The critical enforcement capabilities are obviously based on some *functional capabilities* that are therefore essential for a state to be legitimate. But which functions are critical? A state can only be legitimate if its functional priorities are acceptable to a broad range of significant social constituencies. A focus on the ‘wrong’ set of functional priorities can damage legitimacy rather than enhance it. And this is important, because legitimacy is also essential for the effectiveness with which functional capabilities are translated into actual outcomes.

The multiple relationships between a state’s capabilities and its sovereignty/viability are shown in Figure 1. Contemporary interventions to strengthen state viability in developing countries have mainly focused on a single direction of causality shown by **Arrow A** in Figure 1. *State-building has focused on strengthening the bureaucratic-technical capabilities of states to perform functions deemed to be essential.* Analysis in this area has sought to identify the essential ‘functions’ that a viable state has to perform, functions like the provision of security, a rule of law, public goods of different types, or institutions for holding executives to account. The assumption has been that these essential capabilities give the state its legitimacy, thereby enhancing its viability. The typical policy message has been to focus on bureaucratic and technical capacity building (security training, provision of equipment, funding for health care). However, donor assistance for state-building through this route has often achieved rather poor results, often because other, more important sources of legitimacy and sovereignty were ignored.

First, **Arrow B** in Figure 1 shows that the *choice* of state capabilities that are prioritized is always a *political* choice, and these choices are likely to affect the legitimacy of the state system. *The selection of particular capabilities for functions that the state should prioritize can affect the legitimacy of the state leadership.* These decisions are nominally made by the political leadership of a country, which includes



opposition parties with a realistic chance of forming alternative coalitions. But the problem in many countries is that ruling coalitions are unable to connect with the needs of a sufficient number of powerful domestic constituencies to give them legitimacy and effective authority. Sometimes the problem may be with the identity of the coalitions competing for power, but often it is because the priorities and policies of all potential ruling coalitions are influenced by foreign powers on which domestic elites are financially or militarily dependent. In some extreme cases (which include Palestine) foreign powers may refuse to accept elected leaderships whose priorities are significantly at variance with their own, thereby directly determining acceptable priorities for any state leadership.

It is easy to see how the choice of capabilities and policies to prioritize can potentially *damage* the legitimacy and effective authority of a state leadership. If credible or feasible alternative leaderships are not available, the legitimacy and sovereignty of the state as a whole can be affected. For instance: questions like security for whom and on what terms, what type of economic development, which services to provide and for whom never have politically neutral answers. Nor can these questions be answered in abstract by analysts looking at the interests of the 'people'. Legitimacy is based on a more subtle requirement: the functions and priorities of a state have to be consistent with the distribution of political values, organizations and aspirations in a country. As a result, the prioritization of what appears to be 'reasonable' bureaucratic capabilities may damage rather than enhance the viability of a state: reducing its legitimacy and therefore its effective authority.

The damaging effects of particular capacity building and service delivery programmes on state legitimacy can emerge through a number of different mechanisms. The most obvious set of problems emerge when donors get frustrated with the slow progress of 'reasonable' service delivery goals and the tax collection required to finance these services and begin to support non-state agencies for delivering these services or they get directly involved themselves. Shifting financial support towards NGOs or directly monitoring requisite governance outcomes can appear to be obvious ways of bolstering the quality of life of citizens and thereby the legitimacy of a state. In reality, as Ghani, et al. (2005) point out, the result can be a decline in the legitimacy and sovereignty of the state. The state can also lose a sense of urgency in generating resources for itself and therefore engaging in the difficult politics of negotiating social contracts with powerful tax-paying constituencies. A state without this vital link to its people becomes simply a bureaucracy sustained in part by foreign taxpayers and can begin to lose its best people to the NGO sector, and so on. Thus, an attempt to develop capabilities for service delivery that appear to be important (such as health or education) could be ignoring the possibility (Arrow B) that the method of determining and executing these priorities may inadvertently damage rather than assist the development of sovereignty.

An even more serious set of problems along Arrow B are identified by Woodward (2006) and Sogge (2008). External powers assisting state-building typically have their own political and economic priorities and agendas. We should not expect external powers spending their taxpayers' money to be exclusively motivated by altruistic motives. The security arrangements, economic treaties and political alliances that external powers are trying to promote in assisted countries are not likely to be 'neutral' in every sense. External powers have regional and global interests that may

not be shared by powerful constituencies within the country being assisted. For instance, external advice and state building assistance that prioritizes security capabilities to fight a particular insurgency, or assists in the privatization of critical assets, or results in particular economic treaties, may resonate very differently with significant local constituencies. Whether these attempts at state-building result in the achievement of a legitimate state depends on how internal politics interfaces with the interests of external powers.

If the constituencies whose interests have been thwarted nevertheless perceive that they will achieve other important goals through the outside assistance, state building may still succeed. If powerful constituencies feel they are permanently going to lose out, their opposition over time can result in a decline or collapse in the legitimacy of the domestic state despite the expenditure of considerable external resources. It is likely that negative effects of this type followed external assistance to construct states in countries like Afghanistan and Iraq, and to strengthen states in countries like Pakistan. In each of these cases, powerful constituencies opted out of the state-building or state-strengthening strategies because they perceived their interests would be permanently thwarted. We would surmise that till political strategies evolve to give these excluded political interests important stakes in determining priorities and policies, legitimacy in state-building in these cases will remain elusive.

Though the Palestinian case was different, in particular because the Authority was not a state, the prioritization of security capabilities focusing on providing security to the occupying power eventually had very damaging effects on the legitimacy of the Palestinian Authority leadership. External powers insisted that the Palestinians focus on security-related state functions but failed to pin down Israel to any particular end-game. When this strategy resulted in Israel using its enhanced bargaining power to impose even more limited concepts of what was on offer to the Palestinians, the legitimacy of the mainstream Palestinian leadership suffered very seriously. The loss of legitimacy manifested itself in its declining capacity to exercise authority and ultimately in its electoral defeat. As the mainstream leadership was associated with the state-building project, its loss of support was also an implicit vote on the legitimacy of the quasi-state as a whole, the Palestinian Authority.

Finally, **Arrow C** in Figure 1 shows a further feedback from the legitimacy of a state to its capacity to perform functions. This feedback is of very great significance. *A state requires legitimate authority to effectively perform any of its functions.* The important point here is that the ability of a state to perform *any* of its functions requires a capacity to implement, which in turn requires legitimate authority. For instance, the most basic function of a state is to achieve a monopoly of violence. But regardless of how many policemen it has, this is impossible on a sustained basis if its authority is not legitimate. At a lower level, its ability to collect taxes, provide services, regulate the economy and the polity all become implausible if the state's legitimate authority is weak or absent. Authority that is legitimate is simply sovereignty. Unfortunately, external powers often do not understand or care much about the internal political settlement that has to underpin legitimacy and effective authority in developing countries.

If an inappropriate choice of functional priorities reduces the legitimacy of a state (along arrow B), this can therefore further reduce its capability to effectively deliver

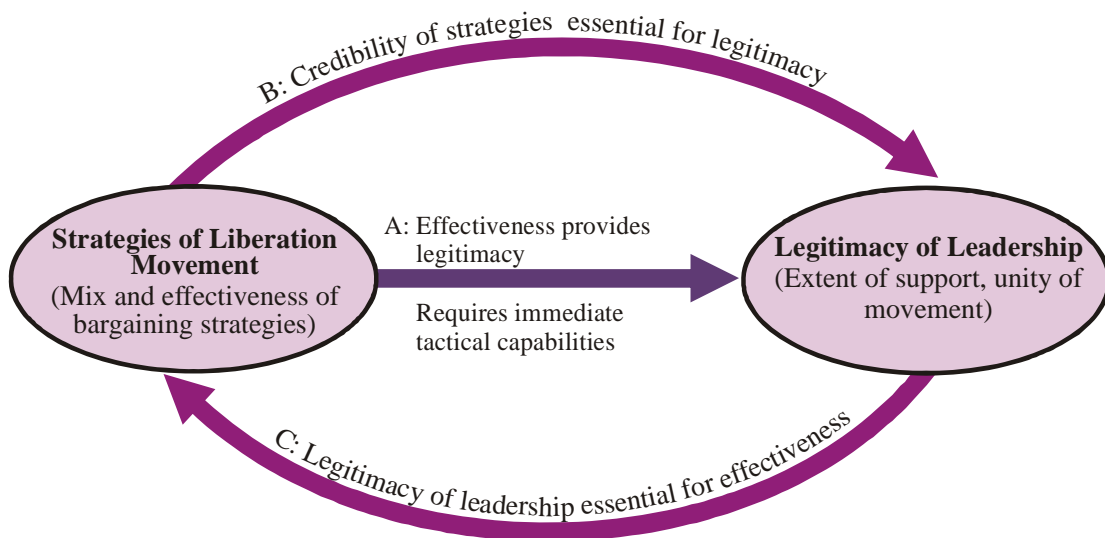
*even in the areas it has prioritized* (along arrow C). And a decline in its effectiveness to provide prioritized functions (for instance in providing security or other vital public goods) can then result in further reductions in its legitimacy. We can then rapidly enter a vicious cycle of declining legitimacy and effectiveness if arrows B and C begin to feed into each other. This type of cumulative causation can explain why the viability of a state can rapidly collapse. If state-building fails to improve the legitimate authority of a state, or even worse if it begins to damage its legitimacy, the capacity of the state to perform vital functions is affected *regardless of its bureaucratic-technical capacities*, with possible cumulative effects on its legitimacy.

Vicious cycles are paradoxically most likely in developing countries that are unfortunate enough to receive extensive support from external powers. If the consequence is that the security strategies and economic policies of the assisted state appear to be (or actually are) aligned with the priorities and interests of external powers in ways that damage the interests of powerful domestic constituencies, the domestic legitimacy and authority of the state and its political elites may precipitously collapse. This can then result in a further worsening of the security and economic situation, and prompt even more extensive involvement of external powers in the internal politics and economics of the country.

