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A New U.S. Strategy for the Israeli-Palestinian Conflict

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Executive Summary

Executive Summary

Key Proposition: Today's realities demand that the United States change its approach to the Israeli-Palestinian conflict. Its current focus is on high-profile diplomatic initiatives that aim for a permanent agreement in which the United States is the central mediator. Instead, the United States must focus on taking tangible steps, both on the ground and diplomatically, that will improve the freedom, prosperity, and security of all people living between the Mediterranean Sea and the Jordan River, while also cultivating the conditions for a future two-state agreement negotiated between the parties.

Overview

As this report goes to press, the possibility of a resolution to the Israeli-Palestinian conflict seems distant. Israel continues its occupation and territorial expansion in the West Bank and East Jerusalem, with hundreds of thousands of settlers now living beyond the 1967 borders and a majority of the Israeli parliament prepared, in principle, to support annexing West Bank territory unilaterally. Palestinian governing institutions are eroding, opaque, and unaccountable, while the Palestinian political leadership and people are divided between an extremist Hamas in Gaza and a weakening Fatah-led Palestinian Authority (PA) in the West Bank. Economic and political inequality between Israelis and Palestinians, most starkly in Gaza, further exacerbates the conflict between them. And as Israelis and Palestinians increasingly live in separate spaces, the views on all sides of the conflict are hardening.

America's role as the primary mediator between Israelis and Palestinians has shifted dramatically.

At the same time, America's role as the primary mediator between Israelis and Palestinians has shifted dramatically. Addressing the Israeli-Palestinian conflict will remain a U.S. interest for future administrations, but it is already dropping in priority and will not receive the same level of presidential and cabinet-level attention in a world where COVID-19, domestic crises, and U.S. competition with China have emerged as urgent concerns for the U.S. government. Even as significant segments of the region's population continue to view this issue as important, among Arab governments, resolving

the Israeli-Palestinian conflict is no longer seen as a *sine qua non*, as evidenced by the recent agreements between Israel, Bahrain, Morocco, Sudan, and the United Arab Emirates to normalize relations.

Donald Trump's administration has fundamentally undercut the U.S. role in Israeli-Palestinian peace-making by taking a one-sided approach, rejecting core principles that underlay Arab-Israeli peace for decades, and aligning the United States with Israeli far-right policies while freezing out the Palestinians. But U.S. policy in the pre-Trump era, under Presidents Bill Clinton, George W. Bush, and Barack Obama, also failed to produce lasting peace, and a simple return to those policies will not succeed. U.S. domestic politics are likely to change the American role as well. As political polarization colors American public attitudes toward Israel and its policies in the conflict, it creates both new constraints and opportunities for U.S. policy.

A new U.S. policy toward the Israeli-Palestinian conflict should focus on the following objectives:

- Prevent conflict and preserve the stability and security of U.S. partners.
- Promote freedom, security, and prosperity for all people living between the Mediterranean Sea and the Jordan River, both in the immediate term and in a final Israeli-Palestinian agreement.
- Preserve and advance the vision of a negotiated solution between Israelis and Palestinians that brings about a mutually agreed end of conflict.

Rooted in these objectives, this report lays out a plan that focuses on three central lines of effort:

- Tackle pressing issues that threaten any possibility of progress in addressing the conflict and keep the United States from playing a constructive role.
- Pursue concrete steps to meaningfully improve freedom, security, and prosperity for Israelis and Palestinians, and advance the prospects of an agreed two-state solution to the conflict over the medium term.
- Reshape the U.S. role for greater persistence and impact, through adjusting both how the United States engages with the parties and the rest of the world on this issue, and how its own policymaking process is organized.

Immediate Actions to Rebuild U.S. Credibility

The United States should take a series of actions that reestablish its credibility as a mediator in the Israeli-Palestinian conflict, both with the parties and with other key international stakeholders. A central part of this effort will involve rebuilding ties between the United States and the Palestinian people while reopening channels with their leadership, which has not seriously engaged with the Trump administration since the decision to move the U.S. embassy to Jerusalem in late 2017 and the announcement of the closure of Palestine Liberation Organization (PLO) offices in Washington.

Three core principles should drive U.S. policy, and the new president or secretary of state should take an early opportunity to articulate them to the world: first, a recognition that Israeli-Palestinian negotiations based on U.N. resolutions and broadly recognized international terms of reference—most importantly the concept of land for peace—remain the only means to achieve a permanent agreement between the parties, even if at the current moment such negotiations would not be fruitful; second, that U.S. policy seeks to secure freedom, security, and prosperity for all Israelis and Palestinians, both in the actions the United States takes today and in any future agreement; and finally, that the United States remains committed to a negotiated two-state solution. The viability of a two-state outcome to the conflict is increasingly called into question, but it remains the only approach that both parties' governments have formally committed to and around which international consensus still exists.

The United States will have to reverse a number of steps taken by the Trump administration that have undercut U.S.-Palestinian relations. While the United States should not move its embassy back to Tel Aviv, Washington should make clear that it supports an outcome that enables both parties to have their capitals in Jerusalem and that the status of Jerusalem is an issue that must be resolved through negotiations.

The United States should also renew ties with the Palestinian people and their government and demonstrate its commitment to independent ties with the Palestinians, reversing the policy of making diplomatic engagement with Palestinians a subsidiary of U.S. ties to Israel. This means reopening the U.S. mission to the Palestinians in Jerusalem and returning to the consul general chief-of-mission authority over the West Bank and relations with the Palestinian Authority. The United States should also allow the reopening of the PLO mission in Washington, though this will require working with Congress.

The United States should take immediate steps to address the humanitarian crisis and economic challenges facing the West Bank, East Jerusalem, and Gaza. Part of this effort should involve the United States restarting its economic assistance programs to the Palestinian people and funding of the United Nations Relief and Works Agency for Palestine Refugees (UNRWA), both of which were cut off in the past four years. A special focus should be concentrated on Gaza, where two million people remain stuck in a perpetual cycle of violence between Hamas and Israel, with the Palestinian Authority also playing an unhelpful role. The resulting blockade has strangled both economic and human development. Early actions should focus on improving freedom of movement for Palestinians, which is the lifeblood of any economy, while also investing in access to clean water and electricity, which remain unacceptably scarce.

Another early step should be to reform the long-standing system by which the Palestinian Authority and/or Palestine Liberation Organization provides payments to Palestinian prisoners in Israeli jails and to families of Palestinians killed by Israel in the course of attacks on Israeli targets. The Palestine Liberation Organization argues that, as a national liberation movement, it has a right to compensate its people in this way, particularly since family members are frequently displaced by Israel's policy of demolishing the homes of Palestinians who engage in attacks on Israel. Israeli and American opponents of the payments system argue that the system incentivizes and rewards violence. The practical reality is that the issue has become a significant roadblock in U.S.-Palestinian relations, with overwhelming congressional opposition to the practice. The United States should work with the PA to reform the system by eliminating any compensation associated with conviction for violent crimes, and instead convert the system to one of basic social welfare. If the Palestinians make this change, the president could more easily certify to Congress that the PLO no longer practices or supports terrorist actions and thus sunset the anachronistic Anti-Terrorism Act of 1987 under which the PLO and PA are still considered terrorist organizations under U.S. law. Such reform could also create greater flexibility on Capitol Hill to amend laws that restrict assistance and relations with the Palestinians and could facilitate reopening the PLO mission to the United States in Washington. As part of this approach, the United States should also press Israel to end its demolitions of attackers' homes, which serves as a form of collective punishment.

The United States must also take early steps to deter Israeli annexation and settlement expansion by

expressing unambiguous opposition to both. It should reverse Trump administration policies and legal opinions that loosened the U.S. attitude toward settlement activity and return to long-held positions that clearly distinguish U.S. policy and behavior between Israel and the territories it occupied in 1967. As part of this approach, the United States should make clear that it will not shield Israel from international consequences it might face when it takes actions, such as settlement construction, that are contrary to U.S. policy. The United States should also clarify to Israel that four kinds of Israeli actions will trigger a particularly strong U.S. response: (1) building or advancing plans to build in areas particularly relevant to the viability of a two-state outcome, like E-1, Givat HaMatos, E-2, and Atarot; (2) transferring or expelling Palestinian communities from any of these or other areas; (3) constructing major new infrastructure such as roads inside the West Bank that are meant to strengthen the connection between the settlements and Israel; or (4) making any change to the historic status quo on the Haram al-Sharif/Temple Mount reaffirmed by Israel in 2015.

Finally, even as the United States makes clear that it will not aggressively pursue new negotiations on a permanent agreement, Washington should reaffirm long-standing key parameters for a final resolution of the conflict that were outlined by U.S. presidents and reaffirm its prior commitment to United Nations Security Council Resolution 242, including the concepts of land for peace and “the inadmissibility of the acquisition of territory by war,” which has long been the starting point for negotiations. These parameters include supporting borders based on the 1967 lines with mutually agreed land swaps; security arrangements that meet both sides’ needs and are based on a demilitarized Palestinian state; a just and agreed solution to the refugees; and two capitals in Jerusalem. The purpose would not be to establish a baseline for a new negotiations effort, but simply to make clear to all the parties that the unbalanced and unworkable Trump plan is no longer part of the U.S. vision for a final agreement.

Medium-Term Actions to Improve Freedom, Security, and Prosperity and Set the Conditions for Two States

While pursuing the immediate priorities laid out above, the United States should also pursue a number of initiatives that will take longer and be more difficult to accomplish. However, if successful, these steps would fundamentally change the situation on the ground, helping to create the conditions for renewed negotiations

and a two-state agreement while also improving security, prosperity, and freedom for Israelis and Palestinians.

The United States should promote a series of steps that would provide for greater freedom in the West Bank and East Jerusalem. This should start with expanding freedom and creating significant economic opportunities for Palestinians, ending home demolitions, and promoting greater freedom of movement, by urging Israel to convert portions of the 60 percent of the West Bank fully controlled by Israel and known as Area C into Area B with shared Israeli-Palestinian control. Israel should also shift portions of today’s Area B into Area A, which is supposed to have full Palestinian control. This would be particularly beneficial for improving policing and security. Israel should also relax restrictions on trade and regulations that stifle the Palestinian economy. And the United States should seek to reduce the disparities in treatment, process, and outcomes between Israeli and Palestinian civilians, who face two separate and unequal legal systems in the West Bank. Until a negotiated solution to the conflict is found, and so long as Israel continues to hold ultimate control over Palestinians, everyone who lives in the West Bank should have the same basic right to due process, using the rights Israel grants to its citizens or foreign visitors as a benchmark.

Right now, Palestinian institutions are eroding and the divisions between Hamas and Fatah, and between Gaza and the West Bank, present a major obstacle to progress between Israelis and Palestinians. The Palestinian people and their leaders must unify their leadership into one that can govern an independent state committed to peaceful coexistence with Israel; but the United States can either support or impede that work by its policies and approaches. The United States and other outside players can communicate standards, including its expectation that the Palestinian government will uphold core commitments to recognition of Israel and its legitimacy, to peaceful negotiations as the sole means of settling the conflict, and to the rejection of violence. It should also press the Palestinian Authority to overcome corruption and undemocratic behavior through a process that includes elections.

As part of this shift in approach, the United States must encourage intra-Palestinian reconciliation by becoming more flexible about the composition of the government that the Palestinians form and select. The United States can also do more, working in close coordination with Egypt and the United Nations Special Coordinator for the Middle East Peace Process (UNSCO), to encourage a sustainable political arrangement for Gaza based on two pillars: (1) an agreement between the

PA and Hamas on the gradual reintegration of the West Bank and Gaza, with the PA assuming greater responsibility for Gaza and Hamas being integrated into the PLO; and (2) an agreement on a long-term cease-fire between Israel and a group of Palestinian factions that includes Hamas and Fatah and that has the blessing of the PLO. This agreement would include a significant relaxation of the Israeli blockade of Gaza. Critically, not only will this lead to greater Palestinian cohesion, but it will significantly improve Israeli security by putting in place a much more stable situation in Gaza that ends the perpetual rounds of rocket attacks on Israeli civilians. The United States can also make clear that it will not engage with officials from political parties that support violence, as Hamas currently does. But it may need to find a way to work with a Palestinian government that includes Hamas. Last but not least, if progress is made and Palestinian factions do agree on holding elections, the United States should support them, make clear it will respect the outcome, and press Israel to allow voting in East Jerusalem, as it did in 1996 and 2005.

Beyond the immediate issues of annexation and sensitive settlement activity discussed previously, the United States must construct an effective long-term approach for deterring settlements. This may involve simply sticking with the approach of unambiguous opposition to settlement expansion described above, though two other options should also be rigorously evaluated: One alternative is to pursue a partial, but strict, settlement freeze. Importantly, a partial freeze cannot simply be based on the path of the security barrier, which was drawn unilaterally by Israel and includes some of the most contested territory inside the barrier, in East Jerusalem and the West Bank. Any partial freeze would also have to be very clearly defined instead of allowing for interpretations of the “blocs” that create a green light for expanded settlements. And while the United States should not expect the Palestinians to agree to such an arrangement, it could consult closely with both sides. Another option would be for the new U.S. administration to put down its own proposed final-status map after consultation with both sides and make it the basis of its policy. This approach would supersede the unworkable and unbalanced Trump map. A new map could also include equitable swap areas for the Palestinians, and the United States could continue to object to any Israeli settlement activity unless Israel took steps to hand over swap areas west of the Green Line to Palestinians. These options have advantages and drawbacks for U.S. policy, but deserve consideration in the context of the overall goal of advancing freedom, security, and prosperity for Israelis and Palestinians, even in the absence of a final agreement.

Finally, the United States must invest in a longer-term effort to rebuild support within Israeli and Palestinian society for coexistence and negotiations. This area of the conflict has long been treated as an afterthought by American policymakers. That needs to change. We propose a much more consistent, focused, and resourced strategy by American officials to engage across the range of Israeli and Palestinian society, including political and community leaders as well as civil society. The strategy should also focus on people-to-people engagement, which should include the \$250 million Partnership Fund for Peace, now before Congress. The United States can also offer incentives and support mechanisms aimed at marginalizing extremist voices, to root out incitement from official discourse and to promote a culture of toleration and coexistence on both sides. Finally, the United States should encourage efforts in so-called Track Two dialogue to explore the substance of potential negotiations in an informal and unofficial setting.

Reshape the U.S. Role for Greater Persistence and Impact

The United States should take a series of steps to change both the way it engages with the rest of the world on the Israeli-Palestinian conflict and how policymaking is developed inside the U.S. government. Traditionally, the United States has sought to monopolize Israeli-Palestinian peacemaking and pressed other actors to follow its lead. But given decades of failure, the slim prospects for successful near-term negotiations, and a U.S. leadership facing other urgent priorities, it is time to reconsider this approach. A more flexible approach to international partnership can enable others with unique access or leverage on specific issues or parties to push forward in coordination with Washington. For example, in the case of Gaza, Egypt and the U.N. Special Coordinator have the greatest influence and knowledge of the situation on the ground, while the United States still maintains the most influence with Israel and the greatest international convening and organizing power. An initiative jointly led by these three that then engages other international actors would likely be more effective than unilateral U.S. strategies.

The United States also needs to adjust its approach to regional players. Jordan, more than any other Arab state, is vulnerable to the consequences of the degrading status quo between Israel and the Palestinian Authority. Amman has demonstrated consistent interest and played a constructive role over the years in trying to bring the conflict to an end. Yet Jordan has been neglected by the Trump administration, and the Israeli-Jordanian

relationship is today at possibly its lowest point since the Israel-Jordan peace treaty was signed. The United States should prioritize reenergizing its cooperation with Jordan in addressing the conflict.

The United States should take a series of steps to change both the way it engages with the rest of the world on the Israeli-Palestinian conflict and how policymaking is developed inside the U.S. government.

The United States should put the Gulf Arab agreements with Israel into an appropriate context. Rapprochement between these states and Israel is positive for the governments involved and dramatically improves connections between Israel and the Gulf states, with the potential to bring greater stability and economic prosperity to the Middle East. While these agreements may create new opportunities over time for Israeli-Palestinian peacemaking, they will not transform a conflict that is ultimately between Israelis and Palestinians—not the Arab states. The Gulf Arab opening to Israel is not driven by concern for the Palestinians and could even undermine Palestinian positions. The governments of Bahrain and the United Arab Emirates are not well positioned to leverage their new ties with Israel to persuade Palestinians to make concessions and are unlikely to condition their cooperation with Israel on its policies toward the Palestinians. The reality is that across the Middle East, sympathy for Palestinian rights remains significant, and the Gulf states' response to the prospect of Israeli annexation makes clear that they understand there are ways in which the Israeli-Palestinian conflict threatens their interests. The United States should engage these Gulf governments to explore opportunities for constructive Gulf engagement on the conflict.

The United States should also change the way its policy is made internally. Traditionally, the Israeli-Palestinian issue has been held at the highest levels of government, with regular personal engagement from the secretary of state and the president and a secretive policymaking process that sometimes leads to group-think or misses opportunities by not incorporating a broad enough spectrum of voices. This was understandable when the parties were themselves pursuing sensitive diplomatic negotiations and when the United States was at the center of the process, but it makes little

sense given where the conflict is now and the type of strategy this paper advocates. Instead, what is needed is a more regular and inclusive interagency process that brings the key agencies with policy equities and tools to deploy into the process. It should also include a State Department special envoy closely coordinated with the Bureau of Near Eastern Affairs to manage the day-to-day execution of policy. The issue will require leadership and support from the top levels of the U.S. government—most importantly the president and the secretary of state. But pursuing the agenda we lay out does not require their day-to-day involvement. It is therefore implementable even in a world where the Israeli-Palestinian conflict is lower on the president's priority list than it has been in the past.

