

TESTIMONY OF

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THE DEMOCRACY COUNCIL

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SUBCOMMITTEE ON MIDDLE EAST & NORTH AFRICA

OF THE

HOUSE FOREIGN AFFAIRS COMMITTEE

ON

THE PALESTINIAN AUTHORITY, ISRAEL AND THE PEACE PROCESS:

WHERE DO WE GO FROM HERE?

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Chairman Ros-Lehtinen, Ranking Member Deutsch, and distinguished members of the Subcommittee on Middle East and North Africa, I would like to thank you for holding this hearing today and inviting me to testify on “*The Palestinian Authority, Israel and the Peace Process: Where do we go from here*”. With your approval, I would like to submit my written testimony for the record.

I base my testimony on five years of working as a consultant to the Palestinian Authority, and thirteen years as President of the Democracy Council working in the Middle East & North Africa region.

This hearing comes on the heels of another unsuccessful effort to reach a final status agreement between Israelis and Palestinians. Despite the essential conditions for peace existing on both sides and Secretary Kerry’s herculean efforts, the diplomatic effort has stalled again. The PA responded with a renewed effort to pursue further recognition with the United Nations, and to reconcile with Hamas.

I have been asked to discuss the internal dynamics and political trends within the Palestinian Authority. For the purposes of this hearing, I will confine my comments to the “Palestinian side” and not discuss or assign blame for the latest breakdown in negotiations. That being said, I do not mean to ignore or diminish the unique and tremendous hardships and severe impact of the Israeli occupation and settlement construction in any way. As Secretary Kerry emphasizes, solving the Palestinian – Israeli conflict based upon a two-state solution requires hard choices with tangible investments in peace by both sides.

Since the establishment of the Palestinian Authority, the United States has vacillated in its attention to internal Palestinian politics. Except for the 2002 to 2004 period, our policy toward internal Palestinian affairs has focused on (1) Fighting terror and marginalizing terrorist groups, and (2) Fostering support for the Oslo peace process. Criticism of the PA leadership was often perceived as distraction or detrimental to the peace process. The immediate need of supporting peace negotiations often pushed issues of fostering good governance, political life, and an active civil society to a lower priority.

Yet not recognizing, and dealing with, the rampant corruption, mismanagement and increasing delegitimization of the PA’s leadership in the eyes of its own constituents, has done a disservice to the Palestinians. Taking risks necessary to achieve a durable peace and enhance the quality of life in the West Bank and Gaza requires leaders with not only political courage but also a real or obtainable political mandate from a core constituency that would support such risk-taking. Many of President and Chairman of the Palestine Liberation Organization (PLO) Mahmoud Abbas’ (Abu Mazen) own advisors have concluded that regardless a personal inclination to make peace, Abbas feels that he does not have such a mandate from his Fatah base in the West Bank, while Hamas in Gaza would, in his opinion, effectively torpedo the implementation of any deal negotiated without them.

CORRUPTION & CONSOLIDATION OF POWER

The Abbas – PA has become a single – party police state ruled by Presidential decree in which corruption and coercion dominate most aspects of life in the West Bank. Internal debate or criticism is not tolerated. Limiting political activity to only the top echelons of Fatah, quashing dissent, increasing corruption and nepotism has washed away much of the good will and legitimacy conferred onto the regime after Abbas succeeded Arafat as president and chairman. The absence of national elections following the expiration of the current presidential term in January, 2009, further degrades the legitimacy of the PA in the eyes of its own constituents. Most Palestinians in both the West Bank and Gaza believe that a presidential election is critical to restoring a degree of legitimacy to the PA.¹ Elections do, however, contain attendant risks, as illustrated by the 2006 parliamentary elections in which Hamas emerged victorious, and the recent experience in Egypt. Local extremist groups would no doubt gain some grassroots support by showcasing what plays locally as Israel's retreat from the spirit of Oslo, especially its settlement expansion, as well as the issue of corruption within the PA.

Abbas is likely to retire in advance of the next election. Infighting within the Fatah central committee has so far precluded emergence of a consensus legacy candidate. Meanwhile, a significant portion of the population sees the older generation of Fatah leaders, such as Abbas, as increasingly out of touch, lacking the skills to govern and manage relations with Israel. This feeling of marginalization and voter apathy led to younger “independent” candidates beating out traditional Fatah candidates in six of the eleven districts during the October 2012 local elections.