None of these observations means that building bureaucratic and technical capabilities is unimportant. But unless the assistance on technical capabilities fits in with a viable political programme of a legitimate leadership whose priorities and policies have broad support, these investments are likely to either fail or make matters worse. But if Arrows B and C are working in a *virtuous* cycle (legitimate leaderships identifying priorities that further enhances their legitimacy); assistance along Arrow A can significantly assist a state-building programme. Unfortunately, significant and lasting examples of such disinterested support from external sponsors of state-building are hard to find.

### ***Liberation Movements and Legitimacy***

For the Palestinian state leadership, the issue of legitimacy is more complicated because the Authority was not a state, despite its trappings of flag cars and passports, and a number of other benefits conferred to a few key members of the leadership. Liberation movements are not sovereign and cannot perform many state-like functions. Nevertheless, there are parallels. A liberation movement is defined by its strategies of liberation, and these strategies both confer legitimacy to the leadership, and require legitimacy to carry out. And the immediate ‘delivery’ of these strategies is in terms of tactical struggles with the occupier, which can directly enhance the legitimacy of the movement, or otherwise. But as with a state, the long-run viability of a liberation movement depends on the legitimacy of its strategies of liberation, rather than immediate successes or failures in ‘delivery’. The parallel relationships between strategies of liberation and legitimacy in the case of a national movement are shown in Figure 2.



**Figure 2 National Liberation Movements and the Issue of Legitimacy**

**Arrow A** in Figure 2 shows that an important contributor to the legitimacy of the leadership is their ongoing tactical performance in converting liberation strategies into success. This is equivalent to Arrow A in Figure 1 where a state achieves legitimacy by demonstrating its capacity to perform vital functions. As with states, **Arrow B** shows that the legitimacy of the leadership of a liberation movement depends fundamentally on the political acceptability of their strategic choices given the perceptions, values and ideologies of important national constituencies. Finally, legitimacy is if anything even more important for the pursuit of effective strategies in this case, shown by **Arrow C**, because engagement in conflict can call for significant sacrifices by many people over long periods.

Legitimacy is thus a critical part of the processes described in both Figure 1 and Figure 2. The interdependence of the legitimacy of the Palestinian leadership on two different processes became a core problem in Palestinian state-building after the adoption of the Oslo process. The dual role of the Palestinian leadership suggests why the insistence by outside powers on a particular set of priorities for Palestinian capability-building had even more damaging effects on the legitimacy of this leadership than would otherwise have been the case. The perception within significant sections of the Palestinian population that the Oslo process was undermining the bargaining power of the Palestinian leadership in its national liberation movement served to undermine its legitimacy in the liberation movement. This loss of legitimacy in the context of a liberation struggle magnified the effects of legitimacy loss that might otherwise have happened if the Palestinian Authority was a fully fledged state. But once legitimacy began to drain away in this arena, this affected the operation of the Authority with cumulative negative effects on *its* performance.

There were several aspects of the *de facto* 'liberation' strategy under Oslo that could explain the gradual loss of legitimacy of the Palestinian leadership that was charged with negotiating liberation through this route. First, as we have already indicated, the prioritization of security and the Palestinian pre-commitment to the two-state solution reduced the bargaining power of the Palestinian side because external powers did virtually nothing to rein in Israeli ability to create new facts on the ground. This would not have been very serious if progress towards a two-state solution on 1967

borders had been rapidly achieved. But when the result of Oslo was the deepening of Israeli settlement activity, the construction of new military roads and the construction of new checkpoints at border crossings and *within* the territories occupied in 1967, questions began to arise about the Oslo strategy in its entirety.

Secondly, the collapse of legitimacy may perhaps have been halted if the Palestinian leadership had managed to delink itself from Oslo. But in fact, the Palestinian leadership increasingly behaved like international bureaucrats, continuing their negotiations while enjoying privileged lifestyles funded by foreign money. Foreign inflows not only financed the salaries of the leadership, by 1999 roughly twenty per cent of the working population of the occupied territories were employees of the Authority (Hilal and Khan 2004: 95). The inflows were conditional on the mainstream leadership continuing to abide by their commitment to continuing negotiations while the growing asymmetry of bargaining power and changing facts on the ground were glaringly obvious to all Palestinians. Most Palestinians continued to experience the humiliation and hardships of occupation on a daily basis.

The growing Palestinian voices against the ‘corruption’ of the Authority refers much more to the political and moral corruption that they perceived, rather than the extent of actual corruption which had to some extent always existed in the Palestinian movement and indeed exists in every developing country. The corruption of the leadership had been a relatively minor complaint when the leadership had taken personal risks and had fought for sovereignty in realistic ways, even though their chances of success had always been small. Donors are almost certainly making a mistake if they believe the legitimacy of the mainstream leadership can be restored through conventional ‘anti-corruption’ policies. The type of ‘corruption’ at issue may be altogether different.

### **3. Oslo’s Assumptions and the Crisis of State Formation in Palestine**

The Oslo Agreements and their successor, the Road Map, still provide the international framework for negotiations towards a two-state solution. It is therefore important to examine whether the very negative outcomes achieved after fifteen years of negotiations were due to structural flaws in the approach or merely unfortunate accidents. The Accords were brokered by interlocutors who believed a two-state solution could emerge by negotiation. This belief may initially have been plausible given that the stronger party, Israel, was threatened by the changing demographics in historic Palestine. The presumption was that if the parties could be brought to negotiate, Israeli self-interest would lead to a settlement along the lines of UN resolutions that called for an Israeli withdrawal from occupied territories, leading to a two-state solution. In exchange for giving up land that no-one recognized was Israeli, Israel was offered a plausible strategy for saving Zionism within its 1948 borders.

The main constraint appeared to be the Palestinian aspiration for a homeland on all of Palestine in a secular state. But given the groundwork done by the Arafat leadership since 1988, a Palestinian state on 1967 borders may just have become ‘sellable’ to enough Palestinians to be legitimate and viable. However, given the stiff resistance the Palestinian leadership had faced to achieve this new position, it was unreasonable to expect it would be able to make further significant compromises. It follows that if this route was to lead to peace, a Palestinian state would have to be based on an Israeli

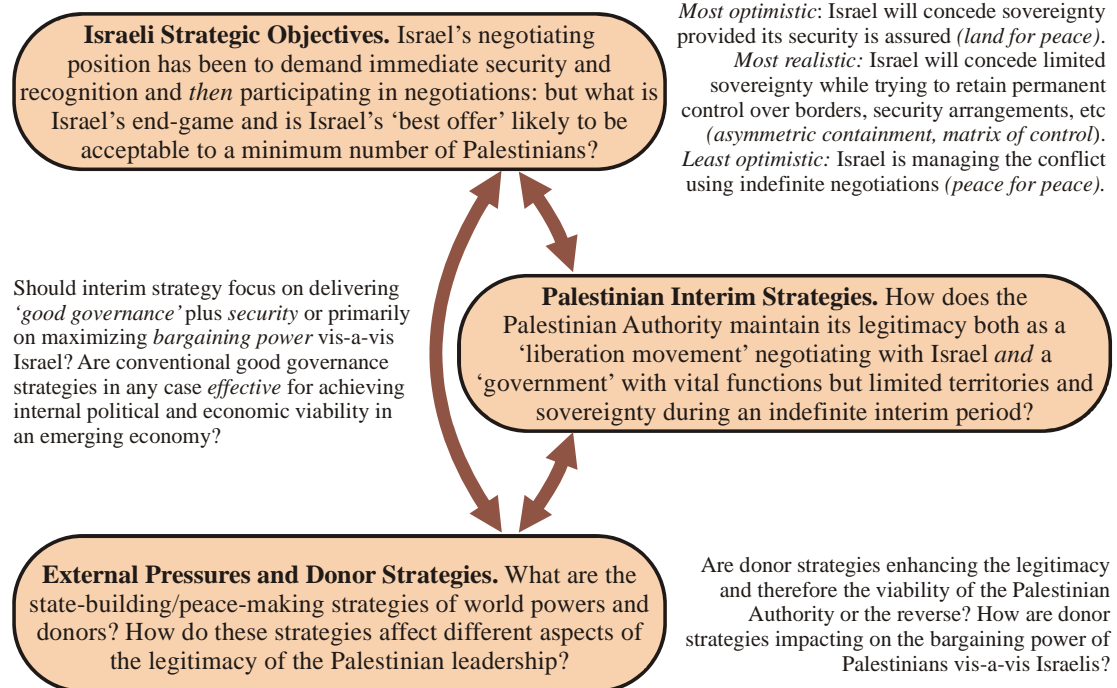
withdrawal to 1967 lines, occupied East Jerusalem would have to be ceded to the Palestinian state, and the injustice done to the refugees would have to be recognized and a solution found which may include significant compensation and a possibility of return of some refugees to Israel or the new Palestinian state.

Perhaps external interlocutors felt that the minimum conditions of legitimacy for a Palestinian state were obvious and did not need to be spelled out. In signalling that they would accept a two-state solution the Palestinians had already reduced their claim from a hundred per cent to around twenty three per cent of what had been Palestine under the British Mandate. By focusing on recognized international boundaries, the Palestinians also hoped to reduce the scope for prolonged and bitter negotiations. Surely the Israelis would understand Palestinian red lines and would not expect further significant downward negotiation from this starting point given that a Palestinian 'no' would mean the re-emergence of the demographic threat to Zionism. These expectations about what may have been a reasonable Israeli response were not fulfilled. Nevertheless, given the apparently obvious Israeli interest in a viable two-state solution, external sponsors could be forgiven for assuming there were no fundamental issues of bargaining left, what was required was confidence-building, technical capacity-building and agreeing the modalities of a transfer of power.