Addressing the Alternative Approaches

In developing our approach, we seriously examined three other possible strategies for addressing the Israeli-Palestinian conflict: (1) conflict management; (2) an “outside-in” approach with Israeli normalization with the Arab states as the catalyst for progress on Israeli-Palestinian peace; and (3) moving away from a commitment to the two-state solution. Ultimately, we found all three lacking.

Conflict management: Some analysts argue that there is no available negotiated solution between Israelis and Palestinians at the present time, and so the United States should focus on other issues and work simply to manage the conflict and prevent outbreaks of violence. We disagree. The current situation between Israelis and Palestinians, and between the Israeli government and the Palestinian Authority, is not stable—it is degrading in ways laid out in detail in this report. This backsliding causes daily harm, including violence, to Israelis and Palestinians living with the conflict, and also shapes the context in which the Palestinian national movement will undergo a high-stakes leadership succession in the coming period. Palestinians are forced to live with the daily humiliations of occupation, while for Israelis, perpetuating the occupation is causing an erosion of democratic values and deep internal political upheaval. Managing the conflict over the past decade has involved three major and several other minor conflagrations between Israel and Hamas, wars that have cost lives, degraded human development, destroyed physical infrastructure, and impaired economic growth. The United States can and must do more to improve the quality of life for Israelis and Palestinians now, while creating more favorable conditions for future negotiations.

Outside in: In recent months, the normalization agreements between Israel with the United Arab Emirates, Bahrain, Sudan, and Morocco have caused many analysts to argue that the diplomatic opening between Arab Gulf states and Israel has upended the Israeli-Arab dynamic and demands a thorough revision of American diplomacy on the conflict. They argue that the United States should shift away from its traditional focus on engaging Israelis and Palestinians and instead work with the region, especially the Gulf, to influence the conflict and the two key parties. Embedded in this view is the suggestion that Palestinian intransigence is the primary obstacle to diplomatic progress, and that the Arab Gulf is best positioned to moderate Palestinian views. It also implies that an infusion of Arab Gulf economic support to the Palestinian people can play a central role in overcoming the Israeli-Palestinian conflict. Many advancing this view also state a belief that with the Palestinians increasingly isolated as the Arab states walk away from them, they will have no choice but to return to the negotiating table with Israel in a weakened position.

This new Arab state engagement with Israel is positive for the region, for Israeli security, and for American interests. The United States should continue, as it has for decades, to welcome and encourage deeper official and unofficial dialogue and support programs that increase economic, political, and security cooperation between Israel and the Gulf states.

However, there are a number of reasons to be skeptical about these normalization agreements leading to major breakthroughs between Israelis and Palestinians. The Gulf states do not see the Palestinian issue as a priority, which is precisely why they are normalizing with Israel. As for the Israeli public and leadership, they see these agreements as a way to bypass the Palestinians—not as a way to work with them. The Palestinian people and leadership have strongly opposed these normalization agreements, decreasing the prospect that normalizing states can influence Palestinian attitudes or policies. Finally, the Arab Gulf’s diplomatic opening to Israel does not overcome or override the substantial challenges to peace evident in the Israeli, Palestinian, and American dynamics that are outlined in the following chapters. Given these realities, anchoring U.S. policy toward the Israeli-Palestinian conflict in these normalization agreements makes little sense. Arab Gulf–Israeli engagement may, over time, offer new diplomatic possibilities to advance this goal, and the U.S. government should be alive to those possibilities. It should also encourage the Palestinian leadership to repair its ties with some of the Arab Gulf states. And it should encourage the Arab Gulf

states, who may now have a greater influence in Israel, to play a constructive role and push the parties toward peace. However, the reality remains that there will be no resolution of the conflict without direct engagement and compromise between the Israelis and Palestinians.

It is critical that the pursuit of a two-state outcome in the future not lead the United States to put off steps to increase the freedom, prosperity, and security of all people living between the Mediterranean Sea and the Jordan River right now.

Moving Away from Two States: A key judgment, on which many analysts disagree, is whether a two-state outcome remains the most viable and effective means for resolving the Israeli-Palestinian conflict peacefully. Demographic and territorial changes in the West Bank, the political division between Gaza and the West Bank, the intransigence of leaders and diminishing support for the two-state solution on both sides, the prospect of unilateral Israeli annexation, and Israeli reluctance to withdraw from any settlements: All raise substantial challenges to achieving a negotiated two-state outcome and pose obstacles to the viability of an independent Palestinian state. That said, it is our view that often-cited alternative negotiated outcomes are no more realistic or durable. The two-state outcome is also the commonly understood solution around which the international community and the region, including Israelis and Palestinians, retain some degree of consensus.

This leads us to three conclusions. First, we continue to believe that the two-state solution should remain the preferred outcome for U.S. policy. Second, it is critical that the pursuit of a two-state outcome in the future not lead the United States to put off steps to increase the freedom, prosperity, and security of all people living between the Mediterranean Sea and the Jordan River right now. Finally, recognizing that a two-state outcome may no longer be achievable, or may come to be so in the future, it is prudent for the U.S. government to explore the likely consequences of alternative scenarios, undertake contingency planning for those scenarios, examine potential adjustments to the two-state paradigm as a negotiating goal, and clearly establish principles to guide U.S. policy that go beyond a vision of two independent

states living side by side in peace. In particular, we believe American policymakers should be clear that any outcome to this century-old conflict must provide both Israelis and Palestinians with freedom, democracy, and equal rights.

Summary of Recommendations

Addressing Pressing Issues That Threaten Any Possibility of Progress

- Lay out core principles:
 - » negotiations as the basis for conflict resolution;
 - » freedom, security, and prosperity for all now; and
 - » support for a two-state outcome.
- Reopen U.S. consulate in Jerusalem and PLO mission in Washington.
- Resume bilateral economic assistance to the Palestinians and aid through the United Nations Relief and Works Agency for Palestine Refugees.
- Focus on freedom of movement, electricity, and water in the Palestinian territories, especially Gaza.
- Reform Palestinian prisoner payment system.
- Deter annexation and settlement construction.
- Reaffirm previous U.S. parameters on borders, security, refugees, and Jerusalem.

Pursuing Medium-Term Steps to Preserve the Viability of Two States

- Expand Palestinian rights and give Palestinians greater control over Areas C and B of the West Bank.
- Support reforms to Palestinian governance; enable Palestinian unity; and encourage Palestinian elections.
- Freeze or reverse settlement activity through a range of options, including: (1) ending the practice of shielding Israel from international consequences; (2) pursuing a clearly defined partial settlement freeze; or (3) proposing a U.S. map and using it as the starting point for U.S. policy on settlements.
- Cultivate Israeli and Palestinian support for negotiations and coexistence through robust diplomacy, people-to-people efforts, programs to address incitement by both parties, and support for Track Two dialogues.

Reshaping the U.S. Role

- Pursue flexible engagement with other international actors instead of attempting to monopolize the work of Arab-Israeli diplomacy.
- Strengthen engagement with Jordan and harness warming ties between Israel and the Arab Gulf states to promote positive synergy with Israeli-Palestinian relations.
- Root Israeli-Palestinian policymaking in an inclusive interagency process instead of concentrating action on the issue at the secretary of state and presidential level.
- Pursue serious internal U.S. contingency planning on alternatives or amendments to the two-states paradigm.

CHAPTER 1

The State of the Conflict



Israeli and Palestinian dueling claims to Jerusalem are a central issue that has prevented resolution of the conflict. (Chris McGrath/Getty Images)

Chapter 1: The State of the Conflict

The conflict confronting Israelis and Palestinians is more than 100 years old, and still without resolution despite significant efforts by several U.S. administrations. Since the Oslo Accords were signed in 1993, the international community has coalesced around the objective of direct Israeli-Palestinian negotiations to establish a Palestinian state alongside Israel, giving each people freedom, security, prosperity, and self-determination in separate states. Yet, efforts to come to a final agreement between Israel and the Palestine Liberation Organization (PLO) have failed. This report will not outline a comprehensive history of the conflict or the efforts to resolve it. Instead, it will first provide a broad regional context and then focus on the trends that are making it increasingly difficult to find a workable solution, including: (1) Israeli territorial expansion and political volatility; (2) Palestinian division and political dysfunction; (3) a worsening economic and humanitarian situation in the Palestinian territories, especially Gaza; and (4) hardening

views on all sides of the conflict. Chapter 2 will then review the current factors impacting U.S. policy and America's role in the conflict.

Regional and Global Context

Over the past decade, the Middle East has undergone upheaval of historic proportions. After decades of eroding social contracts, weakening government services, and sustained repression, popular uprisings challenged autocratic governments across the region and toppled longtime dictators. In the wake of these protests, civil wars erupted in Yemen, Syria, and Libya. The shock waves of this upheaval left regional leaders intently focused on regime security, with various players using a combination of reforms, increased government spending, and intensified repression to remain in power.

The uprisings and the wars disrupted what had been a fairly stable regional order overseen by the United States and its major regional partners. Meanwhile, the United States found itself at odds with its traditional partners over the Iran nuclear deal and over popular demands for

democracy and human rights. Under President Donald Trump, the United States abandoned the Iran nuclear deal and escalated confrontation with both Iran and the Islamic State, but the Trump administration’s impulsive and capricious decision-making did not reassure Arab governments of its reliability as a security partner.

In the context of this anxiety about American commitments, regional competition for power, and focus on regime security, it is unsurprising that most Arab governments have deprioritized the stalemated Israeli-Palestinian conflict in their political and diplomatic strategies. For some actors and at some points, the conflict even came to be seen primarily as a locus of their regional battles—as, for example, during the Gaza war of 2014 when Egyptian President Abdel-Fattah al-Sisi preferred Israel to pursue a more aggressive approach to Hamas than Israel did, because of his hostility to the Muslim Brotherhood from which Hamas sprang.¹ But for the most part, the altered regional context means that the Israeli-Palestinian conflict is no longer a major driver

of regional events and no longer a first-tier concern for most Arab governments.

Moreover, some Arab governments are increasingly keen to seize the advantage of more engagement, security cooperation, and commerce with Israel—most recently, the United Arab Emirates, Bahrain, Sudan, and Morocco chose in the fall of 2020 to pursue formal diplomatic relations with Israel without waiting for an Israeli-Palestinian settlement. Quiet engagement between Israeli intelligence and other Arab governments is an open secret.² Israeli defense and technology companies have sold products and services in the Arab world via European or other third-country corporate personalities.³ The governments of the Arab Gulf states and Israel are increasingly on the same side of several regional geopolitical divides and see stronger interests in cooperation that are constrained by the stalemated Israeli-Palestinian conflict.⁴

These openings between Israel and Gulf Arab states are undoubtedly positive developments for the



U.S. President Donald Trump (second from the right) signs normalization agreements with Israeli Prime Minister Benjamin Netanyahu (second from the left) and the foreign ministers of Bahrain, Abdullatif bin Rashid al-Zayani (left), and the United Arab Emirates, Abdullah bin Zayed al-Nahyan (right), bypassing the long-standing historic consensus of Arab states in the Arab Peace Initiative to wait for an Israeli-Palestinian agreement in order to offer full normalization. (The White House/Tia Dufour/Handout/Anadolu Agency via Getty Images)

In the context of this anxiety about American commitments, regional competition for power, and focus on regime security, it is unsurprising that most Arab governments have deprioritized the stalemated Israeli-Palestinian conflict in their political and diplomatic strategies.

governments involved, and in the case of the United Arab Emirates agreement, the commitment by Israel to forgo annexation for the time being also demonstrated that there can be some positive linkages to addressing the Israeli-Palestinian conflict. However, there is no evident pathway by which these agreements overcome the daunting obstacles to Israeli-Palestinian peace-making laid out in this chapter. It is possible that some of those obstacles might even grow worse as a result, as one of the few points of leverage the Palestinians have is taken off the table. The U.S. government should explore possibilities for positive synergies between this Israeli-Gulf rapprochement and Israeli-Palestinian conflict resolution—but the synergies are neither inherent nor obvious.

That said, there are still at least two ways in which the Israeli-Palestinian conflict is of crucial importance to these Arab governments and motivates their concern. First, the suffering of Palestinians under Israeli occupation, and the Palestinian demand for freedom and sovereign independence, continue to resonate deeply with Arab publics. In an era when even autocratic regimes are increasingly sensitive to public opinion and to issues that might produce mass protest, even unelected Arab leaders cannot afford to ignore or dismiss what is happening in Palestine. Second, the conflict, particularly in its religious dimensions, does feature in the wider regional competition for power and influence. Turkish President Recep Tayyip Erdoğan's rhetorical and diplomatic interventions on behalf of Muslim rights in Jerusalem, for example, bolster him both at home and abroad and show up Jordanian and Saudi leaders who also claim religious legitimacy and a role to play in Jerusalem.⁵ These regional trends continue to place limitations on Arab-Israeli cooperation.

Israeli Territorial Expansion and Political Volatility

Continued Israeli construction of settlements and civilian infrastructure in the West Bank and East Jerusalem, and the potential for Israeli annexation of parts of that territory, contravene international law, undermine the credibility of Israeli commitments to negotiate the disposition of West Bank territory, and threaten the viability of the two-state solution. The expansion of settlements increases the difficulty of providing contiguity and viability for a future Palestinian state without uprooting large numbers of Israelis. The growing number of settlers also raises practical, political, and financial obstacles to the significant resettlement of Israelis necessary for a viable two-state solution. Finally, settlement growth has been a consistent irritant in any negotiation, as settlements are viewed by Palestinians as encroachments upon land that is supposed to be subject to negotiation and as a concrete manifestation of Israel's ability to dictate the circumstances of Palestinian lives today and the Palestinian future. The United States has long struggled to change the trajectory of the settlement project through its own policies, a challenge we discuss further in the next chapter.

The number of Israeli settlers living in the West Bank has grown under Democratic and Republican American presidents, as well as under Israeli leadership from the left and the right, albeit at different paces and in different ways. By the end of 2018, 427,800 Israelis lived in the West Bank, with the numbers of Israeli Jews in East



A general view shows a construction site in the Israeli settlement of Elkana. U.S. Secretary of State Mike Pompeo announced that the Trump administration no longer considers Israel's West Bank settlements inconsistent with international law, reversing several decades of American policy. (Amir Levy/Getty Images)

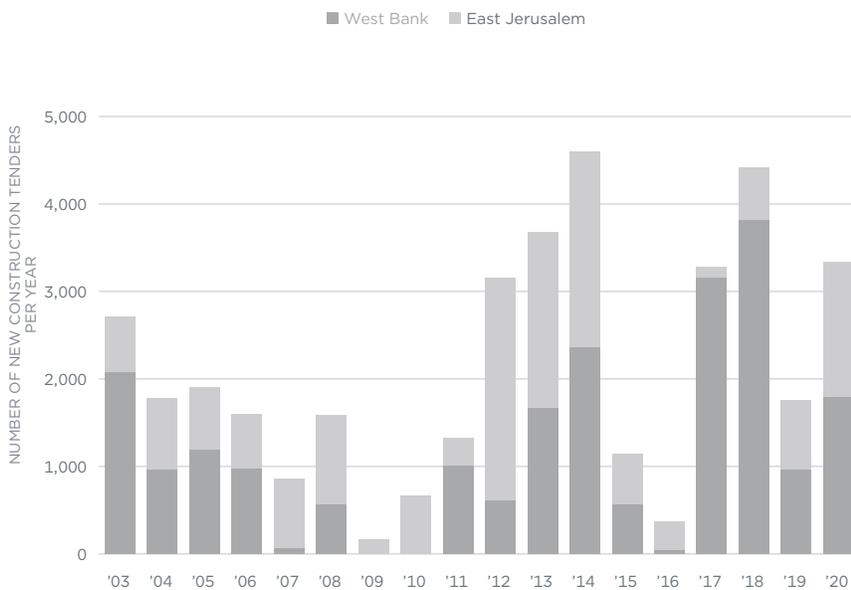
Jerusalem growing to 220,000.⁶ This compares with 116,300 settlers living in the West Bank and roughly 140,000 in East Jerusalem when the Oslo Accords were signed in 1993.⁷ The result is that the hurdles to constructing a viable Palestinian state have grown to a point where it may no longer be feasible. In addition, attitudes in Israel toward relocating settlers have hardened. Prime Minister Benjamin Netanyahu has now embraced the principle, endorsed by Trump, that no Israeli living in the West Bank should have to relocate in the event of an agreement with the Palestinians.