According to a recent poll by the Arab World for Research and Development, “if national elections were held today, a Fatah electoral list would receive 42 percent of votes, and a Hamas list would receive 12 percent. 34% would not vote are undecided.” (This high level of voter apathy for the two main parties could bode well for a popular reform movement that is able to freely campaign and effectively distinguish itself from the existing leadership.)

Allegation of corruption, mismanagement, nepotism and authoritarian rule has plagued the PA since its inception. In 1999, I helped manage an investigation of the Palestine International Bank. We presented then-President Yasser Arafat evidence of fraud, corruption, and mismanagement, recommending that the report be referred to appropriate law enforcement offices in anticipation of a public prosecution in accordance with Palestinian law and international standards. Arafat replied that a public prosecution would be unnecessarily messy given that (1) the public trusted him to make the correct decision, and (2) the Palestinian justice system could not remain immune from the political pressures involved with such a high profile trial. Arafat simply issued a Presidential decree assuming control of the bank. Except for a brief period of reform ushered in during Salam Fayyad’s tenure as Finance Minister, in which the

¹ Arab World for Research and Development, *National Opinion Poll*, April 1, 2014
<http://www.awrad.org/page.php?id=cEhtq9M4DCa9852360AKQBuvzxlbp>

Palestine Legislative Council met on a regular basis, this type of Presidential rule by decree serves as the primary political activity in the PA.

In June 2002, President Bush announced unequivocal support for an independent Palestinian state while calling for new Palestinian leadership dedicated to building a “practicing democracy, built on tolerance and liberty. True reform will require entirely new political and economic institutions, based on democracy, market economics and action against terrorism.” President Bush called attention to the fact that the Palestinian legislature and local officials had no real authority.² The next few years saw substantial progress. So called “Fayyadism” and a focus on institution building, not only drastically reduced corruption but importantly stimulated government collections in spite of a decrease in GDP. The reformers began the difficult process of moving the focus of the narrative away from that of only “resistance against Israel,” and political posturing toward improving life in Palestine, despite the hardships of occupation, in preparation for an independent state. There was recognition that the old style of an autocratic presidential model, like those of Egypt or Syria, needs to be replaced by a more accountable executive with counterbalanced powers in the legislative and judicial branches.

Initially, then - Finance Minister Fayyad received international support to institute reforms requisite for a viable public administration in a new independent state. The United States Government and donor community refocused significant diplomatic and programmatic efforts aimed at decentralizing power and weakening the imperial presidency with tangible results. For the first time, the Palestinian budget received applause for its integrity. Nebulous and secretive armed militias were incorporated into the national security forces. I participated in a worldwide investigation of over \$1 billion of revenue generating assets that brought back over \$700 million into the Palestinian treasury and helped eliminate much of the pervasive smuggling and corruption. In 2003, we helped design the Palestine Investment Fund whose aims were to remove the President from continue to intrude into the private sector at his whim, and to launch a transparent, publically accountable means of managing the PA’s intervention into the local economy. Just as importantly, Palestinian civil society began to organize and advocate on its own behalf.

The positive trend ended following the 2006 parliamentary elections and the resultant splitting of the administration of the West Bank and Gaza. The international response was to politically wall-off the Hamas-controlled Gaza strip from the interim government in Ramallah. The U.S. supported a direct assistance mechanism, Temporary International Mechanism (TIM), administrated by the European Union (EU), which provided direct cash assistance through the office of President Mahmoud Abbas. Originally envisioned as a three-month emergency mechanism, the TIM system was morphed into the much larger PEGASE system in February 2008. Although this massive direct financial support can be credited with averting a

² “President Bush Calls for new Palestinian Leadership, June 24, 2002 <http://georgewbush-whitehouse.archives.gov/news/releases/2002/06/20020624-3.html>

humanitarian disaster and keeping the PA afloat, it also resulted in reviving the imperial presidency that bypassed institutional processes and rule of law or bureaucratic checks and balances. This system continues to flourish today.