External sponsors determined that capacity-building in Palestine should prioritize the provision of security to Israel and essential services to the Palestinians during the interim period. They also insisted that to bolster Israeli confidence, the Palestinians should keep repeating their recognition of Israel and therefore their commitment to the two-state solution and to non-violence. They did not adequately realize that if Israel did not share the assumption that Palestinian legitimacy required accepting international borders, these Palestinian pre-commitments significantly reduced Palestinian bargaining power. The external sponsors did not think it necessary to guarantee that Israel would not use Palestinian pre-commitments to continue to negotiate borders and sovereignty *but now with enhanced bargaining power*. But this is exactly what happened (Carter 2006). Like any occupying power, Israel began to behave in a more expansionist way when several credible threats of the Palestinians, in particular the threat of demanding equal civil rights from the Israeli state were removed. In the endless negotiations that followed (fifteen years so far with no end in sight), the Palestinians began to see the Israeli policy towards territory as one of 'What's mine is mine, what's yours we share' (La Guardia 2007: 495).

Inevitably, the legitimacy and authority of the mainstream Palestinian leadership *as the leadership of a liberation movement* came under increasing challenge as the sole strategy they were following was proving to be patently failing. But because the same leadership was also running the Authority, its low levels of legitimacy directly affected its ability to deliver on core functions like security that it had committed to provide. In the end, as we know, the cumulative decline in the legitimacy and authority of the mainstream leadership benefited previously minority factions and led to the unprecedented defeat of the secular wing of the Palestinian movement in the elections of 2006. The Hamas seizure of power in the Gaza Strip in 2007 marked a seismic shift in Palestinian politics, with the rift further exacerbated by the refusal of western powers to talk to the victors of the elections.

In principle, for Oslo to have succeeded, a series of very optimistic assumptions would have to be true in three interrelated areas. First, the success of the Oslo process required very optimistic assumptions about Israeli strategies. Secondly, given the focus on Palestinian state capacity-building, the implicit assumption was that the Palestinian Authority already had significant legitimacy and authority and specific capacity-building policies would not damage this legitimacy. And finally, given the significant role of external powers and donors, an implicit assumption was that their interests were aligned with significant Palestinian constituencies, and in particular with the Palestinian interest in liberation through a just settlement of the conflict.



**Figure 3 Interdependent Assumptions Affecting Palestinian State Formation**

The range of assumptions that we can make about these three interdependent factors are summarized in Figure 3. Assessments of state formation in Palestine have failed to focus sufficiently on the *interdependence* of these factors. Interdependence means that strategies that may make sense with one set of assumptions may have very damaging consequences in another. For instance, if the Israeli political process had been willing to concede Palestinian sovereignty in the territories conquered in 1967 as the price of security and for securing a Jewish state within the internationally recognized borders of Israel, donor strategies that focused on governance and security reforms within the Authority would be both appropriate and may plausibly have accelerated transition to statehood. On the other hand, if Israel was at best willing to concede one or more 'homelands' with limited sovereignty, donor pressure on the Authority to focus only on internal reforms and to keep on negotiating could directly have contributed to a catastrophic collapse in the legitimacy of the Authority and its loss of leadership to more uncompromising coalitions.

The situation in 2009 after Israel's latest invasion of Gaza is not only a devastated Palestinian economy and society, but also a divided Palestinian movement where donors have limited options of engagement that are likely to be effective or legitimate.

If this is not an accidental or unexpected outcome, further damaging interventions in Palestinian politics and economics need to be avoided. Interdependence suggests that if external powers are dissatisfied with what has happened and want to construct a viable Palestinian political future, a series of factors that are obstacles to progress need to be addressed. A focus only on internal Palestinian governance conditions or capabilities is likely to continue to fail.

### ***Israeli Strategic Objectives***

Israel's strategic superiority in the conflict means that a solution that emerged through negotiation would depend greatly on Israel's perception of its own strategic interests. Identifying Israel's strategic interests is not easy because Israeli politicians often within the same government have frequently made contradictory statements about objectives, and the same politician has often changed positions significantly over short periods of time. As a result, a reading of Israel's perception of its strategic interests can range from the reasonably optimistic, to an intermediate possibility that is far less optimistic, and some very pessimistic possibilities. In the following we outline three possible Israeli strategic game plans (land-for-peace, asymmetric containment, and peace-for-peace) with very different implications for negotiated outcomes to peace.

The most optimistic interpretation of Israeli strategic goals is that Israeli policy-makers clearly understood the implications of a legitimate *'land for peace'* deal. If land for peace meant the creation of a Palestinian state that was viable, it would have to have broad legitimacy within the Palestinian population. It would be a plausible expectation that a withdrawal to 1967 borders in line with UN resolutions is likely to be the minimum condition for achieving this. If a lesser Palestinian state failed to be legitimate, it would not be viable and peace would not be achieved. A reasonable interpretation would be that informed Israeli strategic planners would know they had to rapidly withdraw to 1967 borders to allow a sovereign Palestinian state to emerge on that territory. The outstanding issues would then indeed be one of minor details of unavoidable border adjustments, the compensation and fate of refugees but primarily of Palestinians being able to satisfy Israeli security concerns.

But in fact, Israel's actions over the last fifteen years have been largely inconsistent with this assumption. A less optimistic intermediate assumption about Israel's strategic goals consistent with many facts on the ground and Israeli statements is that Israel is only willing to concede a Palestinian state with limited sovereignty. Israel's persistence in expanding settlements located in occupied territories *after* signing the Oslo Accords only makes sense as a strategy of controlling entry and exit into and even movements within the future Palestinian 'state'. Israel's intransigence in conceding relatively small territories *inside* the future Palestinian state after the Palestinians recognized Israel only makes sense from this perspective. Israeli actions in building new settlements, military roads and border controls after signing Oslo have been described as a strategy of maintaining a *'matrix of control'*, *'asymmetric containment'*, or *'apartheid'* over the Palestinian territories as a long-term strategy (Halper 2001; Khan 2005; Carter 2006; Halper 2007a, 2007b).

A number of different arguments put forward by Israeli academics and politicians provide possible justifications for this underlying Israeli strategy. First, the relatively small size of Israel and its lack of strategic depth made Israeli strategic thinkers



obsessed about territorial depth (Alpher 1994; Steinitz, et al. 2005). These concerns could explain why Israeli negotiators insisted on keeping control over key parts of the West Bank, in particular to control the Jordan border and to maintain critical settlements which would allow Israel strategic access inside the West Bank, even if this converted the West Bank into a number of unconnected cantons entirely encircled by Israeli forces. More seriously, a significant strand of political opinion within Israel, most clearly articulated by Binyamin Netanyahu, has explicitly questioned whether a Palestinian state on the West Bank and Gaza could solve Israel's problem of consolidating Zionism. Their criticism was that this 'solution' would do little to reduce the challenge posed to Zionism by the twenty per cent or so of the Israeli population who would remain non-Jewish. In the eyes of many Israelis, the different aspects of the Palestinian problem are not at all separate (Morris 2002; Yiftachel 2002; Brownfeld 2003).

From this perspective, Israel's best strategy would be to concede at most some form of limited self-government to the Palestinians falling short of full sovereignty (Khan 2005). Not defining permanent borders would keep Israel's options open with respect to how it might deal in future with its internal Palestinians, and it would also ensure that the Palestinian state could never become a strategic threat. This underlying rationale could explain why *after* signing Oslo Israel continued to deepen and construct what Halper describes as the 'matrix of control' (Halper 2001) and we described as 'asymmetric containment' (Khan, et al. 2004). These terms refer to the network of military roads, strategic settlements and border controls that Israel continued to construct and deepen, and the implementation of economic arrangements that deepened the Israeli stranglehold over the Palestinian economy at a time when it was apparently negotiating Palestinian independence.

However, the most pessimistic possibility is that Israel does not even have a strategy of conceding homelands or Bantustans to the Palestinians. Rather, its perception of its strategic vulnerability may be so severe that it intends only to permanently 'manage' the conflict through reversible withdrawals from limited areas. This strategy, described as '*peace for peace*', effectively means that instead of buying peace by creating a viable Palestinian state, or even Palestinian homelands, Israel should buy peace by moving out of densely populated Palestinian areas and convincing the Palestinians that if they are aggressive they can become the target of hugely asymmetric Israeli attacks.

Variants of these ideas emerged from neoconservative US advisors to Binyamin Netanyahu. They recommended a strategy of 'peace for peace' with the advice that Israel must abandon any illusions of a 'comprehensive settlement' while always maintaining the 'right of hot pursuit' into Palestinian territories (Perle, et al. 1996). Sharon too, while paying lip service to the Road Map clearly believed that any plan for a permanent peace with the Palestinians was futile if not dangerous, and Israel needed a strategy for managing the conflict in the long term (La Guardia 2007: 429). Israel's Gaza War of 2008-09 and the subsequent 'ceasefire' is an applied example of the 'peace for peace' strategy. Netanyahu has also recently suggested (before the Gaza invasion) that discussions about a political settlement should be postponed in favour of Israel working for 'economic peace' within the patchwork of partial withdrawals from Palestinian areas that is the current situation (Bouso 2008).

Developments since the breakdown of the Camp David talks have made it easier for Israel to pursue a ‘peace for peace’ strategy. The construction of Sharon’s ‘temporary barrier’ and the April 2004 letter from President Bush to Prime Minister Sharon fundamentally changed the parameters of the Road Map and undermined UN Resolution 242, the basis of the two-state solution. The core of the Bush letter later ratified by the US House of Representatives by a vote of 407-9 and the Senate by 95-1 was the recognition that *‘in light of new realities on the ground, including already existing major Israeli population centres, it is unrealistic to expect the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949’* (Halper 2007b). The implications of Israel keeping the major settlement blocs which sit atop vital aquifers in the West Bank, and keeping East Jerusalem which is the economic and cultural heart of a future Palestinian state, and the Jordan valley settlements which control the Jordan border are clear. No legitimate Palestinian state can emerge or possibly even be discussed with this starting point, making ‘peace for peace’ the default strategy.