These trends are likely to get worse, as the issuance of tenders for construction of Israeli settlements has spiked during the four years of the Trump administration. During the eight years of the Obama administration, Israeli tenders in the West Bank averaged 793 units per year.⁸ That number has more than tripled under Trump, to 2,639 per year from 2017–2019.⁹ This portends a spike in future construction, as the timeline from issuing a tender to finalizing construction is between four and five years.¹⁰ Relatedly, data from the Israeli Interior Ministry found that as of 2019, the

population of West Bank settlements increased more rapidly than Israel’s overall population, rising by 3.1 percent annually while Israel’s overall population only increased by 1.9 percent.¹¹ The Israeli government continues to pursue policies that subsidize life in the settlements compared with life in Israel.¹² As housing prices in central Israel have become forbidding for many families, this increases the incentive for Israelis to move from Israel into the West Bank.¹³

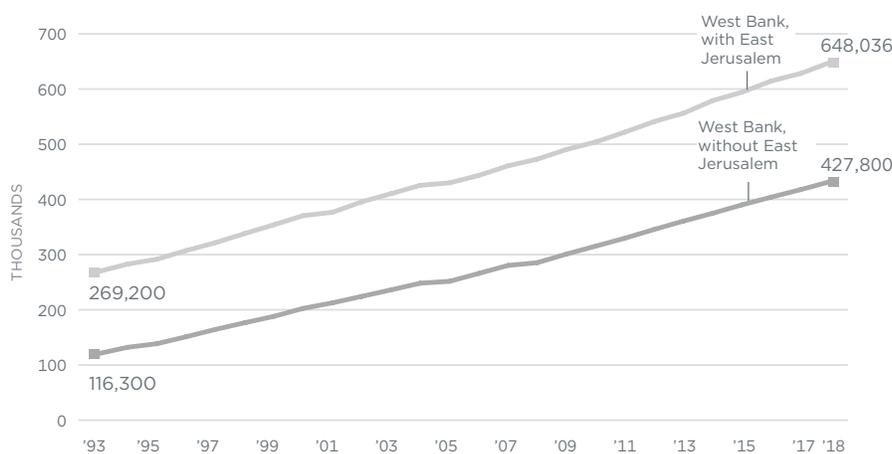
At the same time that Israeli land expansion in the West Bank grows, Palestinian opportunities on land that is envisioned to be part of their future state are shrinking. The 2016 Quartet report noted that the transfer of land in Area C from Israel Defense Forces’ (IDF) control to that of the Palestinian Authority (PA)—land that under the Oslo II agreement was envisioned to eventually be transferred to Palestinian civil authority as part of a final agreement—has been stopped and, in some ways, reversed.¹⁶ Some 70 percent of Area C (Area C makes up about 60 percent of the West Bank) has been unilaterally designated for exclusive Israeli use by Israel.¹⁷ The Palestinians’ need for construction permits from Israeli authorities, permits that are almost never granted, ensures that the remaining 30 percent remains effectively off-limits.¹⁸ And from 2006–2020, 1,554 Palestinian residences were demolished in the West Bank because they were built without Israeli permits.¹⁹

FIGURE 1. WEST BANK CONSTRUCTION TENDERS¹⁴



Unlike the growth in the number of settlers, which is steady year after year, the number of Israeli tenders for settlement unit construction in the West Bank did pause for certain periods. Please note that as of November 2020, there is no available data on the number of construction tenders in the West Bank for 2009 and 2010.

FIGURE 2. NUMBER OF ISRAELIS LIVING BEYOND ISRAEL’S 1967 BORDERS¹⁵



Despite the signing of the Oslo Accords in 1993, the number of Israelis living in the West Bank has steadily increased year after year through both Democratic and Republican U.S. administrations and different Israeli governments.

UNDERSTANDING LAND DESIGNATIONS IN THE WEST BANK

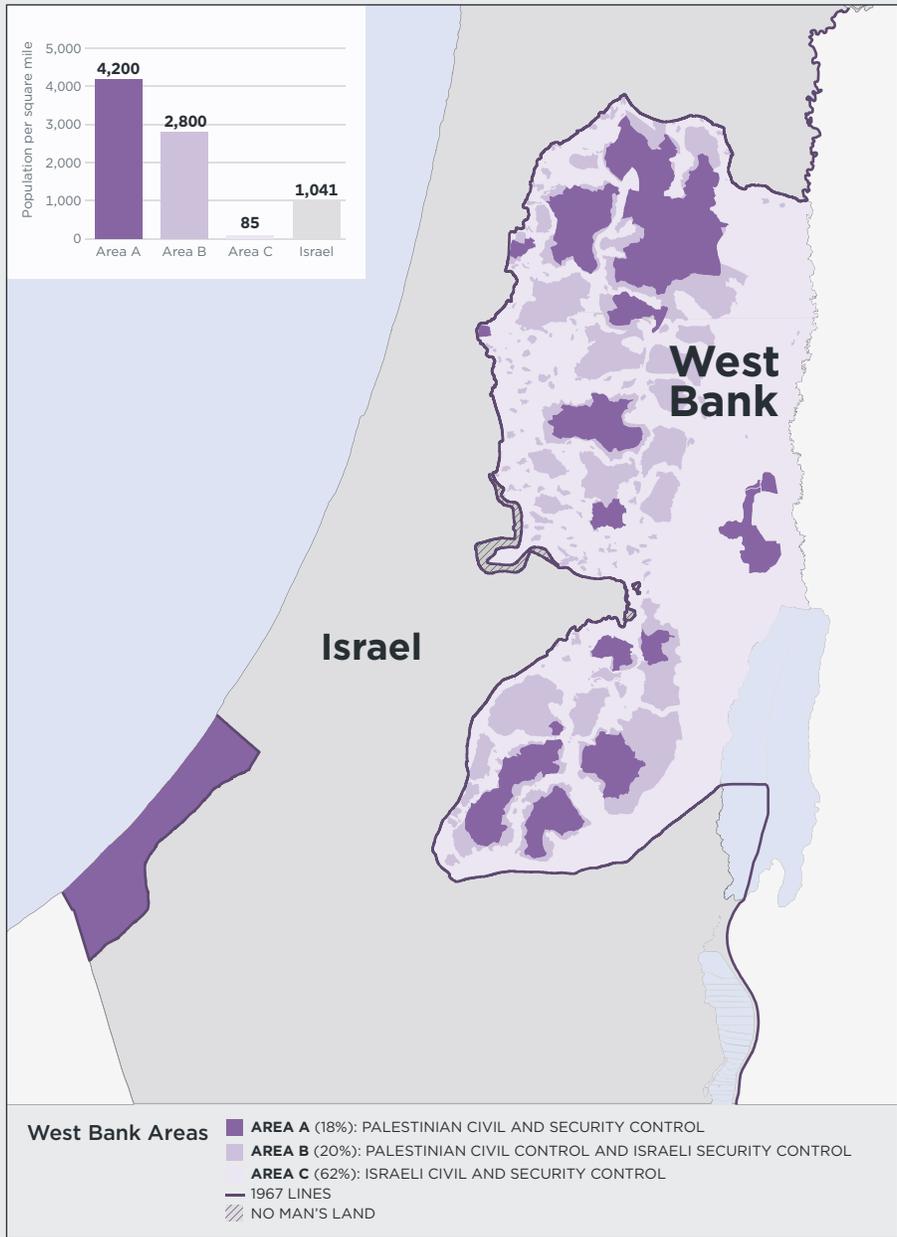
The Oslo II agreement of 1995 divided the West Bank into three areas, which were meant to be a temporary designation on the way to a final status agreement. A quarter of a century later, this division continues to define how the land in the West Bank is classified and controlled.

Area A is about 18 percent of the West Bank and is composed of 166 isolated islands of Palestinian Authority security and civilian control.²⁰ An estimated 55 percent of the West Bank's Palestinian population, or about 1.6 million people, lives in Area A.²¹ Taken together with Gaza, Palestinians currently only have control over about 5 percent of historic Israel/Palestine. The population density of Area A is about 4,200 per square mile.²²

Area B comprises 20 percent of the West Bank and has about 41 percent of the West Bank Palestinian population, or about 1.2 million residents. The population density in Area B is 2,800 per square mile.²³ Here Palestinians only have civilian zoning control, not security control—and often Israel is unwilling to provide police services.

Area C comprises the vast majority of the West Bank, about 62 percent. Population estimates vary widely between 150,000 and 300,000 Palestinians.²⁴ Additionally, approximately 400,000 Jewish settlers live in about 130 settlements in Area C, not including the 220,000 in East Jerusalem.²⁵ This vast area is rich in agricultural land and minerals, which the Palestinians need as a resource to build a state.

FIGURE 3. MAP OF AREAS A, B, AND C²⁶ AND POPULATION DENSITY IN THE WEST BANK²⁷



Because the vast majority of the Palestinian population of the West Bank is restricted to living on only 38 percent of the land in the West Bank, classified as "Area A" (18 percent of the land) and "Area B" (20 percent of the land), the population densities of these areas are far higher than in Israel, thus constraining Palestinian economic activity and driving up Palestinian land prices.

Formal de jure Israeli annexation of parts of the West Bank would represent a further grave threat to any two-state agreement. Annexation may take many forms. Under the Trump proposals released in January 2020, Israel would annex 30 percent of the territory in the West Bank, including the Jordan River Valley, eradicating the potential for a contiguous Palestinian state and effectively subjecting Palestinians to intensive Israeli controls on their movement and access through their own territory.²⁸

Even more limited forms of unilateral annexation, such as annexing all of Israel's settlements in the West Bank or just a few settlements that are likely to be part of Israel in a final agreement, endanger the prospect of a negotiated agreement and more immediate security and stability. Annexation, by contravening the Oslo Accords and imposing these intrusive controls as permanent features, could greatly threaten the stability of the Palestinian Authority itself. The Authority is a creation of the Oslo agreements, and it exercises authorities delegated by the Israeli military occupation authority, the Civil Administration. Negating the accords thus could undermine the entire structure of existing authority in the West

Bank and leave both Palestinians and the Israeli military operating in a dangerous vacuum.

Annexation would also undermine the basic commitment, first made by Israel beginning in 1978, that the fate of the West Bank should be determined via negotiations, and Israel's commitment in 1993 to negotiate territory and borders with the PLO. This might well spur the Palestinian leadership to advance further unilateral actions of its own. And annexation is a violation of a basic principle of international law since 1945, which opposes the acquisition of territory through force.²⁹ This principle is enshrined in U.N. Security Council resolutions (UNSCRs) that undergird Israel's existing peace treaties with Egypt and Jordan and previous negotiations with Syria.

None of these developments has taken place in a political vacuum. Israeli politics, which have favored the right since Likud's victory under Menachem Begin in 1977, have moved even further rightward over the past two decades. Government support for settlements has increased both in scale and in scope, evident in annexation efforts, calls to legalize settlements and outposts that according to Israeli law were illegally built, and declarations—such as



The Israeli settlement of Ma'ale Adumim is seen behind the Arab majority neighborhood of At-Tur in East Jerusalem. The Israeli government continues to pursue policies that subsidize life in the settlements compared with in Israel. (Chris McGrath/Getty Images)

those made recently by Netanyahu—that no settlement or settler will ever be evacuated in the future. Settler leaders have openly stated that their intention is to use building to prevent possible territorial contiguity for a future Palestinian state.³⁰ The refusal of some of Netanyahu’s coalition partners to accept the legitimacy of a Palestinian state or even Palestinian connection to the land also impairs the credibility of formal Israeli commitments to negotiate a resolution to the territorial conflict with the PLO.³¹ And they suggest to Palestinians that Israeli policies are an effort dedicated to their erasure, whether politically, historically, or even physically, making any peace agreement more difficult to achieve. These trends would be difficult to arrest in any environment, but that is particularly so when what would have been considered extreme 20 years ago is now the political norm.

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In addition, Israeli political dysfunction over the past two years has reached historic heights. Israel held three parliamentary elections in 11 months, and the unity government that was finally formed between Likud and Blue and White is wracked by disagreements, accusations of bad faith, and gridlock.

On top of this, Israeli democracy is experiencing unprecedented challenges. Netanyahu made history as the first sitting prime minister to be indicted on charges of official corruption in the exercise of his office.³² He will continue to serve while his trial on three separate criminal indictments takes place. As in other democracies, Israel is facing declining public trust in government institutions, heightened political polarization, more policy gridlock, political discourse that demonizes and delegitimizes opponents, and populist challenges to judicial oversight.³³ Against this backdrop, policies that impact the Palestinians and Israeli control of the West Bank that are illiberal or do not comport with democratic norms and the rule of law are far easier to carry out and justify, and more Israelis express in polling data that in a choice between Israel’s democratic nature and its Jewish nature, they prioritize its Jewishness.³⁴ This, too, reduces the credibility of any Israeli commitment to an outcome that enables equality, freedom, and security for all.

Palestinian Division and Political Dysfunction

A second major challenge is a divided Palestinian polity, with the Palestinian Authority/Palestine Liberation Organization—whose institutions are increasingly undemocratic and weak—and Hamas, which maintains its commitment to Israel’s illegitimacy and to violent resistance despite agreeing to a cease-fire agreement with Israel in August 2020.³⁵ This reality makes it harder for the Palestinian leadership to confidently pursue any future arrangement with Israel or make progress in preparing for statehood. The political division between the Palestinian Authority and its control of the West Bank on one side and Hamas and its control of Gaza on the other creates a massive obstacle for any Israeli-Palestinian negotiation. Without a single address for negotiations and a party that can speak on behalf of the Palestinian people, no agreement can be negotiated that will lead to any type of final resolution. Even a comprehensive agreement over the West Bank will not resolve the Israeli-Palestinian conflict.

Furthermore, attacks on Israel and refusal among some Palestinians to accept Israel’s legitimacy or connection to the land are an ongoing and implacable obstacle. Unlike the PLO, Hamas has never formally rejected terrorism or recognized Israel’s right to exist, and its stockpile of rockets, along with its refusal to disarm or forswear violence, makes it a consistent spoiler. The split means that Palestinian parties tend to prioritize internal competition with one another over any progress with Israel, creating incentives for a race to the bottom



A rocket hit in the village of Mishmeret, north of Tel Aviv, in 2019, damaging a number of houses. Many Israelis view attacks on Israel as evidence of Palestinians’ rejection of Israel’s legitimacy, which many Israelis view as the core problem of the Israeli-Palestinian conflict. (Faiz Abu Rmeleh/Anadolu Agency/Getty Images)

when it comes to struggle with Israel. Many Israelis view attacks on Israel and rejection of Israel's legitimacy as the core problem of the Israeli-Palestinian conflict, and it fosters Israeli suspicions that no negotiated agreement will bring peace.³⁶ This dynamic gives rejectionist and violent actors an effective veto over any prospect of diplomatic progress.

Since the Hamas takeover of Gaza in 2007, Palestinian parties have been in a stalemate. The PA insists on the principle of "one authority and one gun" and wants Hamas to disarm itself and give up control of Gaza as

Without a single address for negotiations and a party that can speak on behalf of the Palestinian people, no agreement can be negotiated that will lead to any type of final resolution.

any part of a reconciliation agreement between the two sides. Hamas views this demand as calling for complete surrender. It wants its voice included inside Palestinian governing institutions and political organs and an end to the blockade of Gaza. It is happy to give up some of the civilian and governing control of Gaza but insists on keeping its weapons. Numerous negotiation efforts, led primarily by Egypt, have failed to break the impasse and this division has fundamentally undermined the legitimacy of the Palestinian leadership with its people.³⁷

Meanwhile, this impasse also contributes to the erosion of Palestinian governing institutions in the West Bank. The PA has become less democratic with no elections for president since 2005, when Mahmoud Abbas was elected to a four-year term, and 2006, when the Palestinian Legislative Council (PLC) was last elected. In 2007, Hamas took over the Gaza Strip and exiled the Palestinian Authority to the West Bank. Since then, deep divisions between Hamas and the PLO, the separation of Gaza and the West Bank, and Israel's refusal to allow Palestinians in East Jerusalem to continue to vote in Palestinian elections have resulted in a defunct PLC and Abbas overstaying his term in office by more than 11 years.³⁸

Finally, the decay in democratic legitimacy of the Palestinian leadership and the crisis within Palestinian politics have also led the Palestinian Authority president and PLO chairman, Abbas, to govern in an increasingly autocratic and corrupt manner in recent years.³⁹ PA security services have acted to suppress independent civil society voices, PA judicial proceedings have been used to persecute perceived political rivals, and the lack of accountability for governing authorities has increased

corruption within the Authority itself.⁴⁰ Without addressing these governance problems, the Palestinian political leadership now resident in Ramallah will be challenged in garnering sufficient public support and unity to advance difficult compromises in the context of negotiations with Israel.

American and Israeli policies have only exacerbated the problems in Palestinian politics. The decision to sanction the Palestinians after Hamas won the legislative elections in 2006—elections the United States encouraged and pressured the parties to pursue—helped create

this deadlock in the first place.⁴¹

Washington's subsequent insistence on trying to negotiate a final status agreement between Israel and the PA with the hope that this would somehow solve Palestinian internal division

has so far been a failure. Meanwhile, Israel has openly opposed any political deal between Fatah and Hamas and has used its economic leverage over Gaza through the blockade to pressure Hamas and the PA, even as it negotiates with Hamas on prisoner trades, cease-fires, and relaxation of the closure restrictions.⁴²

A Deteriorating Economic and Humanitarian Situation, Especially in Gaza, and Disparities Between Israelis and Palestinians

The humanitarian and economic crisis in Gaza represents the direst emergency in the conflict, and crisis in Gaza regularly produces wider crises in the conflict. Yet, since the failure of the Wolfensohn agreement in 2007, the approach of the United States has been to give this ongoing, emergency-only intermittent attention, sufficient to tamp down extreme crisis when it emerges, without ever addressing its root causes.