While progress has been made in PA budgeting and planning, the civil service remains grossly inflated with plum civil service jobs, some real, some not, gifted as rewards by the executive for political acquiescence. A 2013 internal EU audit reinforced the widespread perception that the PEGASE program subsidizes a grossly inflated civil service payroll in the West Bank and ghost employees in Gaza.³ The government payroll serves, to a degree, as a means of garnering support for the PA political leadership. (Approximately 170,000 Palestinians and their families are beholden to the PA for their salaries and pensions.)

The Abbas presidency steadily consolidated political and economic power while decimating civil society activity. Except for select ministries and agencies, such as the Palestinian Monetary Authority and Ministry of Education, few government offices function to international standards. Fatah and old-time PLO loyalists dominate all aspects of political life in the West Bank. Using the one party-system to his advantage, Abbas effectively marginalized Fayyad and the new generation of reformers who dared to rear their head above the parapet after Arafat's death. Dissent is summarily squashed. A former Minister said as recently as last week that there is evidence that the President's office ordered widespread wire-tapping of not only critics and journalists but also PA officials.

The defunct legislature prevents a separation of powers and limits oversight mechanisms. The judiciary and internal security forces are perceived as a tool wielded arbitrarily by the President and his close cohorts. As the former Minister recently stated, Palestine and Syria may be the last remaining "presidential police states" in the Arab world.

The United Nations and independent NGOs continue to report that Palestinians are subject to a wide range of human rights violations not only in relation to the Israel Defense Forces but from the PA security services. The special corruption court and the judiciary in general are known for their subjective and overly politicized investigations prosecuting those who refuse to offer "waste" to the Fatah leadership. Efforts by civil society organizations on behalf of vulnerable groups is challenged by interference from security agencies.

Intimidation and arbitrary arrests of independent journalists or reporters known to collaborate with international press have been well documented. Investigative reporting or calls for transparency result in arrests and harassment. Judges report receiving calls "suggesting" decisions and prosecutions that benefit Abbas. Similarly, bank officials complain of pressure from the PA leadership to promote commercial and protect businesses that support Abbas.

³ European Court of Auditors, *European Union Direct Financial Support to the Palestinian Authority*, Special Report No. 13, 2013 http://www.eca.europa.eu/Lists/ECADocuments/SR13_14/SR13_14_EN.pdf

PALESTINE INVESTMENT FUND

Nowhere is the consolidation of power more prevalent than in the economy. Top-down nepotism runs rampant in the West Bank. Sweetheart deals, concessions, and permitting not only limit opportunity for the average Palestinian but serve as a vehicle to demand political support. The Palestinian Investment Fund (PIF) is one of the most obvious and controversial tools used by Abbas to wield influence and direct favors.

The stated purpose of the PIF included decentralizing presidential power and removing the executive from being able to arbitrarily intrude into the private sector. The public fund was established as a transparent, independently managed sovereign wealth fund by which to conduct economic stimulus programs in distressed private sectors. And from 2003 to 2006, the PIF ended or sold off tens of schemes and enterprises that did not meet international standards and/or were inappropriate for a public investment. Hundreds of millions of dollars were brought back into the Palestinian treasury. The policies and procedures governing the fund's operations restricted investment activity to assuming risk in distressed private sectors that would not compete with local business and be mutually exclusive from political expediencies and political whims.

As previous testimony to this subcommittee indicates, however, beginning in 2007 the PIF has largely operated as an extension of the Presidency, a tool by which to curry favors, lavish gifts, and marginalize critics. Despite the original conflict of interest restriction, the PIF's current Chairman & Chief Executive Officer, Muhammad Mustafa, not only serves on many private sector boards of directors but is also the appointed Deputy Prime Minister. In fact, many in the Cabinet reportedly refer to Mustafa, rather than the prime minister, as the "boss."

Under the rubric of creating jobs, the PIF serves as an economic powerbroker. Increasingly, the Fund is viewed by average Palestinians as epitomizing the corruption associated with the intertwining of power, politics and business. By any calculation, the PIF and its individual board of directors, appointed by the President in contradiction to the original operating policies, control most aspects of economic activity in the West Bank. Businessmen report that in order to conduct business or access local financial services or regulatory offices they must pay homage to either the PIF or directly to the President. Calls for the PIF to release its outside auditor's working papers and notes continue to be ignored, despite the fact that the fund exists as a public fund.