While western countries have insisted that Palestinians who used the language of violence against Israel could not be part of a non-sovereign Palestinian ‘government’, they have tolerated Israeli governments with ministers like Rehavam Zeevi, Benny Elon and others who openly advocated the ethnic cleansing of West Bank Palestinians and the disenfranchisement of Israeli Arabs while others in the same government were ostensibly discussing the creation of a Palestinian state (La Guardia 2007: 492-3). All that we need to conclude is that it would be simplistic to presume that the optimistic interpretation of ‘land for peace’ is the consensus or even dominant position in Israel. But any other Israeli position, whether one of asymmetric containment or one of peace for peace would require a significant re-examination of the viability of the Oslo route to building peace.

### ***Interim Palestinian Priorities for Capability Building***

Palestinian capability building strategies during the Oslo period needed to address two related questions. First, as a national liberation movement, *what capabilities would enhance the bargaining power of the liberation movement in its conflict with Israel?* And secondly, as an Authority engaged in limited self-government in parts of the West Bank and Gaza Strip, *what institutional capabilities were most essential for enhancing the economic and political viability of the Authority?*

### ***Functional Capabilities for leading a Liberation Struggle***

Following the signing of the Oslo Accords Palestinian liberation became entirely dependent on the success of this track of negotiations. The Palestinian leadership implicitly accepted capability-building priorities that were consistent with this track, most importantly prioritizing security capabilities to provide security to Israel. If the Israeli strategy was to create a viable Palestinian state on the basis of land-for-peace, the Palestinians would arguably no longer have required significant bargaining power vis-à-vis Israel. Indeed under these conditions, the development of security capabilities may have enhanced Palestinian bargaining power to demand an accelerated transition to full sovereignty.

However, a focus on providing security to Israel in a context where a viable Palestinian state was *not* the Israeli end-game had disastrous consequences for Palestinian bargaining power (and therefore for the legitimacy of the leadership of the

liberation movement). The prioritization of security in this context allowed Israel to continue the occupation and indeed to deepen settlements, barriers, checkpoints and so on at a lower cost than before, changing the ‘facts on the ground’ to Israel’s advantage. Moreover, as many Palestinians responded to Israeli containment strategies with violent resistance, the Authority lost further legitimacy and found it increasingly difficult to enforce security, allowing Israel to argue that Palestinians were not keeping their end of the bargain.

If Israel’s objective turned out to be asymmetric containment or peace-for-peace, the Palestinian liberation movement required significantly different political strategies to strengthen its bargaining power vis-à-vis Israel. Did the Palestinian leadership have any viable options? Clearly its bargaining power and strategic options were very limited to begin with, but as the limitations of Oslo became clearer, there were certainly alternatives that the leadership may have considered. While military strategies were never credible given the vast asymmetry of power, other political strategies may have been. For instance, Palestinian civil society organizations could have been mobilized to demand civil, economic and political rights from Israel as the occupying power during the interim period even as negotiations for a Palestinian state were continuing. This would have signalled to Israel that Zionism was not necessarily safe and the failure of negotiations could lead to a demand for political rights within Israel. Although Palestinians have never effectively deployed this threat, many Israeli leaders have explicitly indicated that this is the only Palestinian threat they are worried about as it could lead (in the words of Ehud Olmert) to Israel ‘losing everything’ (La Guardia 2007: 440-1).

These counterfactual suggestions are only indicative. They may not have worked or they may not have been acceptable to the Palestinian polity. Our aim is not to claim any specific alternative route was viable. It is only to suggest that alternatives always exist. Paradoxically, even from Israel’s perspective, it is possible that political and institutional attempts by Palestinians to mobilize their demographic threat may have signalled the urgency of creating a Palestinian state before the acceleration of settlement activity created significant new facts on the ground. This may have saved Israel from the dangerous impasse it now finds itself in. Clearly, Palestinian security capabilities were important. But the *prioritization* of security as the critical capability for the Palestinian Authority surely damaged Palestinian bargaining power and the legitimacy of its leadership (Khan 2005). The Palestinian leadership should have truthfully pointed out that *effective* security depended on the legitimacy of the end-game, and focused on how to legitimately enhance Palestinian bargaining power. Its failure to do this resulted in an unprecedented loss of legitimacy and the emergence of Hamas as a major player in Palestinian politics for the first time (Hroub 2008).

#### *Governance Capabilities for Viable Self-Governance*

The debate about the governance capabilities appropriate for the Palestinian Authority was dominated by the consensus opinion that developing countries needed to develop ‘good governance’ capabilities. These are capabilities to protect property rights, fight corruption, enforce a rule of law and ensure the accountability of the executive. The theory was that these governance capabilities would assist developing countries to achieve economic and political viability (Khan 2004). *In theory*, the conditions of good governance can help to achieve stable political governments and efficient market economies. But given that the conditions of good governance are expensive to

achieve and take a lot of time, the comparative evidence shows that even high growth and developmental states in developing countries have governance characteristics that are far removed from the requirements of good governance. In the Palestinian case, the absence of sovereignty meant that even as a benchmark the good governance capabilities were not very useful targets to judge performance in the Palestinian Authority. Nevertheless, the discourse of good governance was widely used to judge and to criticize the performance of the Authority as an institution of Palestinian self-governance and service delivery during the interim period.

We have argued that the relevant comparator for the Palestinian Authority should have been the high growth developmental states, not the theoretical good governance model, and even there, adjustments should be made to take into account the absence of sovereignty in the Palestinian case (Khan, et al. 2004). When we judge the Palestinian Authority in its early years (1994-2000) using these alternative criteria and examine the extent to which the Authority was able to maintain internal political stability and attract new investments and generate some additional economic growth we reach rather more optimistic conclusions about its potential viability if sovereignty could have been achieved (Khan, et al. 2004).

In the early years, from 1994-2000, when the legitimacy of the Authority had not yet seriously declined, the leadership of the Authority took pragmatic steps to develop capabilities that proved to be fairly successful in achieving growth and stability. The Authority had strong incentives to develop these capabilities because its legitimacy and authority in managing self-governance depended on the delivery of internal political stability and economic opportunities. In Khan et al. (2004) we describe how over this period, using a mix of carrots and sticks, the Palestinian Authority managed to achieve substantial internal political stability under conditions that were potentially seriously destabilizing. Similarly, by creating judicious privileges for investors the Authority also managed to attract significant foreign investment (primarily from expatriate Palestinian investors) in a potential warzone even though it had virtually no sovereign capability to protect the rights of investors.

Thus while there was certainly a focus on security and good governance capabilities, the pragmatic aspects of the early leadership of the Authority meant that internal viability was maintained for a while. While not fulfilling the conditions of good governance, its performance was not significantly worse and in some respects much better than many other developing countries which would be judged to be perfectly viable. From this perspective, the failure of Palestinian state formation under Oslo had little to do with the failure of the Authority to achieve minimal conditions for internal political and economic viability. This assessment provides reasons for believing that if sovereignty could have been rapidly achieved during this period, the emergent Palestinian state may have achieved sufficient viability comparable to other developing country states (Hilal and Khan 2004; Khan 2004).

The problem of course was that the Palestinian leadership did not have a viable strategy for winning the liberation struggle, and as a consequence it began to lose its legitimacy in both arenas, particularly after 2000. The legitimacy failure began not in the operation of the Authority, but in the leadership of the liberation struggle, in the failure to respond adequately to settlement expansion, road building and other aspects of asymmetric containment. But the declining legitimacy of the leadership of the

liberation struggle inevitably had a feedback effect on the effectiveness of the Authority. In particular, it had an effect on the capacity of the Authority to limit or control acts of violence directed against the Israeli occupation, and eventually violence between Palestinian factions became increasingly intense. There began a gradual shift in popular support away from the mainstream secular leadership towards Hamas and other radical groups who had always expressed scepticism about the Oslo process and about Israeli intentions.

As it became clearer that a sovereign Palestinian state was not likely to be rapidly achieved, even the pragmatic capabilities of the Authority to sustain internal growth and stability can be questioned. Perhaps more appropriate governance strategies should have been identified for the Authority by the late 1990s. Perhaps capabilities for sustaining the Palestinian population over a protracted period of struggle should have been accorded priority as a governance goal. If sovereignty could not be achieved immediately, and indeed as the West Bank became a checker-board of isolated pockets, it did not matter that the Authority had been effective in attracting investments in hotels. The centralized structure of the Authority was very good for functions appropriate for an emerging sovereign state, but as blockades and territorial fragmentation began to emerge as indefinite features, the Authority failed to respond with appropriate survival strategies. For the Palestinian polity as a whole, the challenge in the future will be to re-orient self-government capabilities to devise survival strategies to deal with the encirclement and siege of pockets of Palestinians.

#### ***External Powers and Donor Strategies***

The final factor jointly determining the outcome of the Oslo process was the role of donors and the ‘international community’. External powers and donors played a prominent role in the Oslo process from its inception. They were at the forefront of determining Palestinian strategic priorities. For instance, donors pushed for both the prioritization of good governance and security capabilities for the Palestinian Authority, and less openly, they attempted to strengthen factions and individuals who were perceived to be more flexible in making peace. These roles had important effects both intended and unintended. We have already discussed the effects of security prioritization in a context of slow or no progress towards a sovereign state.