About two million Palestinians live in the 141 square miles of the Gaza Strip, making it one of the most densely populated places in the world.⁴³ Nearly all of the drinking water in Gaza is below basic standards for human consumption. There is a severe lack of electricity, and the highest unemployment rate on earth, rising to as high as 53 percent in 2018.⁴⁴ And lack of freedom of movement has strangled the economy, with only 287 people per day, on average, able to leave Gaza.⁴⁵

Since 2007, civilians in Gaza and southern Israel have lived their lives under a perpetual cycle of violence that has resulted in numerous smaller confrontations and three major wars, the most recent of which killed 2,104 Palestinians and 72 Israelis.⁴⁶ As a joint report by the Center for a New American Security and the Brookings



A man disconnects a hose from his water truck after refilling at a water depot in Gaza City, Gaza. For the past 10 years, Gaza residents have lived with constant power shortages and deteriorating water quality. Under the blockade, movement of people and goods is restricted, and exports and imports of raw materials have been banned. (Chris McGrath/Getty Images)

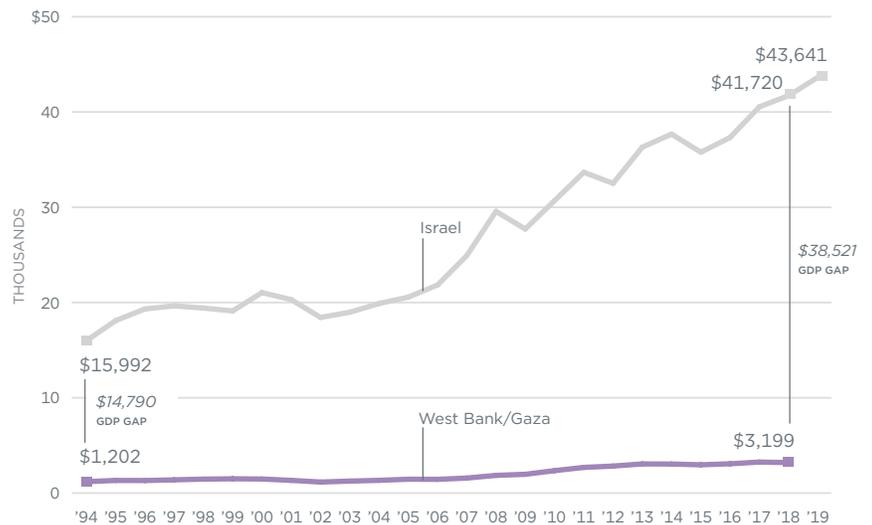
Institution in 2018 found: “ Hamas has repeatedly turned to violence to build political support in Gaza and apply pressure on Israel. Israel, with support from Egypt and, in recent years, from the Palestinian Authority (PA), has used a blockade to deter Hamas and deprive it of materiel. This dynamic has led to intermittent bouts of conflict. When the situation escalates, the international community has stepped in, led by Egypt and the U.N. Special Coordinator for the Middle East Peace Process (UNSCO), to negotiate fragile, temporary cease-fires and marginal economic relief for Gaza. After each conflict, however, no long-term resolution has been found for the severe differences between Israel, Hamas, the PA, and Egypt, and thus the pattern has repeated itself with no end in sight.”⁴⁷ The situation has become even worse under the Trump administration as the United States has cut off all assistance to the Palestinians, including the United Nations Relief and Works Agency for Palestine Refugees (UNRWA), which is the largest aid agency in Gaza and provides key services such as schooling and health care.⁴⁸

The challenges posed to the human development and economic welfare of Palestinians go beyond Gaza. For example, Israelis and Palestinians experience separate and unequal legal systems. In the West Bank,

Israelis enjoy full participation as Israeli citizens and are subject to Israeli civilian law, but Palestinians are subject to Israeli military law.⁴⁹ Ordinary crime and political crime by a member of one group against the other thus carry wildly disparate consequences depending merely on the nationality of the perpetrator. As former U.S. Ambassador to Israel Dan Shapiro said, “At times it seems Israel has two standards of adherence to rule of law in the West Bank—one for Israelis and one for Palestinians.”⁵⁰ According to recent reports, the Israeli Prison Services held 4,391 Palestinians for security offenses, including 458 in administrative detention without trial or with secret evidence, and enjoys a “conviction rate of almost 100 percent.”⁵¹

Israelis and Palestinians also experience vast gaps in wealth and opportunity. From 1994 to 2018, Israel’s gross domestic product (GDP) per capita increased exponentially (growing higher than that of countries such as France and Japan), while the GDP per capita of the West Bank and Gaza plateaued.⁵² In 2016, Gaza’s GDP per capita weighed in at roughly \$1,822, while the West Bank’s totaled \$3,689.⁵³ In comparison, Israel’s 2016 GDP per capita was roughly \$37,181.⁵⁴ Unemployment in Gaza reached 53 percent in 2018, while the unemployment rates in the West Bank and Israel were 18 percent and 4 percent respectively.⁵⁵ Today, the GDP per capita in Gaza and the West Bank combined is \$3,199, while it has further grown to \$43,641 in Israel.⁵⁶ The stark difference in the economies of Israel, the West Bank, and the Gaza Strip only exacerbates the divisions that make a two-state solution increasingly unlikely to come to fruition.

FIGURE 4. THE GAP BETWEEN ISRAELI AND PALESTINIAN GDP PER CAPITA CONTINUES TO GROW⁵⁷



Since the signing of the Israeli-Palestinian accords in late 1993, the gap between Israeli and Palestinian GDP per capita has grown from about \$15,000 to about \$40,000 today. As of October 2020, The World Bank has not yet reported GDP per capita in the West Bank/Gaza for 2019. Notably, the upward trend in Israel’s GDP per capita—and thus the gap between the two economies—continues.

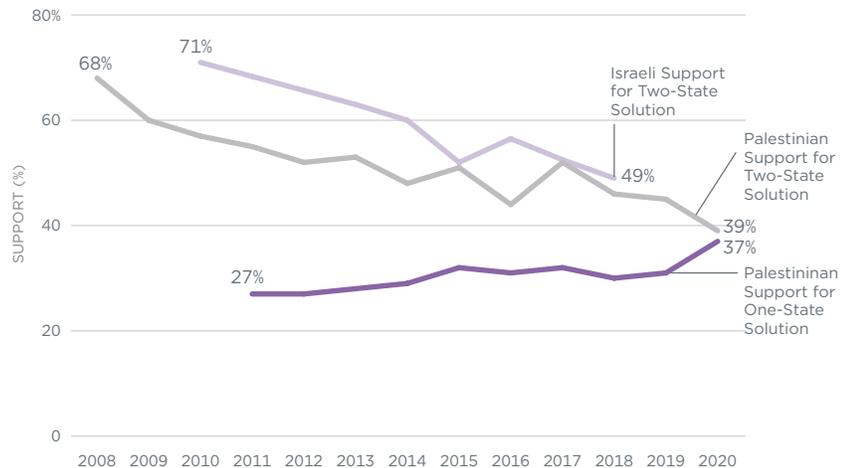
These vast differences are also visible in the negotiating room. Israel controls almost all of the elements and resources under negotiation, most notably the land. The authorities exercised by the PA, even with respect to its own population, are delegated to the PA by Israel. This structural advantage to Israel gives it tremendous leverage over the Palestinians, and it also means that the Palestinians have few tangible benefits they can offer the Israelis outside of an agreement that brings stability and peace. The main leverage Palestinians have in the negotiations is the ability to veto or boycott any arrangement that does not meet their minimum needs. The end result is a conflict that is in perpetual stalemate: Israel is disinclined to give up relative advantages it enjoys in exchange for a promise of peace that feels uncertain. The Palestinians refuse to accept a solution that does not meet their most basic needs. In the context of such an extraordinary power imbalance, U.S. and international policymakers face the challenge of how to help Israel and the Palestinians to negotiate a fair and durable solution.

Hardening Israeli and Palestinian Public Attitudes

The Israeli and Palestinian publics have both become increasingly skeptical of the viability of a two-state outcome in the 27 years since Oslo. Palestinian support for the two-state solution has been dropping steadily since 2008, and in 2020 reached its lowest point, with only 39 percent of Palestinians supporting two states.⁵⁸ In fact, Palestinian support for a two-state solution has declined so much that it is nearly equivalent to Palestinian support for one binational state, which has increased from 27 percent to 37 percent over the past nine years.⁵⁹ Israeli support for a two-state solution has also reached an all-time low, with only 43 percent of Israeli Jews supporting two states, compared with 53 percent in support in 2016.⁶⁰

On the Israeli side, this lack of support for two states is part of a rightward shift in Israeli politics. Netanyahu is now the longest-serving leader in Israel's history, and his own Likud party has in the past few years embraced previously extreme positions such as unilateral annexation. The Israeli left-wing parties of Labor and Meretz that were previously the vanguard of the peace movement hold only six seats combined, while centrist parties

FIGURE 5. FEWER ISRAELIS AND PALESTINIANS SUPPORT THE TWO-STATE SOLUTION⁶¹



There has been a steady decline in both Israeli and Palestinian support for the two-state solution, alongside increasing support among Palestinians for one democratic state with equal rights for all. Today, among Palestinians both the two-state solution and the one-state solution have essentially the same level of support in statistical terms.

such as Yesh Atid formally continue to support negotiations and two states but do not prioritize the issue. The change in political views in Israel been largely driven by the belief that there is no credible partner on the other side after the failure of Camp David, the violence of the Second Intifada, and the Hamas takeover of Gaza.⁶²

On the Palestinian side, there is an increasing lack of confidence in pursuing any kind of a negotiation because of the view that Israel will simply use it to buy time while continuing to change facts on the ground by building settlements and further perpetuating the occupation.

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Even confidence-building measures, such as plans by Israel that emphasize improving economic conditions in the Palestinian territories, are viewed suspiciously as delay tactics given that the Oslo process was expected to yield a Palestinian state more than 20 years ago.⁶³ This skepticism has also been manifested in the anti-normalization movement that seeks to stigmatize and penalize Palestinians who engage with Israel. Finally, this skepticism extends to agreements that are rooted, as

the Oslo Process was, in gradualism: timelines or conditions-based criteria for changes on the ground.

This leaves Israelis and Palestinians stalemated on how to overcome mistrust and build confidence in one another in the context of efforts to end the occupation and resolve the conflict. Leadership that is disinclined to diplomatic reengagement further reinforces all of these negative trends. Netanyahu and Abbas are both notoriously risk-averse individuals who reflect the politics in their societies more than they try to change them.⁶⁴ Both are more focused on their own political survival than on engaging the other, and see engagement with the other as likely to carry more risk than reward. They also have a terrible personal chemistry.⁶⁵ The end result is that, in this environment and with these leaders, any effort to reconvene negotiating efforts is unlikely to lead to progress and will more likely further cement skepticism and violence.

CHAPTER 2

The American Role as It Stands Today

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Any assessment of U.S. policy must also start with an examination of the track record of the United States and the constraints that American policymakers are likely to face going forward. This chapter examines five key realities about the American role in Israeli-Palestinian peacemaking that the new administration must face in constructing a new approach: (1) Addressing the Israeli-Palestinian conflict remains in the interest of the United States; (2) The issue is unlikely to receive the same level of prioritization as it has in previous administrations; (3) The Trump administration has fundamentally undercut the U.S. role in Israeli-Palestinian peacemaking; (4) Even before Trump, U.S. policy was largely failing; and (5) Shifting politics inside the United States are making this issue more partisan but also creating potential opportunities for new approaches.

Addressing the Israeli-Palestinian Conflict Remains in the Interest of the United States

The United States has an interest in strong relations with Israel and with the Palestinian people, independent of the Israeli-Palestinian conflict.

Israel is an important American partner in the Middle East and on issues that go beyond the region. Israel generally shares a worldview and similar strategic goals with Washington. The length and depth of the relationship benefit both sides in the spheres of security, economy, and technology. There is also a strong shared sense of values emanating from American political culture that tends to favor democratic governance. Finally, religious narratives tied to the Holy Land reinforce the interest of the American public, have a particular resonance with the evangelical community, and have resulted in deepening ties between Israel and this large American constituency. Nevertheless, the persistence of the Israeli-Palestinian conflict undercuts the larger U.S.-Israel bilateral relationship. American public support for Israel is in large part predicated on a view of Israel as a democracy that embodies not only democratic governance but democratic values.⁶⁶ Israeli policies toward the Palestinians and Israel's continued military occupation of the West Bank and blockade of Gaza cause friction with the United States, making support for Israel more difficult to maintain. The prospect of annexation making such features of Israeli governance in the West Bank and/or Gaza permanent could further erode American public support for the U.S.-Israel relationship.

The U.S.-Palestinian relationship is far less developed than the U.S.-Israel relationship and has traditionally been viewed through the lens of the Israeli-Palestinian conflict. Still, the ties are long-standing, and prominent Americans, including public officials, were actively engaged in Palestinian welfare and aspirations for statehood since the early 20th century. The U.S. consulate in Jerusalem was established in the 1800s and served, until its closure in 2019, as a vehicle for direct communication between the United States and the Palestinian people. The United States has built up a strong security partnership with the Palestinian security services and a joint U.S.-Palestinian economic dialogue was launched during the Obama administration. Going forward, there is the potential for the United States and Palestine to develop deeper bilateral ties outside of the peace process, ties that would be mutually beneficial to both and allow for the United States to play a more constructive role on Israeli-Palestinian peace.

The United States became directly engaged in Arab-Israeli peacemaking for reasons of geopolitical interest: to impede Soviet penetration into the region; to forestall Arab-Israeli interstate wars that destabilized the region as well as superpower relations; and to cement a U.S.-led regional order. Today, the Israeli-Palestinian conflict does not drive regional geopolitical dynamics in

American public support for Israel is in large part predicated on a view of Israel as a democracy that embodies not only democratic governance but democratic values.

the way it once did, and does not serve as a core vector for Russian, Chinese, or other great-power engagement in the region. Israel shares regional interests with major Arab states that have nothing to do with Palestine. Whereas in the 1970s through the 2000s, the Middle East was a, and sometimes the, preeminent arena for American diplomatic and military engagement, today America's global priorities are challenges in Asia and Europe, as well as urgent domestic renewal.

The 27 years since the Oslo Declaration in 1993, for better or worse, restructured a conflict that had previously resulted in major wars in every decade since 1948. The Palestine Liberation Organization's 1988 declaration that it accepted the two-state solution, the 1991 Madrid Peace Talks, and the Oslo Declaration shifted the Israeli-Palestinian conflict from an existential war between two



U.S. President Bill Clinton watches as Israeli Prime Minister Yitzhak Rabin shakes hands with Palestinian leader Yasser Arafat after the signing of the Oslo Accords in 1993. (MPI/Getty Images)

national movements with mutually exclusive claims to a political conflict between two entities, Israel and the PLO, that recognized each other as their only legitimate partners in resolving the conflict through negotiations.

These 27 years saw periods of military conflict and terrorist violence against both Israeli and Palestinian civilians, continuous Israeli expansion of Jewish settlements and the Jewish population in the West Bank, and severe restrictions on the ability of Palestinian residents of the West Bank and Gaza to live lives free of structural violence. And still, throughout this period, the establishment of a Palestinian Authority with limited governance over Palestinians and the vision of a negotiated two-state solution at least formally embraced by both sides and by the United States also generated a degree of stability in relations between Israelis and Palestinians. Violence and the injustice of occupation, in which about five million people lack either citizenship or self-determination, are daily features of this stalemated conflict. And yet, we cannot know how much the erosion of those structural features of the Oslo framework may destabilize the relationship between the two sides, or the dynamics between the two populations on the ground.

A relapse of the Israeli-Palestinian conflict into existential nationalist or religious conflict would involve an escalation that might easily move beyond the narrow territorial confines between the Jordan River and the Mediterranean Sea. It would threaten the stability of the Kingdom of Jordan, a key U.S. partner in regional stability and the fight against terrorism. It would add fuel to the recruiting and mobilization efforts of extremists and

terrorists across the region. It would open new avenues for foreign influence and disruption. And as the conflict spiraled, it would, as it has before, complicate the ability of the United States to work with its chosen partners in the Middle East on behalf of common objectives, including urgent ones such as Iran's nuclear program.

For all these reasons, the United States cannot afford a relapse in the Israeli-Palestinian conflict. And yet, with the exhaustion of the Oslo framework, the fracturing of the Palestinian polity between the West Bank and Gaza, the expansion of the settlement project, the incipient Israeli plans to annex territory in the West Bank, and the Trump administration's overturning of American support for a mutually agreed solution, that prospect seems near indeed. It is therefore imperative that the United States recommit itself to a sustained policy effort to manage this conflict and move it toward resolution. Progress on this front will not only make the overall bilateral relationship healthier but contribute to stronger cooperation on regional security issues.

The Israeli-Palestinian Conflict Is a Lower U.S. Priority Than It Was in the Past

During the period when Israelis and Palestinians were presumed to be actively engaged in the work of negotiating a final peace agreement, successive U.S. administrations gave the issue high priority. From the revelation of the Oslo Declaration to the Clinton administration in the summer of 1993 through the final days of his time in office, President Bill Clinton personally engaged and invested his time in the issue. George W. Bush's administration came in promising a more "hands-off" approach to the conflict but still ended up pursuing a high-profile initiative around the Road Map for Peace in 2002–2003, and Secretary of State Condoleezza Rice dedicated significant time and effort to the Annapolis process in 2007–2008, which she personally spearheaded.⁶⁷ President Barack Obama also made the Middle East peace process one of his administration's early foreign policy priorities. One of Obama's first White House calls to a foreign leader was with Abbas.⁶⁸ On Obama's second day in office, he appointed former Senate Majority Leader George Mitchell as his special envoy, signaling the importance of this issue.⁶⁹ After Obama's initial efforts failed to yield major progress in his first term, he reduced his focus on the issue, but it still remained an American priority, with Secretary of State John Kerry making the Israeli-Palestinian file one of his top early areas of focus.⁷⁰ The Trump administration signaled its prioritization of this issue by assigning it at the outset to Jared Kushner—the president's son-in-law

and arguably closest advisor. Trump also appointed a U.S. ambassador to Israel, David Friedman, and special envoy, Jason Greenblatt, who both had deep personal ties to the president.