In violation of its own charter, the PIF often competes directly against local businesses. For example, in 2009, the PIF beat out private sector competitors to obtain a controversial license for a new cell phone company combined with publicly-backed bank loans to support the launch of the mobile network. It was not lost on the Palestinian public that Fayyad had earlier forced the PIF to sell off its investments in the cell phone sector, stating that it was unfair competition with the private sector. Now, government employees and those seeking to do business with the PA report pressure to use the new Wataniyya mobile network. I recently heard details about how a

prominent businessman had to make a \$1.5 million “contribution” to the President’s operating budget and guarantee subcontracts to the PIF in order to obtain building and land-use permits. Those in the private sector also point to the PIF’s extensive investment in high-end luxury residential developments as prominent examples of how public investment pushes out private sector development. Moreover, their perception is that such developments do not have to adhere to the standard regulations and bureaucratic oversight. They accuse the PIF of illegally using labor and machinery owned by various ministries.

The intrusiveness of the Palestine Investment Fund into Palestinian society is extreme to the extent that the fund even refuses to relinquish control over a private primary school in Gaza. PIF representatives not only conduct commercial business through offices inside the school grounds but intrude to the level of changing student grades and affecting hiring and firing of teachers. (The black leather couches and expensive office equipment of the PIF stand in contrast to the stark, failing school desks in the adjacent room in the American International School in Gaza.) Another often-voiced allegation is that the PIF benefits from land appropriated from the ministries through Presidential decree, with no corresponding expenditure.

HAMAS & RECONCILIATION GOVERNMENT

The latest announcement represents the third attempt by Hamas and Fatah to reunite the West Bank and Gaza after the 2007 split. Significant disagreements remain and actual reconciliation of security forces and legal systems seems unlikely. Both sides, however, see critical upsides in reconciliation. The PLO seeks to reinforce its status as the representative of all of Palestine. Hamas desperately needs relief from its disastrous economic situation and its inability to meet payroll. In addition, the Hamas leadership feels that only a unity government will enhance its political isolation after the downfall of the like-minded Morsi presidency in Egypt and the decreasing support from a besieged Syria. Ironically, both the Hamas and the PLO are suffering from upward pressure from their respective Palestinian streets: Islamic Jihad and Salafists in Gaza, and the new generation of PLO activists in the West Bank, respectively.

U.S. law is clear regarding cutting off assistance should Hamas be participant in the government. Some observers, including in Israel believe that Palestinians might be able to buck the odds and form a government encompassing the West Bank and Gaza that clearly meets the Quartet’s and American requirements, namely to clearly abdicate violence and recognize Israel. More likely, a new government would seek to fudge the issue by not having any upfront Hamas members.

It is in the interest of Palestinians and the United States for the Palestinian Authority to assert a single administration that effectively administers the West Bank and Gaza. However, the bar would need to be clearly set and the PA held accountable. Militias, such as the Hamas Izz ad-Din al-Qassam Brigades must be fully integrated into the national forces or disarmed. National elections should be held within six months. The election law should forbid participation by candidates who advocate violence.

While few give credence to recent threats by Abbas to abandon the PA following any cut off in U.S. assistance. The effect of a wholesale cut off would indeed be devastating. Decreasing international aid hurts the poor and marginalized sectors in a regressive manner. Local and international extremist groups would quickly move to exploit the situation. In addition to the question of the United States' diminished leverage, decreasing aid means decreasing our ability to support moderate elements and the new generation of Palestinians who will, at some point, be assuming control over their own destiny. Thus, instead of bluntly hammering the entire society, diplomatic, technical, and financial assistance can be used to foster a political and economic environment more receptive to reaching a durable peace with Israel.