Similarly, the manner in which good governance was supported also frequently contributed to delegitimizing the Authority. The violation of good governance requirements (in particular the accountability of the executive and adherence to the rule of law) was often ignored when it came to delivering security for Israel. But in other areas, the Authority was expected to meet standards of good governance that developing countries *with sovereign states* could not have met. Donors frequently appeared to make no distinction between achievable and feasible improvements in accountability, anti-corruption and other governance goals that were realistic for a non-sovereign ‘Authority’ to achieve in the midst of occupation and struggle, and the standards of good governance in text books. By setting the Authority a set of conditions that perhaps could not be met, donors inadvertently undermined its legitimacy. And by being selective about the areas where the Authority did *not* come in for criticism, external powers frequently undermined their own legitimacy.

The role of donors clearly has to be evaluated as part of the interdependent system of factors described in Figure 3. If the most optimistic assumptions about Israeli strategic

objectives turned out to be true, a Palestinian liberation leadership following the Oslo route may have been able to maintain its legitimacy because Israel would have rapidly started to withdraw to 1967 borders without asymmetric containment of the areas it was withdrawing from. And even with somewhat unrealistic ideas about the feasibility of good governance on the part of some donors, we know that the effectiveness of the Authority in sustaining critical aspects of economic growth and political stability was not too poor in its early years. In *that* context, the role of donors in prioritizing the development of security capabilities, but also in providing investment for infrastructure and in financing essential service delivery to core constituencies may have turned out to be very beneficial.

But with a different mix of assumptions these same policies could be worse than ineffective: they could contribute to political impasse and the delegitimization of the secular Palestinian leadership. For instance, if we assume that Israel did not have a political consensus behind land-for-peace, an assumption that is very consistent with the experience of the past fifteen years, the implications of donor policies become very different. This assumption is consistent with the observation that settlement activity did not slow down but rather accelerated after Oslo, and that Israel engaged in the systematic construction of a matrix of control and of asymmetric containment over the 1967 territories. In this context, when donors insisted that the Palestinian leadership should continue to behave as if land-for-peace was the dominant Israeli strategy, they surely contributed to the slow seeping away of the legitimacy of this leadership. While the failure to change its own strategic behaviour must of course primarily be a failure of the Palestinian leadership, external and donor strategies may have made their task many times more difficult for a number of reasons.

First, a major component of donor funding to the Authority went to directly provide jobs for a significant part of the Palestinian population in areas like security and administration. These employees and their families and dependents provided an important political constituency supporting the Palestinian leadership. From the figures that suggest that roughly 20 per cent of employment in the occupied territories was connected to the Authority, and that these jobs had rates of pay that were higher than average, it is possible to extrapolate that maybe a third of the Palestinian population was dependent on these donor resource flows. These resource flows may have been terminated if donors had lost confidence in the leadership of the Palestinian Authority. This structure of assistance created the perception of very high costs for the Palestinian electorate and civil society if it decided to express doubts about the viability of the Oslo process.

That this was perhaps not an incorrect perception was proved when Palestinians voted the wrong way in 2006 and external powers refused to engage with Hamas. However, in some ways this was not a proper test of the inflexibility of western strategic thinking. This is because there were other issues (justifiable or not) that may have precluded western support for Hamas. A proper test would have emerged if the secular mainstream leadership had begun to open up strategic options by engaging in political mobilization around civil and political rights in the way suggested earlier. Unfortunately this critical possibility was never tested. If alternative strategies were non-violent ones, for instance to mobilize civil society to demand rights, and if they were combined with conditional recognition of Israel in its 1948 borders, western

support for the Authority may not have evaporated, or at least may not have done so very suddenly.

The failure of the mainstream leadership to openly evolve any significant autonomous strategies points to a second and perhaps more invidious effect of significant external involvement in the peace process. This presence created strong incentives for ambitious individuals within the Authority to seek the recognition and trust of external powers as a way of bolstering their internal power. It is therefore not surprising that ambitious individuals within the Palestinian leadership looking to sustain their powers and privileges would gravitate towards the uncritical adoption of the priorities of dominant external powers without asking if this was contributing to Palestinian national liberation.

The close association between some leaders of the Palestinian security establishment and the US became clear in early 2007 when forces loyal to the Palestinian security chief Muhammad Dahlan attempted to seize power in Gaza allegedly with the close support of the US (Rose 2008). The military and financial support for Palestinian leaders who were close to external powers obviously made these individuals powerful within the Palestinian leadership. This made it difficult to question leaders close to external powers, and it resulted in the isolation of mainstream leaders who were even a little distant from the western consensus. This trap ensured that the opinions expressed within the leadership were never too distant from the ones supported by external sponsors. This made it very difficult for an alternative Palestinian leadership to emerge within the mainstream after Arafat's death. It also resulted in a loss of legitimacy for the entire leadership as ordinary Palestinians began to ask whose interests they represented.

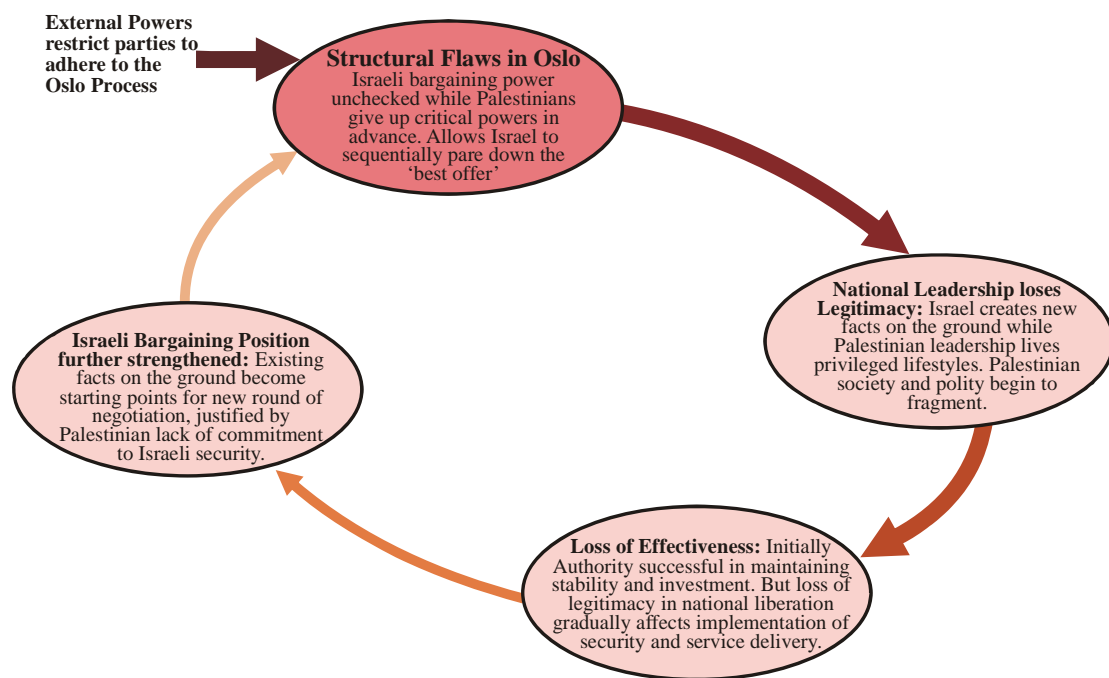
Paradoxically, in trying to keep the Palestinian leadership on a very narrow track through these types of incentives, external support had very damaging effects because it failed to deliver a sovereign state or even to block accelerated Israeli land grabbing. Western powers appeared to have no inkling about the dramatic decline in the legitimacy of their preferred Palestinian leaders as a result of binding them to a path that was not delivering any success. The fact that President Bush actually put pressure on the Palestinian leadership to hold the elections of 2006 suggests that he and his analysts had a very poor understanding of the determinants of legitimacy for the ostensible leaders of a liberation struggle (Rose 2008). The Hamas victory in the 2006 elections reflected Palestinian frustration with the in-built contradictions within the Oslo process that resulted in encirclement and impoverishment while their leadership persisted in negotiations. Donor and external involvement in buttressing a specific leadership meant that alternative voices could only surface in an entirely disconnected political movement, namely Hamas. To make matters worse, external responses to the Hamas victory showed that even after the humiliation of Fatah, they still had no understanding of the significance of what had happened.

The unanimous response of external powers and donors was to focus on Hamas's Charter and its refusal to formally recognize Israel, without asking why Fatah had lost its support so precipitately. Even worse, the practical response of external powers was to financially isolate Hamas and to portray as the only credible and internationally acceptable Palestinian leaders the very individuals whose policies of national liberation had failed so dismally in the previous ten years. Quite apart from how

donors are now perceived in Palestine, the negative impact on the legitimacy of Fatah and the Oslo process cannot be overstated. The decline or even the significant loss of legitimacy of the secular leadership of the liberation struggle is likely to have lasting impacts well beyond the failure of the Oslo process.

#### 4. Oslo and the Fragmentation of Palestinian Society and Polity

The serious and ongoing consequences of Oslo include not just the gradual fragmentation and delegitimization of the secular Palestinian national leadership but also the associated political and social fragmentation of Palestinian society. These effects are closely connected to the vicious cycle of declining political legitimacy and authority that the Palestinian leadership became trapped in. The separate sources of legitimacy of the Palestinian leadership as leaders of a liberation struggle and managers of an Authority engaged in limited self-government allows us to understand the cumulative causation of declining legitimacy and fragmentation better. Drawing on our earlier discussion, the structural features of Oslo that created these outcomes and the main links in the vicious cycle are summarized in Figure 4.