This pattern is unlikely to be repeated with the new U.S. administration, as the Israeli-Palestinian peace process will not have the same level of priority as it did in previous administrations. The COVID-19 crisis and the global health and economic shocks it has wrought, combined with the increasing focus on competition with China, will make the Middle East region as a whole a less important priority in Washington. Moreover, in the wake of the Arab uprisings and civil wars of the past decade, the Israeli-Palestinian conflict has become less of a driver of regional politics than it once was. And the long record of American failures and frustrations with the Israeli-Palestinian conflict are also likely to deter a new administration from immediately prioritizing this issue the way previous administrations have done. Early high-profile actions such as announcing a high-level presidential envoy, concerted shuttle diplomacy by the secretary of state, or significant engagement by the president are unlikely—and might even be counterproductive, an issue we discuss further in Chapter 5. And yet, because the conflict still matters to the United States for both positive and negative reasons, it is urgent and essential to configure a new American approach that can address the realities of the current stalemate, learn the lessons of previous failures, and lay the foundations for a better future.

The Trump Administration Undercut U.S. Effectiveness as a Mediator

The Trump administration's policies have overturned principles that undergirded all previous Israeli-Palestinian diplomacy, prejudged disputed issues in Israel's favor, badly damaged America's relationship with both the Palestinian people and political leadership, isolated the United States internationally, and therefore fundamentally undercut America's role as the key mediator in the Israeli-Palestinian conflict. The decision to move the U.S. embassy from Tel Aviv to Jerusalem, alongside the U.S. recognition of Jerusalem as Israel's capital without reciprocal steps toward the Palestinians, ruptured any hope the Palestinians had for a constructive relationship with the Trump White House. Indeed, it has



White House Senior Advisor Ivanka Trump and U.S. Treasury Secretary Steven Mnuchin attend the opening of the U.S. embassy in Jerusalem on May 14, 2018. The decision to move the U.S. embassy from Tel Aviv to Jerusalem, the subsequent U.S. recognition of Jerusalem as Israel's capital without reciprocal steps toward the Palestinians, and the closure of the PLO mission in Washington ruptured the U.S.-Palestinian relationship. (Lior Mizrahi/Getty Images)

been nearly three years since that decision, and in that time the Palestinians have refused to engage with the United States at the highest political levels with the exception of CIA engagement with Palestinian security officials.

The Trump administration also pursued a number of other measures that harmed the Palestinians. It cut off U.S. financial assistance to the United Nations Relief and Works Agency for Palestine Refugees, which is the most important health and education service provider to millions of Palestinians, most notably in Gaza where there is no substitute to UNRWA. An assistance review forced the United States Agency for International Development (USAID) to suspend all potential projects in the West Bank and Gaza as well.⁷¹ In 2019, the Palestinian Authority rejected all remaining U.S. security assistance (totaling over \$60 million) in order to avoid billions of dollars of potential liability as a result of congressional passage of the Anti-Terrorism Clarification Act (ATCA), though the link between U.S. foreign assistance and U.S. civil liability has since been addressed through new legislation.⁷² Remarkably, many of these steps were taken despite quiet Israeli concern that they might destabilize the situation inside the Palestinian territories.⁷³

The Trump administration has also essentially cut off diplomatic ties to the Palestinians. It closed the PLO

mission in Washington by refusing to provide the waiver required under U.S. law that successive administrations had granted to keep the office open. And the administration closed the U.S. consulate in Jerusalem, which had acted as the mission to the Palestinian people and leadership since 1844, instead subsuming American engagement with the Palestinian people and their leadership under the authority of the American ambassador to Israel.

The Trump administration's unsolicited recognition of Israeli sovereignty in the Golan Heights, weeks before the April 2019 Israeli elections, was widely seen as interfering in the Israeli political campaign on behalf of Netanyahu.⁷⁴ While the United States cannot expect Israel to hand back the Golan Heights to Syria at a time when the country is still in the midst of a civil war, U.S. recognition of Israeli sovereignty on the Golan set a precedent for the Israeli bid to annex West Bank territory. It also conflicts with the international law principle that rejects the acquisition of territory by force, which has been a central component of United Nations statements and decisions on the Arab-Israeli conflict that are referenced in the Egypt-Israel and Jordan-Israel peace treaties.

The Trump administration also reversed long-standing U.S. policies and legal opinions objecting to Israeli settlement construction. Most notably, in late 2019, Secretary of State Mike Pompeo announced that a State Department legal opinion that settlements were "inconsistent with international law" would no longer be followed by the United States.⁷⁵

The biggest blow to America's credibility as a mediator of Israeli-Palestinian negotiations came with the unveiling of the Trump administration's peace plan in January 2020. The plan, which was developed with no consultation with the Palestinian leadership, adopts a version of the Israeli position on every one of the most sensitive issues that are supposed to be resolved through negotiations between the parties. It includes a map that envisions Israeli annexation of 30 percent of the West Bank, including the entire Jordan River Valley, and permanent Israeli sovereignty over every Israeli settlement, with the possibility of later land swaps that include large swaths of Israeli territory in the Negev desert and even communities populated by Palestinian citizens of Israel. This position contrasts sharply with previous maps that saw Israel acquire permanent sovereignty over anywhere from 2 percent to 7 percent of West Bank territory, in exchange for Palestinian sovereignty over equivalent territory west of the Green Line.⁷⁶ A Palestinian "state" would be declared in a series of dozens of noncontiguous

enclaves, should the Palestinians meet a series of benchmarks after a negotiation. Palestinian movement between their territorial islands, and all their access to the outside world, would be subject to Israeli control.⁷⁷ Thus, the Trump plan does allow for a "Palestinian state," but it is a state in name only without any of the traditional attributes that make up a state.

These Trump administration policies have fundamentally altered the U.S.-Palestinian relationship and abandoned America's previous coordination with regional and international actors, and thus undermined America's ability to play a constructive role in resolving the Israeli-Palestinian conflict.

The Trump plan includes Israeli security control and presence inside a Palestinian state in perpetuity, as opposed to previous plans that tried to strike a balance and address Israel's security needs while still enabling Palestinian sovereignty. The plan offers Palestinians no parts of what the Palestinians traditionally define as East Jerusalem for their capital and keeps the Old City entirely under Israeli control. It provides no clear mechanism for compensation for Palestinian refugees or even a symbolic right of return, and also goes so far as to suggest that hundreds of thousands of Palestinian citizens of Israel be made part of the new Palestinian entity against their wishes.

This one-sided proposal was rejected swiftly by the Palestinians and by a wide range of international actors who play major roles in Israeli-Palestinian relations and in peace diplomacy.⁷⁸ The Trump proposals thus left the United States isolated internationally, while emboldening Israeli annexation plans.

These Trump administration policies have fundamentally altered the U.S.-Palestinian relationship and abandoned America's previous coordination with regional and international actors, and thus undermined America's ability to play a constructive role in resolving the Israeli-Palestinian conflict. Palestinian faith in the United States is at an all-time low. A poll by the Palestinian Center for Policy and Survey Research that came out even before the Trump plan was released showed that 90 percent of Palestinians viewed Trump as biased against them.⁷⁹ A new administration that wants

to play a constructive role in addressing this conflict will not be able to simply wipe the slate clean on day one, but will have to spend significant effort undoing many of these actions and rebuilding basic trust.

Even Before Trump, U.S. Policy Was Failing

Simply overturning Trump’s damaging policies and restoring previous U.S. policies would ignore the reality that those U.S. policies of the past 30 years have largely failed to advance Israeli-Palestinian conflict resolution. Clinton devoted tremendous effort to solving the conflict, only to have talks fail at Camp David in 2000. His successor, President George W. Bush, began his administration with a “hands-off” approach to the conflict, and as his presidency progressed he pursued a number of initiatives that failed to bring progress.⁸⁰ The Road Map that Bush released in 2003 failed to move the parties forward, and the decision to encourage elections in the Palestinian territories and then sanction and isolate the Palestinian Authority when Hamas won helped cement the split in Palestinian politics that still prevails today. Bush also made a late effort during the Annapolis process that failed to make a major breakthrough. Obama came to office determined to make progress on this file, but after getting Israel to implement a moratorium on settlement construction in the West Bank, the situation quickly collapsed after Palestinians spent eight of the nine months of the moratorium refusing to engage because it was not a full settlement freeze. Israel refused to renew the moratorium. Later in the Obama administration, Kerry made an effort to negotiate a final-status agreement, which also

failed and, in the end, resulted in Palestinian prisoner releases, expanded Israeli settlement activity, and an ugly conflict in Gaza.

This fixation on concluding a “conflict-ending agreement” has had a number of unfortunate consequences. Administrations have been so focused on final status negotiations that they ignored the daily price of the conflict paid by Israelis and Palestinians, especially the latter. The ongoing diplomatic efforts allowed U.S. officials to overlook acts that undermined the goal of peace, by labeling the problems they created temporary in nature, pending a final agreement. The focus on achieving an agreement led American officials to devalue the significance of the deteriorating situation on the ground. This has been especially true of the lack of focus on Gaza in recent years, even as the situation has devolved into a full-blown humanitarian crisis. U.S. administrations have made Israeli-Palestinian peacemaking an almost exclusively American affair, effectively boxing out all other international actors, including even those who could play a constructive role. The United States has failed to hold Israel accountable or shift Israeli behavior, most notably on the question of settlement expansion. And it has also failed to hold Palestinian leadership accountable for increasingly undemocratic tendencies while making things even worse by, with rare exception, actively opposing any effort to end the split in Palestinian politics. The bottom line is that U.S. policy failed in myriad ways before Trump, and a return to the status quo ante does not promise any improvement.

U.S. Domestic Politics on the Israeli-Palestinian Conflict Are Shifting

The volatility and polarization in American politics, and the entanglement of the U.S.-Israel relationship in American partisan politics, also present substantial obstacles to a consistent and constructive American policy toward the Israeli-Palestinian conflict. The polarization over Israel that has been evident in U.S. politics in the last decade or so, particularly in Congress, is in part a function of the policy vacuum that has existed since the Oslo process lost steam after the failed Annapolis negotiations in 2008. A revitalized U.S. policy rooted firmly in clear, compelling American interests should help to tamp down, at least somewhat, the tendency of U.S. interest groups on the right and left to make their own political hay out of the issue without regard for the impact on those living with the conflict on the ground. Improving the conditions for Israeli-Palestinian peacemaking and advancing freedom, security, and dignity for both peoples should be consensus goals in American domestic



U.S. Secretary of State John Kerry delivers a speech on the need for a two-state solution at the U.S. Department of State on December 28, 2016. (Zach Gibson/Getty Images)

politics—but it will take work by the new American president to build that consensus and manifest it in policy.

Throughout the period of the Oslo process, there was broad bipartisan agreement on supporting the U.S.-Israel security relationship, funding the development of Palestinian society and governing institutions, and advancing a two-state solution to the conflict. There was also no political support for applying pressure on Israel in Congress, while there was regular pressure for conditionality on support for the Palestinians. This asymmetry, which was mirrored in the executive branch, had the U.S. government not exercising much leverage over one of the parties and constrained by inflexible forms of leverage over the other.

The domestic political environment facing U.S. policy on this conflict is quite different now. First, the long stalemate in the conflict has shifted opinion in specific sectors of the American public. News coverage is more likely to offer images of conflict than images of reconciliation, heightening perceptions of the conflict as intractable. Data from the University of Maryland suggests that, increasingly, African American and Latino voters, and younger voters, see the conflict through a human rights lens, therefore raising their concerns about Israeli policies that are perceived as collective punishment, like house demolitions and the tight controls on the movements of people and goods in and out of Gaza.⁸¹ While Americans still view Israel as a valuable strategic asset for the United States, and feel positively toward Israeli and Palestinian peoples, significant portions of Americans from both political parties feel unfavorably toward the Israeli government, the Palestinian government, or both.⁸²

Most important to exacerbating the polarization of U.S. public opinion on the Israeli-Palestinian conflict has been the willingness of Netanyahu to insert himself

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into U.S. domestic politics, beginning with his warmth toward Mitt Romney's presidential campaign in 2012.⁸³ Netanyahu's decision to give an address to Congress directly opposing Obama's Iran policies in the midst of the negotiations on the Joint Comprehensive Plan of Action (JCPOA) in 2015 had major implications for how Democrats (including Democrats serving in Congress) view Netanyahu, and Israel more broadly.⁸⁴ At the same time, Netanyahu cultivated ties with Republican candidates and officials and with the American political right, especially with white evangelicals, who are a strong Republican voting constituency.⁸⁵ Netanyahu and Trump have used their relationship with each other as validation to key domestic constituencies—Netanyahu using Trump's policies on the Golan, Jerusalem, and annexation to win support among right-wing Israeli voters, and Trump using Netanyahu to defend himself against charges of stoking anti-Semitism in the United States and for validation with the Republican evangelical constituency.⁸⁶

The partisan polarization over Israel, and the Israeli-Palestinian conflict, is also a function of the overall political polarization in the country, in a way that is visible across issues: If Trump makes a statement or takes an action favorable to Netanyahu and his allies, Democrats react negatively to that statement or action, and the same is true on the other side. This deepening partisan divide in American domestic politics has been evident in polling. While more than 80 percent of Democrats supported a neutral U.S. role in the conflict in 2018, there was an increased Republican push for the United States to side exclusively with Israel.⁸⁷ It is important to note that U.S. politics on this issue are not much driven by overall public opinion, because this issue is not a high priority for most of the public. But as polarization has increasingly colored the U.S. public discussion of Israel-Palestine, politicians' positions on the issue are becoming signals to their constituencies of their wider commitment to conservative or progressive values.⁸⁸

The extreme polarization creates a set of complex domestic and foreign policy calculations for the new administration. There is still overwhelming bipartisan support for the U.S.-Israel security relationship, but support for two states has become more of a dividing issue among Democrats and Republicans. In the House of Representatives, 116 Republicans signed a letter in support of annexation and the Trump plan, while 191 Democratic members signed a letter opposing annexation and supporting two states.⁸⁹ A small but growing minority of Democrats is willing to take tougher action.



U.S. Secretary of State Mike Pompeo addresses the Republican National Convention from Jerusalem in a prerecorded video on August 25, 2020, drawing criticism for using official diplomatic travel in an election year to make a political statement. (Photo courtesy of the Committee on Arrangements for the 2020 Republican National Committee via Getty Images)

A number of Democratic senators and members of Congress now support policies that oppose any U.S. security assistance to Israel going to support annexation.⁹⁰ A very small minority of Democrats, led by Bernie Sanders, has gone even further in calling for cutting U.S. security assistance to Israel.⁹¹ Without progress in the Israeli-Palestinian relationship, and/or changes in Israeli policy toward the conflict, these calls for conditionality are likely to grow.

The bottom line is that the United States today is hampered in its ability to help the parties bridge that gap by the polarization in its own domestic politics and the way this issue has become a political football on Capitol Hill, where Congress is increasingly inserting itself with legislation more reflective of the U.S. domestic political context than of the trends in the conflict. At the same time, the intensifying debate inside the United States has led to greater space to air new ideas that could be part of a solution in the future.

CHAPTER 3

Addressing Pressing Issues That Threaten Any Possibility of Progress

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During the early months or first year of Joe Biden's administration, the United States should tackle a series of pressing issues that threaten any possibility of progress in addressing the conflict and in the United States playing a constructive role. These steps should include:

- State early on key principles that will govern U.S. policy, including insistence on equal measures of freedom, security, and prosperity for all Israelis and Palestinians; a commitment to a negotiated two-state solution as the commonly understood, agreed, and best path to self-determination for all; and recognition that while a final agreement can only come from negotiations between the parties, now is not the time to resume negotiations.
- Repair American credibility as a mediator by restoring relations with the Palestinian people and political leadership through actions such as statements that make clear that Jerusalem is a final status issue to be negotiated by the parties; reopening the U.S. mission to the Palestinians and the PLO mission in Washington; and restarting economic assistance, including assistance to UNRWA.
- Significantly improve the humanitarian and economic situation in the Palestinian territories—both Gaza and the West Bank—by prioritizing freedom of movement, water, and electricity.
- Address the issue of official payments to Palestinian prisoners and/or families of those convicted by Israel by incorporating welfare payments into the existing social welfare system and eliminating compensation associated with conviction for violent crimes.
- Deter—and, if possible, roll back—settlement expansion and annexation by expressing unambiguous opposition, reversing Trump administration policies and legal opinions that loosened objections to settlements and eroded distinctions in American law and practice between Israeli and West Bank territory; and by making clear to Israel that the United States will not shield Israel from international consequences for its settlement policies.
- Reaffirm parameters for a final resolution of the conflict that were outlined by U.S. presidents prior to Trump but make clear that these are a vision for the future and that the United States is not restarting a major push on final status negotiations.

Restate Objectives and Basic Principles

Before laying out and implementing a new American policy agenda for the Israeli-Palestinian conflict, the new administration will need to state the core principles upon which its policy agenda will be based, as well as its key objectives. This approach will serve as a road map for U.S. policy on this issue, replacing the dead-end approach of the Trump proposals from January 2020. A U.S. statement of principles will signal to Israelis, Palestinians, and other regional actors that U.S. policy is shifting—not by returning to previous failures but by asserting the importance of tenets long embraced by the parties and the international community as a foundation for diplomacy.