IMPLICATIONS FOR POLICYMAKERS

Not to discount or ignore the impact of the occupation and Israeli policies, the Palestinian Authority squandered many opportunities to build a popular and effective administration that would help pave the way to peace. In addition, the U.S. and the donor community's overarching preoccupation with the negotiated peace process has, to some degree, enabled continuation of a dysfunctional public administration. Since the establishment of the PA, except for brief periods, the overarching goal of reaching a negotiated two-state solution has overshadowed efforts to promote a legitimate, effective participatory public administration that would serve as the foundation for an independent state and lead its constituency into a final peace agreement with Israel. Regardless of the prospects of a unity government or a reanimation of the peace process, "[T]he United States should move beyond short-term thinking – in which inconvenient Palestinian politics can and should be delayed because a negotiating breakthrough is just around the corner – that has afflicted its policies for decades." Rather, "[T]he United States should patiently support Palestinian Institution building and tolerate the political competition that must accompany it."

The Palestinian population is relatively young, educated and ambitious. This generation, which came of age during the second intifada, is largely progressive and comparatively independent. Like the rest of the region, they seek an enhancement of their quality of life, rule of law, equal opportunity, and the opportunity to participate in their own administration. To foster the conditions for peace, this generation needs to see the benefits of making peace with Israel.

Fostering political development within the PA does not mean accepting Hamas, in its current form, as a part of a unity government. The Palestinian Anti-Terrorism Act of 2006 and the principles espoused by the Quartet for recognition are clear: namely public acknowledgement of the state of Israel, adherence to past agreements, and renouncing violence. Any backtracking or weakening on these requirements would not only not be in the interest of the U.S., it would also be a disservice to the many Palestinians who continue to desire assistance in their ongoing fight against extremism.

As committee members are intimately aware, the United States is the leading provider of bilateral development assistance to the Palestinians, having committed over \$5 billion since 1994. Within the international donor program, guided by the World Bank's "An Investment in Peace" paper in 2003, U.S. foreign assistance is part of the two-track approach to Middle East peace, which couples resumed political negotiations to establish a Palestinian state with support for the Palestinian state-building initiative through U.S. foreign assistance. USAID's efforts help to build a more democratic, stable, and secure region, benefiting Palestinians, Israelis, and Americans.

Despite its unintended consequence of propping up a presidential autocracy, this level of assistance, arguably the highest per capita of non-military aid, has succeeded in averting humanitarian catastrophes and mitigating environmental plagues. USG support for independent media fosters critical reporting. Education programs help foster anti-incitement as well as support underserved communities. In addition, USG – sponsored security assistance and training and police and prosecutorial programming plays a valuable role in countering extremists. Efforts promoting security cooperation between the Israelis and Palestinian security services continue to be critical to counter-terror efforts.

Continued external aid is needed to deal with the unique situation affecting the West Bank and Gaza, particularly the massive unemployment and lack of economic opportunity. However, the current pause in strategic negotiations may offer a time to reassess tactical activities and USG programming.

Although international trade facilitation and large economic projects offer high-profile activity and jobs, they tend to support the political and economic elite. Additional support for entrepreneurs and independent business, with a concentration on reaching underserved communities, may help to diversify the economy and be better received by local population. Devoting additional funding for rule of law programming may be useful to restore the confidence and feeling of general security in the general population.

In the weeks leading up to the 2006 parliamentary elections, USAID launched an effort to showcase the attributes of Fatah. This thinly veiled attempt to inform voters in a critical period did not have the desired effect. This time around, a more strategic approach to elections and campaigning may be warranted. The Palestinian body politic would definitely benefit from additional programming aimed at political party development, independent candidate training, and independent media.

There are also many tangible reform activities that could have positive impact as conditions in future assistance programs, such as:

1. A participatory election law that precludes candidates that advocate violence.
2. Audit of the civil service and pension payrolls.

3. Disassociation of the Palestine Investment Fund from the President's office.
4. Adding an office of a vice president.
5. Allow PA ministers' free reign to appoint their own deputies and department heads without presidential interference.

The Palestinian Authority remains the best vehicle by which to bring a durable peace to the region. However, lacking a political mandate from its own constituency, the PA leadership will be unable and unwilling to make the difficult decisions needed to move from the status quo. Reform of the current public administration, combined with the backing of an active, prospering civil society will go a long way to support a diplomatic solution. To date, few Palestinians have benefitted from the two decades of the Oslo process. Enhancing the quality of life in the West Bank and Gaza should be the highest priority for the PA and international stakeholders.

Thank you again for this opportunity to offer some thoughts on the current situation in the Palestinian Authority. I would be happy to answer any questions you might have.