**Figure 4 Oslo and the Fragmentation of Palestinian Society and Polity**

Figure 4 highlights the role of the external powers since they played a critical role in the Oslo dynamic by insisting that the parties adhere to the Oslo process. As we have discussed, there were structural flaws in the analysis of the obstacles to peace. Oslo required no explicit statement from Israel committing it to a legitimate Palestinian state, no framework for monitoring Israeli adherence to its commitments and of course no mechanism for sanctioning Israel for non-compliance. On the contrary, Oslo was premised on the assumption that Israel wanted a viable two-state solution *in its own interest*. As a result, no preconditions had to be demanded from Israel, but Palestinians needed to give up significant elements of their bargaining power which were presumably no longer needed and which would contribute to 'confidence building'. These included giving up the right of resistance, a commitment to security



prioritization, acceptance of the two-state parameters and repeated confirmation of the prior Palestinian recognition of Israel. Instead of enabling the rapid emergence of a Palestinian state, these prior commitments by the Palestinians appeared only to embolden Israel to use an even greater asymmetry in bargaining power to create new facts on the ground.

The first link in Figure 4 highlights the structural flaw in Oslo that exacerbated and institutionalized the asymmetry in bargaining power between Israel and the Palestinians. This asymmetry allowed Israel to immediately pare down what was 'on offer' to the Palestinians, and as the vicious cycle deepened, what was on offer became less at each subsequent round of negotiation. The second link in Figure 4 shows that this had a significant effect on the legitimacy of the Palestinian leadership of the liberation struggle, even though its legitimacy did not collapse immediately. The main effect in the early years was that support for Oslo did not *grow* within the Palestinian population, and rejectionists in Hamas and other radical parties did not lose their support. Initially, the oppositionists were far too small to constitute an effective challenge to the mainstream leadership's support for Oslo. Eventually, however, Israel's continued creation of new facts on the ground and growing asymmetric containment of Palestinians did impact on the legitimacy of the Palestinian leadership. After the Camp David debacle of 2000, it was increasingly difficult for Palestinian leaders to continue their adherence to Oslo and yet retain high levels of internal legitimacy.

The third link in Figure 4 shows that declining legitimacy also had significant effects on the effectiveness of the Palestinian Authority. The initial capacity of the Authority to attract investment and provide stability and security was based on its legitimacy, despite its very limited powers and sovereignty. But as progress towards statehood remained blocked and in many respects began to be reversed, the legitimacy required for effectiveness was inevitably affected. This became particularly obvious in the vital area of security where the performance of the Authority was closely monitored by Israel and external powers and was used to justify significant reversals of Israeli commitments. The declining ability of the mainstream leadership to maintain internal security is a significant indicator of their problems with legitimacy and effectiveness. In the early years, Arafat's lieutenants like Muhammad Dahlan were successfully able to deliver internal security even though this often required unpopular methods such as detention without trial. However, by 2007, the same Dahlan facing the same opposition in Gaza had become utterly ineffective. In June 2007 significantly larger and better armed Fatah security forces were routed by Hamas.

The final link in the chain in Figure 4 shows that the poor and declining effectiveness of the Authority even in functions that it had accepted as priorities (in particular security) were used by Israel to argue why its new facts on the ground in the form of checkpoints, settlement expansions, security barriers, border controls, and so on were legitimate because Palestinians obviously did not have the capacity to govern themselves or provide security to Israel. This increased Israeli bargaining power in the next round of negotiations, allowing it to further pare down the 'best offer' to the Palestinians. The vicious cycle could then begin feeding on itself, with continuously declining legitimacy, effectiveness and even worse bargaining power for the Palestinians in subsequent rounds of negotiations.

The progress of this vicious cycle can be tracked by the sequentially inferior 'best offer' available for the Palestinians. Oslo began with the Palestinians already in a weak position after the debacles of Lebanon and the first Iraq war. The implicit best offer to the Palestinians in 1994 had already come down from an equal share in Mandate Palestine (the one-state solution) to a roughly 23 per cent state (the occupied territories, still the minimum acceptable two-state solution from the Palestinian perspective). But this offer was never explicitly made, and its parameters did not last long. Within days of signing the Oslo Accords, Israel's construction of roads, roadblocks and settlements made it clear that the Palestinian state if it ever emerged would be a lesser state. Israel's best offer at Camp David in 2000 offered 91 per cent of the West Bank 'as the basis for discussion' but without any maps, and excluded large parts of East Jerusalem, the settlements and military roads. The Palestinian understanding of the discussion was that the West Bank would be split into three cantons (La Guardia 2007: 294-8). By 2004, the Bush letter to Sharon, who had started building his separation barrier, recognized some or all of the Israeli annexations and set a new starting point for the next round of 'negotiation'. Thus, the cycle in Figure 4 is a continuous one, with each round requiring the Palestinian leadership to continue negotiating on even less legitimate terms from the perspective of the national aspirations of the Palestinian people.

Once this cycle had become entrenched, the failure of the Palestinian leadership to detach itself from the process resulted in a cumulative loss of its legitimacy and the growing fragmentation of Palestinian society and polity. The Palestinian social and political unity that had been forged under the PLO's leadership began to be strained as factions opposed to Oslo began to pick up greater support. This process accelerated significantly after Arafat's death, when the leadership was persuaded to enter new negotiations along the old lines as if the failure of Camp David and the Second Intifada had never happened. After each round Israel emerged with even greater bargaining power, offering even less to the Palestinians and further destroying the legitimacy of its national leadership.

Many post-2000 Israeli statements, some of them supported by the US indicate that a sovereign Palestinian state is very unlikely to emerge through Israel's participation in the Oslo process and the Road Map. Sharon explicitly articulated the possibility of Israel unilaterally declaring and enforcing the borders of a Palestinian state, making the 'state' on offer not much different from a prison. While this claim was not widely supported by external powers, Israel received US support in the Road Map for exploring the possibility of creating a Palestinian state without specified borders (the concept of provisional borders). If we understand sovereignty to mean the legitimate authority of a state over a specified territory, a state with provisional borders cannot be sovereign. Not even the most flexible Palestinian leaders could enter negotiations for a state with limited sovereignty and hope to achieve legitimacy. But there are also strong indications that 'peace for peace' is now the default Israeli strategy. For instance, Sharon's advisor Dov Weissglass explained in *Ha'aretz* in October 2004 why the Israeli disengagement from Gaza was actually a tactic designed to prevent any political discussion with the Palestinians about a Palestinian state (La Guardia 2007: 426). After the Gaza war of 2008-09 the dominant discourse is likely to be along the lines of 'peace for peace' negotiations for some time. Unfortunately, external powers have forced the mainstream Palestinian leadership to continue negotiations as if a viable Palestinian state based on 'land for peace' was just round

the corner. This insistence has only served to discredit Palestinian leaders engaging in negotiations under these conditions.

The collapse of a united Palestinian liberation movement is likely to have long-term effects that cannot be overestimated. The fragmentation of Palestinian society into isolated cantons, villages and cities by checkpoints and security barriers now has a political parallel. Palestinians no longer have a single political leadership to identify with and coordinate around. The geographic fragmentation is therefore mirrored in political and social fragmentation. Reconstructing a Palestinian national movement is likely to take a long time, with significant internal debates taking place about strategy, tactics and goals before a legitimate and united national leadership can re-emerge out of this debacle.

It is vital for neutrals in the international community to recognize that this crisis has deep roots in a long-term decline in the legitimacy of the mainstream leadership and that this collapse of legitimacy will not be easy to undo. This is particularly the case because the mainstream leadership is closely tied to western political strategies that fundamentally misunderstand Israeli insecurities and strategic goals. And even if these strategic goals begin to be understood, western countries are unlikely to be willing to challenge Israeli strategic goals in the near future.

This means that we have to recognize that a two-state solution is not at all close in Israel-Palestine. We have to recognize that Palestinian society is in an *indefinite interim period* and it is important to come up with an appropriate set of strategies that provide human security for the Palestinians, and give them time to re-order their political representation and national strategies in ways that are likely to be effective in the medium to long run. A continued focus on supporting what is now clearly a failed state-building agenda on the false presumption that a two-state solution is just round the corner can only do further damage to an already damaged Palestinian polity.

## **5. Reshaping the Agenda: Prospects for the Future**

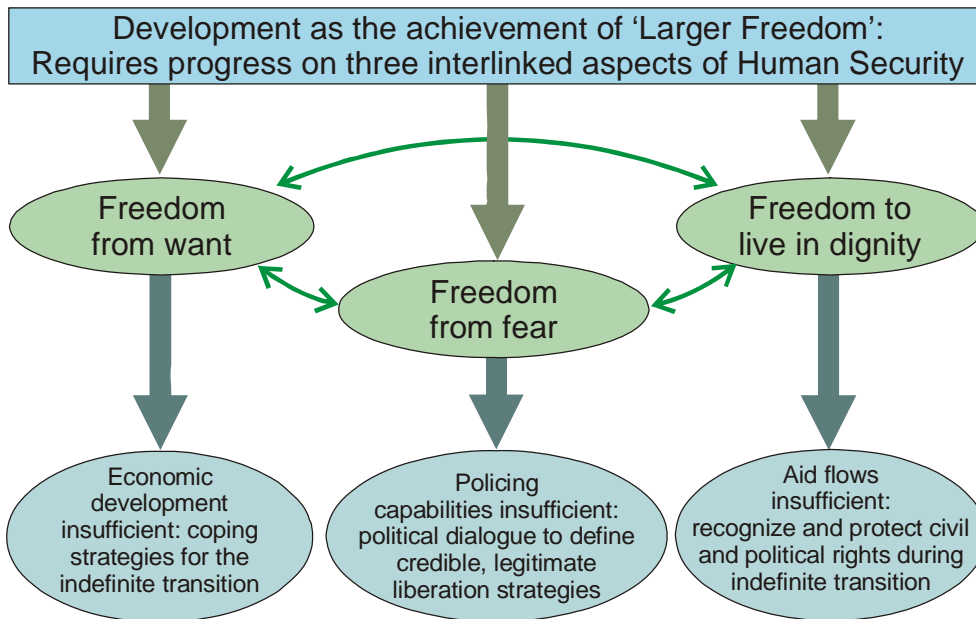
The period we are now in can be described as a period of *indefinite transition* for the Palestinian people. It is extremely unlikely that this transition will be short because Israel's dominant strategy appears to be to manage this transition for as long as it can. We have seen that this can make sense from an Israeli perspective given Israel's own internal perceptions of its strategic interests and concerns. The prospects of achieving Palestinian rights therefore depend on how Palestinians cope during this transition period. The prospects of achieving Palestinian rights, let alone future statehood, will be seriously diminished if the transition period results in an ongoing fragmentation of the Palestinian polity, its disintegration into regional and factional groups and of course if it collapses into internal warfare. To some extent this has already happened with the effective separation of Gaza that was preceded by a period of intense internal conflict. Given the deep external involvement in the genesis of this crisis at all stages including the Oslo period, it is important for external agencies and powers to understand that this collapse is not accidental, but has deep structural drivers. It is in this context that the UN's concept of 'larger freedom' and the broader concept of human security that is associated with it provide important entry points for redefining engagement with Palestinians in fruitful ways.