One of the notable hallmarks of the Trump administration's early policy efforts was a conviction that the “ultimate deal” should be pursued, but a public agnosticism over what that deal should look like. While the administration's eventual destination was not surprising, Trump's early comments claiming no preference between one state or two states unnecessarily muddied the waters. A clear set of principles will provide guidance throughout the administration and shape the interagency process, particularly in a period when the Israeli-Palestinian conflict is not on the front burner for the president or secretary of state.

Such a statement should start with an articulation of these objectives for U.S. policy:

- Prevent conflict and preserve the stability and security of U.S. partners.
- Promote freedom, security, and prosperity, for all people living between the Mediterranean Sea and the Jordan River, both in the immediate term and in a final agreement.
- Preserve and advance the vision of a negotiated solution between Israelis and Palestinians that brings about a mutually agreed end of conflict.

To support these three objectives, the United States should also articulate core principles that take account of the fundamental reality: that the conflict is nowhere near close to a diplomatic resolution. That means that debating the outcome of such a resolution is less important than creating the conditions for successful negotiations to resume and creating the conditions to address the deep inequities and injustices that the ongoing conflict creates and that the United States, in its quest for a conflict-ending agreement, has sidelined for too long.

Principle 1: The only path to a lasting, peaceful resolution of the conflict is through negotiations. Since the advent of negotiations between Israel and the Palestine Liberation Organization that culminated in the Oslo Accords, the notion that direct talks between the sides will lead to a permanent status conflict-ending agreement has come under increasing strain. The two sides failed to reach an agreement on multiple occasions, from Camp David in 2000, to Annapolis in 2008, to the last time negotiations were held between the two sides under American auspices in 2013–14. A frequent refrain from Israeli leaders is that no Palestinian partner exists on the other side, while a frequent refrain from Palestinian leaders is that Israelis only want to negotiate in order to draw out talks and maintain the status quo indefinitely.

Both sides have increasingly used unilateral measures as a way of imposing outcomes on the other and pressuring the other into compromise. The most serious of these are Israeli plans to annex parts of the West Bank and the daily creeping annexation of settlement growth. Together, these actions undermine Israel's commitment via signed agreements to negotiate borders with the PLO; instead, these actions unilaterally establish sovereign borders for Israel that it hopes will be recognized by the United States. Palestinian measures at the United Nations and other international institutions, such as the International Criminal Court, are less powerful in their ability to impose outcomes because of the fundamental asymmetry of the conflict, but are likewise intended to coerce changes in Israeli policy. The momentum on both sides has been away from negotiations and toward alternative paths to accomplish their respective goals.

Given these realities, the United States should be under no illusions about the prospects for success should negotiations for a final agreement resume and should, in fact, not attempt to force the parties together while the environment for such negotiations remains so poor. Whether or not negotiations are a sensible step in the short term, they remain the only way to create a lasting and durable agreement that will resolve the conflict. The clearly stated policy should be that negotiations are the only acceptable mechanism for conflict resolution. The United States should be clear in its opposition to unilateral steps as a substitute for negotiations or as a means to coerce the other party into or within negotiations.

This does not mean that negotiations must be held in order to solve every issue that crops up, nor does it exclude certain independent measures intended to create a more stable situation on the ground. Indeed, the United States can work independently with both sides, or work with them together, to generate smaller-scale agreements

or reciprocal steps to improve their relationship in various domains such as water, electricity, or freedom of movement. Such efforts would improve the situation on the ground and improve the environment for future negotiations on a final settlement.

Principle 2: There must be a commitment to work toward equal measures of freedom, security, and prosperity for all the people living between the Jordan River and the Mediterranean Sea today—not just toward a conflict-ending agreement. Traditionally, U.S. policy has focused so heavily on achieving a future two-state agreement that it has neglected many of the day-to-day costs of the conflict. Palestinians' freedom, security, and prosperity are severely circumscribed by their statelessness, by the features of the Israeli occupation of the West Bank, and especially by the closure of Gaza. Israelis and Palestinians also suffer from the violence of the conflict: the blockade of Gaza and the occupation of the West Bank; military raids, incursions, air strikes, and home invasions; rocket and missile attacks, improvised explosive devices (IEDs) and incendiary devices, kidnappings, stabbings, and other forms of terrorism. The American fixation on a conflict-ending agreement has devalued these costs of the conflict as temporary bumps on the road to peace; in fact, these ongoing costs have undermined public willingness to sustain negotiations that do not produce concrete improvements in daily life and have induced cynicism about a distant political horizon that leaves those living with the conflict mired in suffering in the meantime.

More priority and energy in American policy must be put toward addressing the actual costs of the conflict and the constraints to freedom, security, and prosperity for all on the ground. An early articulation of this commitment will make clear to both sides that the United States is not going to remain fixated on theoretical negotiations but will take its own steps, and expect the parties and the international community to take steps, to alleviate the humanitarian crisis in Gaza; increase freedom of movement for Palestinians; end home demolitions, land confiscation, and settlement expansion; expand Palestinians' ability to use land in the West Bank; make Palestinian governing institutions more transparent, accountable, and effective; and end violence and incitement.

Principle 3: A two-state outcome is the best path. The two-state outcome remains the most effective way for both Israelis and Palestinians to realize their shared goals of lasting peace, freedom, security, prosperity, and national self-determination. It is also the only approach around which there is an international consensus—and

it remains the objective to which both the Israeli and Palestinian leaderships are formally committed, despite contrary actions and sagging support among populations that have lost faith in its likelihood. Notwithstanding the Trump administration's early professed agnosticism surrounding two states, even the Trump Peace to Prosperity plan was nominally structured as a two-state outcome (though the terms were so unbalanced as to resemble subjugation rather than sovereignty).

That said, the prospect of a two-state outcome is threatened by the trends described in Chapter 1 and by the weakening commitment of Israeli and Palestinian leaders to it. Netanyahu has openly promised political supporters that no Palestinian state will be enacted on his watch, regardless of his commitment to the United States in favor of a two-state

outcome.⁹² While the Palestinian Authority is more vocal in its continued support for two states, Palestinian public opinion is moving in a different direction as doubts grow that such an outcome is still possible. An unambiguous embrace of two states by a U.S. administration could serve as an important constraint on both sides, shoring up declining public confidence in a two-state approach while tamping down Israeli policies that would make such an outcome more difficult.

Prudence dictates that the United States should prepare for the possibility of a different outcome. We review alternative pathways in Chapter 5. But there should be no ambiguity that a two-state outcome remains the U.S. objective, as embraced by administrations from both parties and a majority of Congress.



Palestinian President Mahmoud Abbas holds up U.S. President Donald Trump's Vision for Peace map while speaking at the United Nations Security Council on February 11, 2020, in New York City. Trump's proposals break with the broad international consensus on the nature of a two-state solution and are nonstarters for the Palestinians. (Spencer Platt/Getty Images)

Rebuilding Relations with Palestinians

To reset the relationship with the Palestinian people and its leadership, the United States should take early and immediate steps to undo a number of measures put in place by the Trump administration. Without these steps, the United States will simply be unable to engage effectively with one side of the conflict.

Support capitals for both Israel and Palestine in Jerusalem. An important step will be undoing the damage done by moving the U.S. embassy to Israel from Tel Aviv to Jerusalem without any recognition of Palestinian claims to Jerusalem, and while telling media that the move was to remove the status of Jerusalem as an issue for negotiation in a final agreement. Repairing this error does not require moving the embassy back to Tel Aviv. The real concern for Palestinians and for U.S. credibility as a mediator is the U.S. position on the Palestinians' desire for East Jerusalem as a capital of a Palestinian state. The United States should restate the views articulated by Clinton and George W. Bush during their presidencies: that both the Jewish people and the Palestinian people—both Christian and Muslim—have passionate attachments to Jerusalem, its holy places, and indeed all of the Holy Land. The United States should state that there will need to be two capitals in Jerusalem—one for Israel and one for the future State of Palestine—with freedom of access to holy sites for all. This is still entirely possible.

Reopen a U.S. mission to the Palestinians in Jerusalem. In October 2018, the Trump administration announced that it would close the U.S. consulate general in Jerusalem that was established in the mid-1800s and had since served as the principle vehicle for communication with the Palestinian people.⁹³ In a relatively unique arrangement, the consulate general reported directly to Washington and provided diplomatic engagement and reporting on the Palestinians, independent of the embassy in Israel. Trump's absorption of Palestinian affairs into the U.S. embassy to Israel suggested that he was embracing the view that Palestinian interests were subsumed within Israeli interests.

A new U.S. administration should reopen a U.S. mission to the Palestinian people and leadership in Jerusalem. A central question is where and how. There are a range of options—all of which would need to balance at least the following considerations: (1) resonance to the Palestinian people; (2) approval by Israel as the de facto controller of the territory; and (3) security arrangements. One option would be to simply reopen the mission at the facilities in West Jerusalem where the consulate used to be based before it was reclassified

as part of the U.S. embassy and where most of the "Palestinian Affairs" staff still work. This option might be easiest as it would simply be a return to an old status quo, but the facility is in West Jerusalem, which is dissatisfying both to Israelis who rightfully view West Jerusalem as part of Israel and Palestinians who would rather see a facility in East Jerusalem. A second option would be to designate an existing small facility in East Jerusalem as the new mission, such as the "America House" facility at 27 Nablus Road that the U.S. government has leased for decades just on the eastern side of the 1967 lines. A third option would be to find a new facility in East Jerusalem.

The best short-term option would probably be to open a small, symbolic mission in East Jerusalem, the part of the city that has long been a locus of Palestinian civil society. The majority of the staff members would remain where they are today, at the West Jerusalem facility that was formerly the consulate. This arrangement would echo the arrangement with Israel, where the embassy is in a symbolic building in Jerusalem but most of the staff remains in the old facility in Tel Aviv. Afterward, the United States could move in parallel on building a more permanent embassy to Israel in West Jerusalem and a permanent mission to Palestine in East Jerusalem, the latter of which could someday become an embassy as part of a two-state agreement or after American recognition of a Palestinian state.

Reopen the offices of the Palestine Liberation Organization in Washington. A key step needed to improve U.S.-Palestinian relations is reopening Palestinian offices in Washington. These offices were shuttered in September 2018 after Trump declined to extend a required waiver as part of sweeping punitive measures designed to pressure the Palestinian leadership. The offices were opened in 1994 by the PLO after the signing of the Oslo Accords, and in addition to diplomatic relations also provide consular services for Palestinians living in the United States.

Reopening the offices will not be easy, however, because of a series of U.S. legal restrictions. The most long-standing of these is Section 1003 of the Anti-Terrorism Act of 1987, which prohibits the PLO or any affiliates from maintaining an office in the United States until the president certifies to Congress that the PLO and affiliates no longer practice or support terrorist actions anywhere in the world.⁹⁴ While no president has proved willing to take this step as of yet, Congress has enacted a series of waivers that several presidents had used until Trump declined to do so. The current waiver would allow the president to waive this provision for up to a year if he certified to Congress that the Palestinians



In November 2017, the Trump administration announced it would close the PLO mission in Washington. Several legal restrictions complicate any reopening of the offices. These include the long-standing Section 1003 of the Anti-Terrorism Act of 1987 and the Anti-Terrorism Clarification Act enacted by Congress in 2018. (Win McNamee/Getty Images)

have not obtained full membership as a state in the United Nations or related agencies outside the context of negotiations with the Israelis or initiated or actively supported an International Criminal Court investigation against Israel for alleged crimes against Palestinians—or if, at least 90 days after the president is unable to make this certification, he makes a separate certification that the Palestinians have entered into direct and meaningful negotiations with Israel.⁹⁵

Another legal restriction is the Anti-Terrorism Clarification Act, which Congress enacted in 2018 and amended substantially through the Promoting Security and Justice for Victims of Terrorism Act in 2019.⁹⁶ If the PA or PLO were to have an office in the United States—or were to pay funds to an individual imprisoned, or the family of an individual killed, by reason of their involvement in an act of terrorism that injured or killed a U.S. national—the ATCA would expose the PA and PLO to potential litigation in U.S. courts. This includes several existing cases that could expose the PA/PLO to hundreds of millions of dollars of liability for acts of terror committed by Palestinians—an amount that would completely bankrupt both entities.⁹⁷ That said, offices maintained and activities undertaken exclusively for purposes related to the United Nations, activities undertaken exclusively for purposes of meeting with U.S. and foreign government officials or participating in U.S.-sponsored training and related activities, and any other activity involving U.S. officials that the secretary of state

reports to Congress as being in the U.S. national interest, do not trigger this liability.

Absent a statutory fix, a willingness on the part of the PA/PLO to accept the potential liability threatened by the ATCA, or an agreement between the PA/PLO and the plaintiffs, an administration that wants to reopen the PLO office in Washington will need to find a way to address both the Section 1003 prohibition and the ATCA restrictions.

For the Section 1003 restrictions, the administration could most likely waive them by using one of the available certifications and pushing for similar waiver authority in future legislation. Or it could terminate the Section 1003 prohibition altogether by certifying that the PA/PLO no longer supports terrorism. (One pathway to do this is outlined in the section on prisoner payments below.)

As for the ATCA, the administration may be able to explore certifying to Congress that the PA/PLO operating an office in Washington is an activity that is in the U.S. national interest, thereby avoiding the ATCA's jurisdictional trigger, at least until several years after any triggering payments stopped. Alternatively, if the PA/PLO is legally understood to have already triggered the ATCA's jurisdictional provisions through its prisoner payment program, then opening a Washington-based office would impose no further consequences. The United States could also choose to recognize the PA/PLO as parts of the government of a State of Palestine, which would be entitled to sovereign immunity. That might provide an alternative means of avoiding the liability threatened by the ATCA. Or, in the absence of any of these fixes, U.S. and Palestinian officials could simply pursue substantial engagements through the PA/PLO's U.N. office in New York, which may not trigger ATCA restrictions—though there may be a risk that plaintiffs would argue to the contrary.

Restart U.S. assistance to the Palestinian people.

Over the decades, the United States has provided more than \$142 billion in assistance to Israel and \$5 billion in assistance to the West Bank and Gaza in addition to \$6 billion in assistance to Palestinian refugees.⁹⁸ In 2018 the Trump administration cut virtually all assistance to the West Bank and Gaza and to the UNRWA. Prior to the cutoff, in 2016, the United States provided \$75 million in budget support to the West Bank-based PA (less than 2 percent of its total budget) through direct payments to the PA's creditors. An additional \$80 million indirectly supported PA programming. Another \$100 million in USAID funding benefited civil society and the private sector, while about \$360 million went to Palestinian

refugees through UNRWA until 2017.⁹⁹ The cutoff of aid prevents the U.S. government from demonstrating its concern for the Palestinian people, working to address human development and economic needs, laying foundations for democratic governance, and working with Palestinians to create a more fertile environment for conflict resolution. Given these realities, if the United States wanted to restart assistance to the Palestinians and use it to further U.S. national security objectives in the West Bank and Gaza, it would need to make some adjustments.

First, the United States should restart assistance to UNRWA, which is a U.N. organization mandated to provide education, health care, and humanitarian assistance to millions of people who are Palestinian refugees in Gaza and the West Bank, Jordan, Lebanon, and Syria. U.S. funding to UNRWA does not face congressional restrictions. About 40 percent of UNRWA's funding is spent on services for refugees in Gaza, including quality schooling for a quarter of a million children there in about 250 schools and two dozen health clinics.¹⁰⁰ Of the U.S. funding to UNRWA in the last full year of donations,



Palestinian refugees receive flour from the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) in Gaza City, Gaza. In 2018, the Trump administration announced it would end U.S. assistance to the West Bank and Gaza and to UNRWA. (Abid Katib/Getty Images)

the majority went to general funding, but significant portions went to an emergency appeal for Palestinian refugees in Syria and an emergency appeal for Gaza and the West Bank.¹⁰¹ For Israelis and Palestinians, UNRWA represents very different things. The Palestinian people have a strong attachment to the agency, more so than they do toward the PA or PLO, in many cases.¹⁰² Many in Israel see UNRWA as an obstacle to progress that encourages Palestinians to maintain their refugee status and unrealistic dreams of returning to pre-1948 Israel. Additionally, Israelis accuse UNRWA in Gaza of cooperating with Hamas.¹⁰³ Most relevant and important from a U.S. perspective is that UNRWA provides critical services to millions of people who lead fragile lives and that no viable alternative for doing so currently exists. Restarting U.S. assistance to UNRWA also gives the United States a seat at the table in debates over reforming or adapting the agency.

Second, Economic Support Funds (ESF) should be restored to Gaza and the West Bank to the extent possible. These funds stood at over \$200 million by the end of the Obama administration, though at the end of the Bush administration the figure was nearly \$1 billion.¹⁰⁴ USAID funding to the West Bank and Gaza would need to be adjusted for the Taylor Force Act, which limits the funding that can be used by ESF accounts for the benefit of the PA unless the PA/PLO stops providing payments to the families of Palestinians involved in attacks against Israel.¹⁰⁵ First, ESF funding to civil society, nongovernmental organizations (NGOs), and the private sector can continue to flow. Second, there are some elements of ESF that are explicitly exempted from the Taylor Force Act, such as support for the East Jerusalem Hospital Network, wastewater treatment, and vaccinations; this aid should be resumed. If desired, the remainder of assistance could be pursued through non-ESF accounts, namely Development Assistance or International Disaster Assistance funds, as the Trump administration did in April 2020 with the \$5 million it provided to the Palestinians to address COVID-19.¹⁰⁶ Meanwhile, the new administration could work with Congress to adjust the Taylor Force Act so it aligns with national security objectives. The bottom line is that the United States should only undertake assistance to the Palestinian people if it believes that assistance advances U.S. interests, aligns with American values, and is appreciated by the Palestinian people.

Improve the Situation on the Ground with an Emphasis on Gaza

The United States should prioritize early steps to improve the situation on the ground, especially in Gaza, with a focus on freedom of movement, water, and electricity. This effort should be coordinated closely with other international donors, most notably Norway, which chairs the Ad Hoc Liaison Committee on assistance to the Palestinians (AHLC).

Freedom of movement. No modern economy can function effectively without freedom of movement, and Gaza's economy is no exception. The United States should use its diplomatic standing to push for greater freedom of movement for the people of Gaza. Two decades ago, when the Strip's population was considerably lower than it is today, about 25,000 people would exit Gaza to work in Israel every day. By the end of 2019, that number stood at 750 per day. Meanwhile, the fact that prior to the COVID-19 pandemic 70,000 West Bank Palestinians worked in Israel legally, likely tens of thousands more illegally, shows that there is a way to integrate the residents of Gaza into Israel's economy.¹⁰⁷ To help right Gaza's economy and restore a modicum of normalcy, the United States should call for Israel to restore the numbers of Gaza residents working in Israel. Security officials have made such recommendations in the past, and Israeli citizens who live in communities near Gaza have also made the case for allowing Gazan workers to enter Israel.¹⁰⁸ Israel can start small by issuing an additional 5,000 work permits and increasing that number over time. Israel should also allow new categories of people to be added for travel between Gaza and Israel and the West Bank, including students, smaller merchants, and those requiring training. Israel should also ease restrictions on exports and imports.

The United States should also press Israel to allow residents freedom of movement between Gaza and the West Bank. After Israel occupied Gaza and the West Bank in 1967, it allowed Palestinians to travel relatively freely, but over the years as the conflict has escalated, restrictions have been added. Today, Israel almost never allows a Gaza resident to move to the West Bank, but it does allow a West Bank resident to move to Gaza.¹⁰⁹ Unfettered movement between the West Bank and Gaza is essential for a unified Palestinian economy, government, and body politic, as well as for the health of shared Palestinian social, cultural, and educational institutions. Movement restrictions exacerbate the geographical and ideological rift between the two parts of the territory and prevent a viable Palestinian state from emerging. The United States should push for unwinding these restrictions.

In the West Bank, the economy has benefited from increased openness but would benefit from far more. U.S. efforts early on should focus on: (1) opening the Allenby Bridge crossing with Jordan 24 hours a day, seven days a week; (2) furthering trade with Jordan; and (3) improving the Palestinian capacity to carry out relevant inspection and testing functions.¹¹⁰



Pictured is Gaza's only major power plant in the Nuseirat district in Gaza City. With insufficient electricity available, residents resort to using private generators and battery-operated light sources to live. (Chris McGrath/Getty Images)

Electricity. The supply of electricity in Gaza has improved in recent years but is still only available an appalling 10 hours per day. Gaza only receives about 40 percent of its 500 megawatts (MW) per day needs—120MW purchased from Israel and 70MW generated locally from Qatari-funded diesel. In the immediate term, the Egypt-Gaza electricity line could add 100MW but requires renovation. The construction of a new line from Israel could also add 100MW. Finally, the Gas-for-Gaza effort to bring a gas pipeline from Israel to Gaza by 2023 could meet all the Strip's needs, as the power plant could then produce 600MW.¹¹¹ In the West Bank, the situation is less desperate, but the United States should lend its support to a series of projects designed to immediately boost electricity to the West Bank, including 200MW of solar power and an agreement to increase Jordanian supply by 54MW.¹¹²

Water. Only 10 percent of Gaza's water is potable. In 2017, only one-quarter of Gaza's water needs were being met with safe water supply—around 30 million cubic meters (MCM), compared with a need of 135MCM. And 97 percent of Gaza's aquifer is too polluted to use. Israel

provides 12MCM of water to Gaza each year but could nearly double that. The solution lies in continuing to increase Gaza's water supply from small-scale desalination through the full operationalization from the existing facilities as well as finally accelerating the construction of the large-scale Gaza desalination plant that would meet a large proportion, 55MCM, of the Strip's needs.¹¹³ The United States should also put its support behind the push to grow West Bank water supply by 67MCM and treat an additional 32MCM of wastewater; however, an additional \$468 million in funding is required to undertake these infrastructure investments.¹¹⁴

Financial stability and independence. For much of 2020, the Palestinian Authority was on the precipice of fiscal collapse. Part of the PA response to the prospect of Israeli annexation was to refuse to accept the majority of its monthly revenue clearance transfers, which Israel collects on its behalf from import taxes. The PA had once again dramatically cut back the salaries of PA employees. In the aftermath of the U.S. election, the PA changed its position and began accepting revenues from Israel. However, even before the annexation crisis, as a result of COVID-19 the PA was already projecting a 35–45 percent reduction in import taxes collected by Israel on the PA's behalf (these taxes have historically made up 60 percent of the PA's budget). This was expected to cause a \$1.4 billion budget deficit for 2020.¹¹⁵ If the PA is to continue to exist in the near term so that it might transition into a state, a way should be found for the funds collected on imports through Israeli ports to be collected by the PA itself so those funds do not become a point of contention between the parties. But at minimum, the United States should push for (1) a commitment by Israel to transfer a minimum amount monthly to the PA so it might function; (2) a waiver, or at least a halving, of the 3 percent handling fee that Israel charges on collecting clearance revenues; (3) improvements in the value-added tax (VAT) clearance mechanism through an interconnected e-VAT system, which could save the PA considerable money each year; (4) clarification on all issues related to Israeli deductions on Palestinian salaries; (5) establishment of a bonded warehouse; (6) financial auditing of invoices, offsets, and deductions made by Israel from Palestinian revenues to enable greater transparency and engagement and to provide the PA with more scrutiny over deductions for energy, water, health, and other costs; (7) an agreement to allow the PA to purchase fuel without tax from Israel; and (8) payment by Israel to the PA of funds from revenues from businesses operating in Area C per the 1995 interim agreement.¹¹⁶

Electromagnetic spectrum. After much effort and international engagement across the Obama and Trump administrations, Israel finally allowed Palestinian telecommunications companies to expand the 3G technology into the West Bank in recent years, though not yet to Gaza. But now it is time to introduce 4G—and shortly after, 5G—into the West Bank and Gaza. After much debate, Israel in early 2020 presented an offer for limited 4G and 5G in the West Bank. What the Palestinian people need and deserve is the ability to manage their own electromagnetic spectrum and compete head-to-head with Israeli companies to provide mobile services. Moreover, there is enough spectrum, if properly managed, to enable both proper Palestinian deployment and the addressing of Israeli security needs.¹¹⁷

Address Palestinian Prisoner Payments

In recent years, a new challenge in the U.S.-Palestinian relationship and a significant Israeli concern has been the fact that the PA pays stipends to Palestinians detained or imprisoned by Israel as well as to the families of Palestinians killed by Israel.¹¹⁸ Those jailed range from individuals who have yet to face trial, to minors convicted of nonviolent offenses, to hardened terrorists. Similarly, those who have been killed whose families receive stipends range from innocent bystanders to nonviolent protesters to murderers. Advocates for ending the system have cited the figure of \$150 million for prisoner payments, and a range of \$40 million to \$180 million for those who have been killed or injured.¹¹⁹ (Figures for the proportion that is paid to violent offenders versus others, including nonviolent protesters or innocent bystanders, are difficult to discern.)

The Palestinian leadership contends that as a national liberation movement it has every right to compensate its people in this way, particularly since innocent Palestinian family members are often displaced when Israel demolishes the homes of those who conduct violent attacks.¹²⁰ It contends that these prisoner payments are long-standing, that only recently have they become an issue, and that the objections are simply a new manufactured point of tension being promoted by their opponents in Israel and the United States.¹²¹ Indeed, much of the compensation paid by the PA goes into the Israeli detention system in the form of payments to prisoners' commissary accounts. The PA/PLO also argues that such payments are needed to give the families of prisoners and the deceased "a dignified life" and so that "they and their kids can lead a different future"¹²²—in other words, that they are part of a deradicalization program to keep susceptible individuals from being persuaded

by more extreme ideas. Israel and many in Congress see things differently. Israeli and American opponents of the payments see them, and particularly the fact that prisoners receive larger stipends for longer sentences, as confirmation of Palestinian Authority support for violence and an incentive for Palestinians to conduct attacks against Israelis.

No matter where one comes down on this question, the practical reality is that the issue has become a significant roadblock in U.S.-Palestinian relations because of overwhelming congressional opposition to the practice. Repeated legislative language has expressed deep concern about these Palestinian payments and has required the administration to reduce the amount of U.S. assistance that was to directly benefit the Palestinian Authority by the amount that the PA/PLO spent on payments to prisoners who had been convicted of terrorism or to the families of those who died conducting attacks on Israel.¹²³ Then the 2018 Taylor Force Act went further, stating that the United States cannot give any ESF that would directly benefit the Palestinian Authority unless the PLO or PA has “terminated payments for acts of terrorism against Israeli citizens and United States citizens to any individual, after being fairly tried, who has been imprisoned for such acts of terrorism and to any individual who died committing such acts of terrorism, including to a family member of such individuals,” as well as other steps.¹²⁴

At this point, the United States must focus on the question of Palestinian prisoner payments because it is such a charged and symbolic irritant that it will inevitably impede U.S.-Palestinian relations and create tensions between Israelis and Palestinians unless addressed. This could be done if the United States works with the PA/PLO to standardize welfare payments to Palestinian prisoners to a nontiered program so that no matter the length of sentence, the stipend sent to the Israeli prison system on behalf of the prisoner is the same—thus eliminating perceived financial incentives for increased violence. The PA/PLO could also shift the payments for families of the deceased to the main social security and welfare programs implemented by the PA. As part of this process, the United States should also press Israel to end its demolitions of attackers’ homes, which serves as a form of collective punishment.

If the PA goes ahead with these steps, the executive branch should certify to Congress that the PLO no longer practices or supports terrorist actions and thus sunset the Anti-Terrorism Act of 1987 and the restrictions it imposes on the PLO presence in the United States. The law at this point is an anachronism that inhibits

CONGRESSIONAL ENGAGEMENT ON THE ISRAELI-PALESTINIAN CONFLICT

Congressional action in recent years on the Israeli-Palestinian conflict has been characterized by increasing polarization and politicization combined with escalating efforts to micromanage the Israeli-Palestinian conflict. Previous U.S. administrations—both Democrat and Republican—tried to check, or at least limit, congressional action on this issue, precisely because it often made it more difficult to achieve good policy outcomes. Under the Trump administration this check was removed, resulting in a series of laws that have made Israeli-Palestinian peacemaking more difficult.

This increasing congressional role has also been a function of the policy vacuum that has existed since the Oslo process lost steam. One benefit of the new administration making a strong, early statement of policy principles for this issue is to set a framework for engaging Congress on what legislative action will and will not advance U.S. policy objectives. This may help tamp down the recent tendency for legislative “virtue-signaling” on Israel-Palestine.

The new U.S. administration should try to reverse these trends, beginning with restarting U.S. assistance to the Palestinian people in the West Bank and Gaza as already authorized by Congress. The United States should also continue to support people-to-people initiatives, including the Middle East Partnership for Peace Act, that provide the right kind of authorization and appropriation to support American cultural and civic engagement with Israeli and Palestinian constituencies and to cultivate Israeli-Palestinian engagements that bolster public support for peace.

Another key line of effort would be to reform the Palestinian prisoner payment issue, which has become a major impediment to U.S.-Palestinian relations, particularly in Congress, and then use the momentum from such reforms to pursue legislation and actions that are more constructive for ending the conflict: supporting the efforts to reopen the offices of the Palestine Liberation Organization in Washington, amending the Anti-Terrorism Clarification Act, and amending the Taylor Force Act to create greater flexibility in providing assistance to the Palestinians.

U.S.-Palestinian ties. It can be sunset with a presidential declaration, but it would be very hard for any American president to take this step while the politics of the prisoner payment issue loom so large. Moreover, this program, if effectively implemented, should end the restrictions on assistance to the PA in congressional legislation by meeting the requirements of Congress.

Deter Settlement Activity and Annexation

Early on, the Biden administration should take steps to deter settlement activity and annexation. It should convey to the Israeli government that the United States will oppose all settlement construction or advancement of plans for construction in areas beyond the 1967 lines and reinstitute the State Department legal opinion that settlements are inconsistent with international law. It should also restore the enforcement of long-standing policies regarding the labeling of goods emanating from beyond the 1967 lines, including the settlements, as coming from “the West Bank and Gaza”—not Israel. Most importantly, the United States should communicate clearly to Israel that it is not going to spend political

capital protecting Israel at the U.N. and other international forums from consequences Israel faces for taking actions that contradict U.S. policy. This does not mean that the United States will stop defending Israel in international institutions against what it views as unfair or disproportionate targeting or that it should go down the rabbit hole of policing or reacting to every single Israeli settlement action. But the message should be that if Israel chooses to pursue settlements over U.S. objections, it will have to manage the consequences of its actions in the international arena without U.S. help.

This shift in the U.S. posture toward settlement activity should be complemented with an additional emphasis on deterring certain actions that would be particularly opprobrious for the United States due to the implications for Palestinian daily life and the challenge posed for the viability of any future Palestinian state. The United States should make clear that building or advancing plans in certain areas—including E-1, Givat HaMatos, E-2, and Atarot—or the expulsion of Palestinian residents from these or other areas would result in particularly strong responses from Washington. Moreover, the construction



A Jewish woman hangs laundry near her house in the settlement of Rotem in the Jordan Valley. In September 2019, Prime Minister Benjamin Netanyahu pledged to annex the Jordan Valley. Annexation is currently on hold in the aftermath of the Israeli agreement on normalization with the United Arab Emirates. (Amir Levy/Getty Images)

of major new infrastructure such as roads inside the West Bank to connect or expand connections between the settlements and Israel would also provoke significant U.S. objections, as these types of projects are central for enabling significant population growth in the settlements. In addition, given its extremely sensitive status and the fact that it impacts Jordan as well, any change to the status quo of the Haram al-Sharif/Temple Mount will trigger a firmer U.S. response, using some of the actions described in the section below on U.S. tools to influence Israeli policy.

Finally, the United States should also reinstate past policies of ensuring that no U.S. government funds go to supporting settlements and that the chief-of-mission authority for the settlements reverts to the consul general instead of the U.S. ambassador to Israel.

This approach of objecting to all settlements on principle while targeting specific sensitive areas with extra measures of deterrence has some track record of success. The Bush and Obama administrations were able to deter settlements in highly sensitive areas such as E-1 by making clear that construction there was a redline for the United States. And when the Obama administration took a hard line on settlements and prioritized the issue as it did in 2009 and 2010, it was able to significantly reduce construction, as seen in Figure 1.

Closely related to the question of settlements is the potential for Israeli annexation of parts of the West Bank. While annexation appears to be on hold in conjunction with the trilateral agreement between the United States, Israel, and the United Arab Emirates, it is equally clear that annexation is still a live topic in Israeli political and policy discourse. So, it remains critical for the United States to be clear in its opposition to annexation and in its potential responses should Israel pursue it. A new administration can continue deterring annexation by clearly expressing firm U.S. opposition and making clear it will not recognize any steps toward annexation. It should also privately telegraph that Israeli annexation of any part of the West Bank would result in a fundamental reevaluation of U.S. policy and could cause the United States to pursue steps such as shifting its wider posture toward Israel in international organizations, putting restrictions on assistance, or recognizing a Palestinian state. In short, the United States would view this action as a game changer and would respond accordingly. The purpose of this message would be to strengthen deterrence around this action.

Reaffirm Traditional Parameters, but Do Not Push for New Negotiations

The Trump plan represented a departure on the core issues of the conflict from the work done and consensus built with the parties and internationally in previous U.S.-sponsored peace efforts. The Trump administration rejected the “land for peace” formula that is foundational for Arab-Israeli diplomacy since 1967, and set aside work by previous administrations to close gaps between Israel and the PLO on disputed issues, from territory to refugees. It is simply not credible for the United States to promote negotiations between the parties while repudiating the principles and commitments established in previous agreements. A policy reset requires clearly renouncing this destructive effort and resetting the terms of future negotiations as a marker, even though the moment is not ripe to resume negotiations toward a final agreement.

For reasons we detail later, it is evident that the United States cannot succeed alone in bringing about conditions for renewed Israeli-Palestinian negotiations, much less a peace agreement. It is therefore necessary for the United States to ground its policies toward the conflict in internationally accepted principles and parameters, including those laid out in UNSCRs 242 and 338, as well as in signed agreements between Israel and Jordan, Egypt, and the PLO. Renewing the American commitment to these core principles—particularly rejecting the acquisition of territory by use of force and reinforcing the formula of land for peace—will not only ease the path to collaboration with other international actors on behalf of conflict resolution, but will also ease the path back to negotiations for the PLO and for other Arab governments.

The next administration should lay out, early on, some broad key parameters consistent with UNSCR 242 that guide the U.S. stance and that any American policies should seek to reinforce:

- Two states, with borders based on the June 4, 1967, lines, adjusted with mutually agreed-upon land swaps on an equal basis.
- Safeguards for Israeli security concerns, consistent with Palestinian needs for sovereignty and security, constructed on the foundation of a demilitarized Palestinian state.
- Two capitals in Jerusalem.
- A just and agreed solution for Palestinian refugees.

These parameters are suitably broad to allow for a wide range of outcomes to be negotiated between the sides.