### ***'In Larger Freedom' and Broader Human Security***

The concept of 'larger freedom' as defined in an important United Nations document signed by Kofi Annan recognizes the interdependence of *the freedom from want, the freedom from fear and the freedom to live in dignity* (Annan 2005). This interdependence recognizes the types of interdependencies we have discussed earlier between state capabilities, the choice of state priorities, the human, social and political aspirations of a people and the legitimacy or otherwise of the institutions through which these are expressed. The document recognizes for instance that economic progress (freedom from want) cannot be delivered if many or most people in a society are suffering from high levels of conflict (the absence of freedom from fear). Conflict and wars in turn cannot be addressed if the institutions attempting to resolve these conflicts are not recognized as legitimate because they do not represent the rights of many or most people that are to be subjected to policing (the absence of the freedom to live in dignity). The concept of larger freedom therefore defines a broader and interdependent conception of human security that is essential to retrieve because one-sided or partial interventions that ignored these interdependencies have clearly had seriously negative effects in general, and particularly in the Palestinian context.

Conditions in Palestine have clearly been inimical for the achievement of most aspects of broader human security. This framework allows us to question the focus of conventional security programmes that have focused on bureaucratic-technical capabilities for 'delivering' security and some vital economic services. If success in the delivery of physical security depends on other freedoms that were absent in the Palestinian territories, then we are better able to explain not just the incomplete provision of security but also the declining quality of physical security over time. Our analysis identified some of the interdependencies in the Palestinian case where the Palestinian Authority had a dual character. The merit of the 'larger freedom' approach is that it allows neutral donors to ask what types of programmes could address Palestinian needs without contributing to the downward spiral of legitimacy described earlier. Indeed, the development of alternative programmes may be important for creating the conditions for a reconstruction and revitalization of Palestinian politics and society in the longer term.

Figure 5 shows how the three interdependent aspects of larger freedom can lead us to a series of alternative policy priorities for the Palestinian territories. By looking for the conditions that need to be met for progress on each of these freedoms we can begin to identify a range of issues to which Palestinian civil society and the international community needs to give attention in the current context. Even the question of freedom from want is no longer unproblematic given the stalled nature of the peace process and the possibility that there is no viable Palestinian state just around the corner. If so, freedom from want requires the development and implementation of strategies appropriate for an indefinite transition period.



**Figure 5 In Larger Freedom and an Alternative Palestinian Agenda**

The interdependence shown in Figure 5 suggests that perhaps these economic goals can only be implemented if there is freedom from fear. But freedom from fear has to be appropriately understood given the nature of the indefinite transition in Palestine. A focus on policing as a way of addressing the freedom from fear may have made sense if a sovereign Palestinian state were soon to be set up. Without that happening, an exclusive focus on policing had the effect of fragmenting the Palestinian polity and contributed to the delegitimization of its leadership. Freedom from fear in the current transition requires alternative strategies to encourage Palestinians to engage in internal political dialogue and debate to re-establish legitimate political and social goals. This, rather than policing, may be the most pressing need to prevent the further fragmentation of the Palestinian polity and a possible descent into civil war.

Finally, both the freedom from want and the freedom from fear depend on credible strategies for achieving the freedom to live in dignity, which is another way of posing the issue of legitimacy. The Palestinian Authority could not in the end sustain the legitimacy of its leadership because it was encouraged to focus on capabilities that failed to deliver dignity to the Palestinian people. Since dignity through sovereignty and independence is not immediately available to the Palestinian people, strategies for assuring tolerable levels of dignity during the transition have to be considered. Here the protection of the civil and political rights of the Palestinians as a people under occupation has to be given the highest priority.

***Freedom from Want: Reshaping the Economic Agenda***

An important implication of our analysis of *indefinite transition* is that each of the critical freedoms identified in Figure 5 have to be addressed in new ways. The freedom from want has traditionally been addressed through strategies of accelerating economic development and ensuring a fair distribution of the benefits of growth. However, simply developing economic capabilities in territories where closures can be enforced at short notice by an external power is a new type of challenge.

Traditional industry and agriculture require stable access to inputs and markets. Production can suddenly collapse and entrepreneurs can face crippling losses in an economy subject to containment. This has been a particular problem for Gaza during the blockade which began in 2007, but also affects large parts of the West Bank where the barrier has isolated Palestinian population pockets in a semi-permanent way.

The challenge is to supplement existing strategies with a much more effective promotion of local economic self-sufficiency together with effective mechanisms for rapidly delivering relief and supplies to large populations in isolated pockets who may be suddenly cut off. It would not have been rational to prioritize such strategies if the conflict economy was likely to be short-lived. But in the context of the Palestinian transition, these strategies should not only be prioritized, it is likely that many Palestinians will remain reliant on these alternative strategies for a long time. The success of such strategies requires in turn the appropriate development of governance and delivery capabilities linked to administrative structures.

The capabilities of the Palestinian Authority have been influenced by external concerns that control over resources within the Authority should remain with a leadership perceived to be more flexible in peace-making. But if the transition is likely to last for a long period, the delivery of survival requirements has to be de-linked from the politics of Oslo and institutional arrangements established to ensure that the right of the Palestinian people to enjoy freedom from want are protected. If these rights cannot be assured through the structures of the Palestinian Authority then permanent alternative structures of delivery need to be urgently considered. This is clearly of great urgency in the Gaza Strip but also in many parts of the West Bank. The continued politicization of resource flows into the occupied territories not only violates the rights of the Palestinian people, paradoxically it further delegitimizes the mainstream leadership in the ways discussed earlier because the Oslo route has not led and is unlikely to lead to a sovereign Palestinian state in the immediate future.

Alternative strategies need to complement and not supplant traditional economic strategies and bureaucratic-technical capabilities of the Authority that have been promoted on the basis of development models appropriate for a state in a normal economy. For instance, the development of infrastructure to support a normal economy, or the development of an export-oriented agriculture still have a role, but the history of closures and asymmetric containment shows that these strategies cannot be exclusively relied on in the Palestinian context. Indeed, Israel's capacity to destroy Palestinian infrastructure has been powerfully established many times after 2000 and Israeli border controls means that trade links can be disrupted with little notice. The challenge here is to develop long-term institutional responses for ensuring the freedom from want in the specific circumstances of the indefinite transition that Palestinian society finds itself in (UNCTAD 2006).

### ***Freedom from Fear: The Importance of Credible Liberation Strategies***

The narrow interpretation of security that dominated Palestinian capacity building during the Oslo period arguably had very damaging consequences for the Palestinian polity and for the legitimacy of its state-building process. Yet freedom from fear is an important requirement for tolerable human life in all situations, including that of occupation and indefinite transition. The only important observation is that making progress in meeting this condition requires strategies that are appropriate to the

context. If the Palestinians were close to achieving a sovereign state, and if the state-building project had wide legitimacy, security capabilities may well have been part of the critical capabilities the emerging state needed to acquire to sustain its legitimacy. However, in the stalemate context of Oslo, the focus on security led as we have seen to a vicious cycle of declining legitimacy and eventually greater internecine violence within the Palestinian polity.

Of course the most important source of fear and insecurity for Palestinians is the occupation and the hugely asymmetric Israeli attacks on densely populated Palestinian centres. Often these attacks are provoked by ill-conceived acts of resistance by Palestinians. These in turn are arguably the result of the absence of credible national liberation strategies on the part of the mainstream leadership which ordinary Palestinians find credible. This is why security for the Palestinians in the interim period is deeply connected with the Palestinian leadership being able to establish a credible strategy of liberation. In addition, an important threat to Palestinian security now comes from the collapse of the legitimate Palestinian national leadership as the inclusive and therefore the sole legitimate representative of the Palestinian liberation movement. While the PLO leadership is still by far the dominant Palestinian grouping, the participation of the PLO within the occupied territories in the Oslo process clearly affected its popularity relative to that of opposing factions like Hamas and other radical groups. Freedom from fear now also requires addressing the threat of a Palestinian civil war. At the very least, this requires all Palestinian opinions being able to express themselves without fear in attempting to reach a new Palestinian consensus about the legitimate goals of the liberation struggle and the strategies through which these goals should be pursued.

Some important initiatives show the direction in which Palestinian society and politics is likely to move, and external assistance could greatly assist these hopeful initiatives. The importance of radically rethinking the core strategies that have informed the Palestinian liberation movement has recently been recognized by Palestinian strategic thinkers in the Palestine Strategy Study Group including participants *from diverse Palestinian factions and groups* (Palestine Strategy Study Group 2008). An important consensus emerging in workshops organized by the Group was that the peace-making and state-building discourses initiated by Oslo failed in terms of achieving Palestinian national goals. Nor have sporadic acts of violent resistance helped. As the Palestinian Strategy Study Group (2008) and others have pointed out, Palestinians actually have important alternative sources of bargaining power, including in particular their demographic weight. Palestinians have arguably not used these alternative sources of bargaining power very effectively. If they did, sporadic and ineffectual acts of violence may gradually disappear as more effective credible threats using for instance civil rights movements to challenge the continuation of occupation are established.

It is significant that the European Union supported the workshops and meetings that led to the Palestinian Strategy Study Group report. Neutral externals who accept the legitimacy of Palestinian aspirations for liberation should recognize the importance of supporting Palestinian attempts like the Study Group initiatives as vital elements for re-establishing a united, credible and legitimate Palestinian strategy for liberation. The freedom from fear for Palestinians depends on their leaders and strategic thinkers coming up with strategies of liberation that attract both popular support from within the Palestinian people (thereby avoiding the risk of civil war) as well as being credible

strategies of liberation (thereby reducing desperate acts of resistance by Palestinians and asymmetric Israeli responses). Clearly in the vicious cycle of failure that Palestine finds itself in, a reliance on policing and security in the traditional narrow sense is not going to achieve freedom from fear for the Palestinians, or even for the Israelis occasionally facing violent Palestinian resistance.

***Freedom to Live in Dignity: Prioritizing Civil and Political Rights***

A life with dignity requires formal or informal protections of vital political, civil and human rights that prevent injustice from reaching unacceptable levels. In the Palestinian case, as in many other cases of occupation, the freedom to live in dignity is most palpably absent. Indeed, many of the mechanisms through which Israel maintains its asymmetric containment, such as checkpoints, house searches and demolitions, body searches, exclusion of Palestinians from designated roads and areas within their territories, and so on, result deliberately or inadvertently in the daily humiliation of many Palestinians. In general, the relationship between formal political and civil rights and economic performance is not straightforward, particularly in developing countries. The absence of formal political rights does not mean that in every case the level of oppression will be such that the economy becomes unviable or the legitimacy of the state collapses. But in cases where there is occupation and national subjugation, the relationship between political rights and other freedoms is much more straightforward.

The freedom to live in dignity is probably the most important freedom for a population under occupation because the failure to recognize this right could result in all other initiatives becoming illegitimate over time. Arguably, the failure of the Oslo process to demonstrate how the freedom to live in dignity was to be achieved was a major source of its declining legitimacy within the Palestinian population. The donors pumped in very large quantities of aid during the Oslo period but aid is not a substitute for dignity. Indeed, the experience of Oslo is a powerful demonstration of the interdependence of the freedoms outlined in Figure 5. A number of political rights are at issue here. The discourse around Oslo put the cart before the horse in significant areas and thereby ignored the fact that significant prior rights were missing that made the discourse around state-building and security lose legitimacy over time.

Between 1967 and 1993-5 when the Oslo Accords were signed, the Palestinians in the occupied territories were clearly a subject population with inferior rights compared to Israeli citizens. They did not have the same civil rights or political rights as Israeli citizens, and they were technically a subject population for whose safety and security Israel was directly and solely responsible under international law. The freedom to live in dignity could have been expressed at that time through rights-based campaigns that could have proceeded in two directions, not necessarily mutually exclusive. First, in the interim period, there could have been a Palestinian campaign for civil and political rights for a subject population for whose safety and security the Israeli state was responsible. Secondly, the Palestinians could campaign for the right of self-determination as a political right of a subject population. Both types of civil and political rights could have been the subject of democratic mass organizations involved in the types of civil rights campaigns that are well known internationally.

The Oslo process bypassed these possibilities of mobilization by assuming that there was a clear and effective strategy for achieving Palestinian self-determination that did



not require popular mobilization. It also assumed that there was no need to press Israel to recognize the fundamental civil and political rights of the subject population since occupation was soon to end. The outcome was that self-determination was not achieved fifteen years later, while the pressure on Israel to accept responsibility for the subject population was seriously diluted. Even the costs of Israeli occupation are now largely borne by the international community and taxpayers. The discourse on the political and civil rights of the Palestinian population who are still under occupation has effectively disappeared. Instead, Oslo has substituted for this a false discourse between Israel and the Palestinian Authority treated as a state about how each 'state' is to guarantee the right to security of the other. This discourse is false because only a sovereign state can be asked to effectively protect the security of anyone, let alone that of another country. The Palestinian Authority as a self-governing non-sovereign entity is effectively being asked to assist in the protection of the Israeli occupation while the rights of the Palestinian people do not find expression in any forum or civil rights movement. This situation must clearly end in the interests of all concerned.

If there is no Palestinian state just around the corner, the importance of a Palestinian civil rights movement expressing the inalienable rights of the Palestinian people to live in dignity has reappeared with great urgency. Again, international partners need to understand that the absence of significant Palestinian voices in this area is a matter of concern because it diverts Palestinian frustration with humiliation into acts of sporadic and desperate violence. The absence of this Palestinian discourse is also not accidental but rather a direct and systemic result of a particular peace-making process that has reached a dead end, at least for the time being, for the reasons discussed earlier. Encouraging a Palestinian civil rights movement is of course a task primarily for Palestinians but externals can assist by recognizing that this task is urgent and is not something that can be entrusted to the existing leaderships of different factions whose reputations and power bases are based on support for or violent opposition to the Oslo process. The discourse on rights, whether for the protection of political and civil rights of a subject population or the mobilization of support for self-determination through mass civil movements has to be re-invented given that Oslo jumped ahead and blocked these discussions for fifteen years.

The interdependence of these processes with the other freedoms underpinning 'larger freedom' is clear. A Palestinian civil rights movement with broad popular support and legitimacy is not only a mechanism for promoting the freedom to live in dignity, it is the most powerful way of underpinning new strategies of political legitimization and strategy building which underpin the freedom from fear. And given that the access of the Palestinian population to emergency relief during blockades and encirclements will be resisted by Israel, the freedom from want during the transition also needs to be underpinned by the protection of the political, civil and human rights to which all human beings are entitled.

*But we also have to recognize that these goals will not be achieved quickly.* It will take time and diligence to develop an alternative agenda. The temptation is therefore to stick to the existing patterns of negotiation. But Palestinians and the external powers seeking a lasting political settlement in the region also need to recognize that the Palestinians cannot at the moment deploy any significant strategic bargaining power that will yield a Palestinian state that has the characteristics of minimal

legitimacy. As a result, hopes that yet another push from the US administration will result in the rapid creation of a viable Palestinian state go against the experience of the last fifteen years, when in addition both the Palestinians and the Israelis had significantly greater internal consensus behind 'land-for-peace'. On the Palestinian side, even a unified and legitimate leadership has disappeared. All the indications are that the current interim period is likely to be long, years and not months, and possibly many years. The only responsible response is to plan for the most likely outcome and not the most optimistic and hopeful one which is contradicted by all the available evidence. The irony is that by allowing legitimate discussion only about the most optimistic but least realistic outcome, significant damage has been done to the chances of a viable and lasting peace.

### ***Outline of Key Conclusions***

The Oslo process to Palestinian state formation had a number of internal structural flaws that proved to be severely damaging. Not only did this process fail to create a viable Palestinian state, it resulted in the unleashing of a vicious cycle of diminishing legitimacy and effectiveness of the mainstream secular Palestinian leadership that has already had significant negative effects on the integrity of the Palestinian polity and its society. The main points in our argument are as follows:

i) The Oslo process could only have resulted in the emergence of a viable Palestinian state if three sets of interdependent assumptions about Israeli strategic objectives, Palestinian capacity building priorities and the role of donors were consistent and aligned towards that outcome. These assumptions turned out not to be true, and in particular a significant body of evidence now shows that Israeli strategic objectives are not aligned with the rapid emergence of a sovereign Palestinian state.

ii) Given the underlying structural flaws, the insistence by external powers and through them the major donors to persuade Palestinian leaders to accept the assumptions of Oslo and focus on associated capacity-building programmes was a dangerous mistake. This strategy misunderstood the fundamental sources of legitimacy both of the Palestinian leadership of the liberation movement and of the bureaucratic leadership involved in service delivery through the Palestinian Authority.

iii) The result was a gradual but accelerating collapse of the legitimacy of the leadership of the liberation movement and of the Palestinian Authority. To understand these processes we need to go back to basics and ask some fundamental questions about the meaning of state viability, legitimacy and sovereignty. The dual nature of the Palestinian leadership, as leaders of a liberation movement and in charge of limited self-government during an interim period accelerated the decline in legitimacy and unleashed what we described as a vicious cycle of declining legitimacy and effectiveness as Israeli offers on the table diminished in terms of Palestinian acceptability.

iv) A fundamental conclusion is that serious damage has been done to the Palestinian leadership, and the fragmentation of Palestinian society and its polity has reached dangerous proportions. It is time to step back from the precipice and recognize that Palestine is currently in a stage that can be best described as *indefinite transition*. It would be highly irresponsible to keep on insisting that the Palestinian leadership should continue to negotiate as if a viable Palestinian state is just around the corner.

v) Reconstituting the Palestinian polity and society during this long transition should be the priority for Palestinian civil society, external assistance providers and all those who seek a lasting peace based on legitimacy. The framework of larger freedoms supported by the United Nations allows us to identify the key components of an alternative agenda.

vi) If the interim period is likely to be a long one, the economic agenda for assuring the freedom from want has to focus on long-term interim coping strategies, the development of delivery structures that can rapidly deliver large quantities of emergency supplies at short notice and encourage local self-sufficiency wherever possible. The freedom from fear has to be based not just on the focus on policing, but supplemented by support for serious internal political processes that can assure Palestinians that their leadership will adopt credible strategies for achieving national liberation. Both these strategies are closely connected to strategies for achieving the freedom to live in dignity, which in the context of occupation means bringing back to the forefront domestic and international mobilization to support Palestinian political and civil rights that put pressure on Israel as the occupying power and enable Palestinians to fight credibly for their dignity during a long transition.

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