THE CHALLENGE OF PERSUASION: U.S. OPTIONS TO INDUCE ISRAELI POLICY CHANGES

One of the central roles of the United States historically as the mediator has been to persuade both Israelis and Palestinians to take the necessary steps toward compromise, using both positive and negative incentives. But the reality is that there is a severe power imbalance between the two sides: The Israeli economy is 25 times larger, and Israel enjoys overwhelming military superiority, a much closer relationship with Washington, regular international status as a fully recognized sovereign state, as well as control of the territory that is the subject of the dispute.¹²⁵ This means that ultimately U.S. positive and negative inducements are critical in any effective U.S. policy toward the conflict. However, the United States has historically failed to shape Israeli behavior or policy effectively, both because it has been reluctant to deploy negative inducements and because, in many cases, U.S. leverage is more limited than it is believed to be. Below we outline tools available to the United States to shape Israeli policy, along with an assessment of the pros and cons of each.

Engaging in public and private praise or criticism.

U.S. statements praising or opposing Israeli actions have played a meaningful role in encouraging or deterring certain behavior, especially when the United States has focused its attention on specific, concrete actions such as deterring settlement construction in E-1. American support has also mattered a great deal; for example, Trump administration support for annexation became the linchpin for an Israeli decision on whether to make the move. Israeli governments have consistently been influenced by clearly expressed American views on the conflict, because of the importance Israel places on its relationship with the United States. This measure also has its limits, evident in the fact that Israeli settlement activity has continued despite long-standing U.S. opposition. American public and private words alone are often not enough to either dissuade Israel from taking negative steps or persuade it to take positive actions.

Examining leader-level engagement. Another option is adjusting up or down the nature of high-level engagement, especially decisions by the U.S. president to meet with the Israeli prime minister. One of an Israeli prime minister's strengths at home is the ability to project that he or she is uniquely positioned to defend Israel's interests abroad. If Israel takes steps directly in contradiction to the United States, downgrading the frequency, publicity, and ceremony of these meetings could be a way to apply pressure on the Israeli leadership, while the United States could respond to positive Israeli steps by being more forthcoming on these types of engagements. There are

other issues than the conflict that matter in the U.S.-Israel relationship, such as Iran and joint cooperation on Middle East security issues, so using meetings as a tool for influence could have implications for these other U.S. interests.

Publicly articulating that the Palestinian Territories are a single separate territorial unit from Israel and labeling products produced in Israeli settlements. As a means to publicly reassert the U.S. position that until a final status agreement is reached, the United States views all of Gaza and the West Bank as a territorial unit distinct from Israel, the United States could reassert guidance from the Clinton administration for the labeling of imports produced in Gaza and the West Bank as being from those territories and not from Israel. The most recent example is from 2016, under the Obama administration, when Customs and Border Protection restated regulations from the Clinton era from 1995 and 1997.¹²⁶ Based on the reassertion of this guidance, the United States could further sharpen its implementation of its own existing consumer protection policies.¹²⁷ While these steps would not apply any real economic pressure on the Israeli economy, they would certainly be noticed by businesses that export from Israeli settlements, be consistent with U.S. policy, and re-affirm its alignment with the international consensus on settlements.

Changing the U.S. posture in international institutions.

The Israeli government is very sensitive to United Nations criticism or actions against Israel in U.N. fora, as it views the U.N. as the gateway to potential international boycotts and sanctions that would impact both its economy and its international legitimacy. The United States has always defended Israel's legitimacy at the U.N., especially when it is disproportionately singled out. However, there have been notable instances of the United States allowing U.N. criticism of Israeli policies or actions to move forward, most recently the U.S. abstention on UNSCR 2334, and a half-dozen such exceptions by the George W. Bush administration (UNSCR 1402, 1403, 1405, 1435, 1544, 1701, and 1860). While continuing to staunchly shield Israel from unfair attacks at the U.N., the United States could adopt a policy of abstaining on resolutions that contain appropriate and proportionate language focused on Israeli actions in the West Bank and Gaza that contravene U.S. policy. Washington could also consider smaller steps, such as abstaining on certain U.N. General Assembly resolutions instead of voting no or could communicate to Israel that it is considering such an approach in specific cases unless Israeli behavior changes.

Conditioning American government assistance to or engagement with Israel. Conditions could take one of three forms: (1) positive conditionality, in which the

United States promises tangible benefits should Israel take desired actions or refrain from or roll back undesirable actions; (2) conditions that dissociate the United States from funding or participating in specific undesirable activities; or (3) punitive conditions that impose a tangible price for undesirable actions. While discussions of conditionality usually immediately engage the question of conditioning the \$3.8 billion in annual security assistance, that is only one very large component of the bilateral relationship that could be conditioned. Conditionality could apply to bilateral cooperation on trade or technology, to Israeli access to coveted U.S. programs like our space program, or to other bilateral issues Israel seeks to advance (such as the visa waiver program). The United States has in the past frozen loan guarantees to Israel due to settlement activity and offset loan guarantees by the dollar amount that Israel spends on West Bank settlements.

No matter what form conditioning assistance takes, it would require a significant political commitment by the administration, and many forms would require congressional cooperation. Israel is a valuable security partner, and conditioning security assistance could harm U.S. interests. Aid conditionality, other than positive conditionality (offering additional aid in response to desired actions), does not have a strong record of success in U.S. foreign policy. In addition, Israel's GDP per capita is now higher than that in much of Western Europe. In that context, the economic leverage that U.S. security assistance presents is just not that significant. And as the Middle Eastern country with by far the most advanced and powerful military in the region, Israel does not need U.S. security assistance as it once did. Israel is more likely to shrug off any potential American threats to its security assistance rather than make concessions on issues it deems important.

Deepening security cooperation. The U.S.-Israel security relationship is exceptionally strong, but even so the United States could pursue steps to upgrade it as an inducement for positive Israeli behavior on Israeli-Palestinian issues. The high priority the Israeli government places on security and security cooperation with Washington makes this an avenue that can yield fruitful gains for U.S. policy goals. The United States can deepen its current strategic dialogues with Israel, increase the frequency of joint training exercises, and upgrade its intelligence relationship to share more sensitive information with the Israeli government on regional threats and developments. The United States, which sells billions of dollars in military equipment to Israel annually, could increase those arms sales and consider new equipment, particularly should the United States sell F-35s to the United Arab

Emirates. Another option that could be explored in consultation with other U.S. regional partners is including Israel in U.S. Central Command activities, which would integrate the Israel Defense Forces into the wider regional security architecture and improve security coordination between Israel and its neighbors. Importantly, this type of incentive is more likely to work and yield a better policy outcome if the linkage to the Palestinian issue makes logical sense instead of if it is simply tied to more high-end arms sales that have no bearing on the Palestinian issue.

Gaining greater international recognition for Israel as the state of the Jewish people. In recent years the recognition of Israel as a Jewish state has become an important issue for Israelis. Those who prioritize this recognition see the refusal to recognize Israel as a “Jewish state” as an attitude that sustains the conflict. They believe that in the context of a two-state solution, without recognizing Israel as a Jewish state, the Palestinians will not truly end their claims on the territory that became Israel in 1948, and so no agreement can lead to peaceful coexistence. From a Palestinian perspective, being asked to recognize Israel as a Jewish state is being asked to renounce their own narrative and dismiss the rights of Palestinian refugees who were displaced during the 1948 war. They are also concerned about the implications for the rights of the Palestinian citizens of Israel, especially in the aftermath of the “nation-state law” passed by the Israeli Knesset in 2018, which did not take into account the equal and national rights of non-Jewish minority groups in Israel. The “Jewish state” issue and the nature of mutual recognition must ultimately be negotiated between Israelis and Palestinians in any final agreement. However, if Israel were to take considerable positive steps toward the Palestinians, the United States should be prepared to help build greater international legitimacy with European and Arab states for the concept of Israel as the nation-state of the Jewish people with equal rights for all its citizens. Importantly, such support would have to make clear that, for the United States and others, this statement is not meant to in any way diminish the Palestinian narrative. It must also be directly linked with recognition of the legitimacy of the Palestinians’ right to a state—strengthening the international consensus on behalf of a two-state outcome to the conflict.

CHAPTER 4

Pursuing Medium-Term Steps to Preserve the Viability of Two States

Chapter 4: Pursuing Medium-Term Steps to Preserve the Viability of Two States

The United States should pursue a series of concrete steps over the coming years to improve freedom, security, and prosperity for Israelis and Palestinians and advance the prospects of an agreed two-state solution to the conflict. Ultimately, we acknowledge this will require more substantial steps on the Israeli side, because of the asymmetry in the conflict and the power disparities between the two sides. Still, in the chapter below we outline some steps that would also be tough for Palestinians and offer suggestions for positive incentives to both sides to pursue these actions. The United States should:

- Promote greater exercise of Palestinian rights, including giving Palestinians expanded control over Areas C and B, ending Israeli demolitions of Palestinian homes, schools, and other structures, and aligning legal outcomes for Israelis and Palestinians in the West Bank.
- Support Palestinian unity and responsive governance by pressing the Palestinian Authority to become more democratic and less corrupt and encouraging a three-way political deal by Israel, Hamas, and the PA/PLO. Such a deal should include a long-term ceasefire that ends rocket attacks on Israelis and an end to the blockade of Gaza. It should also facilitate political reconciliation for the Palestinians and free and fair Palestinian elections throughout the West Bank and Gaza, including in East Jerusalem, as in the past.
- Encourage a freeze or reverse settlement activity via one or more of these approaches: (1) continuing to have Israel own the consequences internationally; (2) pursuing a clearly defined partial settlement freeze that includes all sensitive areas, including inside the barrier and in East Jerusalem; or (3) proposing a U.S. map after consultations with the parties that would only allow building in certain areas under the condition that Israel, in exchange, handed over agreed swap areas to Palestinians.
- Build up domestic constituencies for renewed Israeli-Palestinian engagement and coexistence through active engagement of American officials with a much wider range of Israeli and Palestinian political movements and civil society actors, and with their supporters in the United States. The United States should also not just continue, but significantly scale up, programs that support peace education;

people-to-people engagement; cross-cultural and political dialogues, including academic, interreligious, Track 1.5 and Track Two; and concrete coexistence and cooperation projects.

Take Steps to Engender Greater Freedom and Prosperity in the West Bank

The Palestinian population of the West Bank faces a range of Israeli restrictions on travel internationally and within the West Bank and trade with the outside world, access to water, access to the electromagnetic spectrum, and more. Palestinians in the West Bank also are saddled with a Palestinian Authority without a parliament and with long overdue presidential elections, where institutions are going backward, power is increasingly wielded against independent civil and political actors, and decision-making is becoming more centralized. Assuming that threats or implementations of Israeli annexation do not lead to a collapse of the Oslo-defined Palestinian Authority, there are a range of measures that the United States should immediately champion to improve freedom, prosperity, and self-determination in the West Bank and Gaza. All of these actions should be undertaken without ties to a final status agreement, but instead in the context of either preexisting agreements (should Israel and the PLO not have abrogated such agreements by then) and/or an agreement with Israel:

Expand Palestinian Authority management from Area A to also include Area B and extend Palestinian civilian control into significant parts of Area C. The most important step would be to expand Palestinian Authority management from Area A to also include Area B and to extend Palestinian civilian control into significant parts of Area C. Israel could agree to convert most or even all of Area B into Area A, giving the Palestinian Authority security control over an additional 20 percent of the West Bank. This would significantly improve the security situation for one million Palestinians who currently live in limbo and lack police protection because Palestinian security forces cannot fully freely move around these areas under Israeli restrictions, while the IDF simultaneously does not—and should not—play the necessary domestic policing role that the Palestinian population requires for security.

In addition, a significant percentage of Area C could be transitioned to Area B, unlocking potential for greater Palestinian freedom, economic growth, and the natural growth of the Palestinian population that is otherwise crowded into Areas A and B. There are indications that even the rezoning of just a small percentage of specific parts of the West Bank from Area C to Area B could enable the \$14 billion Palestinian economy to grow by



Palestinian women look on and react as Jerusalem municipality workers demolish a residential building in Beit Hanina, an East Jerusalem neighborhood, on October 29, 2013. The United States should support a change of status for parts of Areas C and B as a step toward ending the practice of home demolitions. (Oren Ziv/Getty Images)

about a billion dollars.¹²⁸ The World Bank has estimated that Palestine could boost its economy by as much as a third by gaining control over most of Area C.¹²⁹ This should include Palestinian civilian access to develop the West Bank's Dead Sea coastline for tourism and industry. Moreover, over 11,000 Palestinian homes in Area C remain under the threat of demolition because they were built without housing permits, even though Israel has failed to provide virtually any housing permits to Palestinians in this area for years and failed to account for natural growth.¹³⁰ By shifting only a small percentage of Area C to Palestinian civil authority, nearly all of these houses would no longer face the threat of demolition. Whatever the proportion of Area C that is transitioned to Area B, stating that doing so is part of a process and not an end point is absolutely vital.

End restrictions to enable the Palestinian people to grow their economy and strengthen their society. The United States could also press for a range of measures to expand freedom and improve the quality of life and the business environment in the West Bank, including: (1)

ensuring that Palestinian businesses have access to raw materials at competitive pricing by fixing port delays; (2) synchronizing Israeli and Palestinian materials standards so that Palestinian exports can more rapidly and cheaply be imported, transformed into manufactured products, and resold to Israel; (3) reducing energy costs for Palestinian manufacturers, reported to be double those in Israel;¹³¹ (4) facilitating Arab investors' travel to the West Bank; (5) reducing the number of items Israel restricts or limits Palestinian businesses from using (otherwise known as the "dual use" list); and (6) expanding Palestinian access to West Bank water resources. Focus can be placed on key economic sectors, including agriculture, construction, energy, information and technology, light manufacturing, tourism, and water.¹³² This would enable the Palestinian people to develop tens of thousands of jobs through agribusiness ventures, stone and marble mining, solar fields, power plants, and more.¹³³

Advance equal due process rights for Israelis and Palestinians in the West Bank. There are now two separate and unequal legal systems that Israelis and

Palestinians face in the West Bank: While civil law applies to Israelis, Palestinians face a military court system with a nearly 100 percent Palestinian conviction rate.¹³⁴ (While the Palestinian Authority runs criminal courts in areas under its control, in practice the Israeli authorities sometimes arrest Palestinians from Areas A and B of the West Bank and process them through the Israeli military court system; the PA does not have jurisdiction in Area C.) Some argue that more than 53 years into the Israeli military occupation, “the responsibilities of an occupying power toward the rights of the occupied population increase with the duration of the occupation”¹³⁵ and “the suspension of core rights more than half a century later with no end in sight violates Israel’s core responsibilities under the law of occupation.” The law of occupation allows the Israeli authorities to restrict some civil and political rights, but it also requires restoring public life for the occupied population—an obligation that increases as the occupying power has more time to more narrowly tailor responses to minimize these restrictions. Until a negotiated solution to the conflict is found, and so long as Israel continues to hold ultimate control over Palestinians, everyone who lives in the West Bank should have the same basic right to due process, using the rights Israel grants to its citizens or foreign visitors as a benchmark. Conviction rates or length of sentences should not turn on one’s identity.

Extend energy independence to the Palestinian Authority. West Bank Palestinian electricity demand is 930MW per day and set to grow by 270MW by 2030. Yet



Runners pass the separation barrier during the Right to Movement Marathon in the West Bank city of Bethlehem in April 2016. Expanding freedom of movement for Palestinians would enable them to grow their economy and strengthen their society. (Darrian Traynor/Getty Images)

for decades, Israelis and Palestinians have been stuck in a negative cycle of energy dependency that has created both significant friction in the Israeli-Palestinian relationship and a muddled energy system. Extending to Palestinians the full ability to develop their own energy production, distribution, and management would strengthen self-determination and improve the Israeli-Palestinian relationship. The PA should be allowed to assume the authority to develop natural gas and solar generation in both Gaza and the West Bank.¹³⁶ The Palestinian Authority should also be empowered to buy and sell electricity over its own transmission infrastructure, including price-setting, collection, and substation management. The existing 2016 Israeli-Palestinian electricity agreement should be fully implemented, but additional agreements would also be useful. As a step toward independent statehood, the United States can move now to build up a national Palestinian energy authority in charge of its own grid and transmission infrastructure.

The United States should examine ways to incentivize Israel to make progress in these areas as described in the callout box in Chapter 3 on U.S. options for inducing Israeli policy changes. The history of the recent decades has shown that neither party yields to the other without some direct benefit or incentive.

Promote Responsive, Accountable Palestinian Governance and Enable Palestinian Unity

The problem of Palestinian division—between Hamas and the PLO, and Gaza and the West Bank, not to mention the Palestinian diaspora—is inextricable from the challenges facing Palestinian governing institutions. Together these problems have also created a major obstacle to effective and legitimate Palestinian decision-making and thus to any progress on the Israeli-Palestinian track. With focused international attention and support, largely driven by the United States, Palestinian institutions improved significantly in the first years of Abbas’s presidency and were increasingly better managed. However, in recent years they have begun to regress into financial corruption and lack of accountability. Civil society and independent political voices have faced increased repression. The circle of decisionmakers is becoming narrower and less effective, especially as senior officials prepare for the post-Abbas era. There has not been an election in the Palestinian territories since the Hamas takeover of Gaza 13 years ago. But as long as Gaza and the West Bank remain divided and Palestinian politics are characterized by zero sum competition between Hamas and Fatah, it is difficult to

hold much-needed elections or convene the legislature, much less build institutions with sufficient legitimacy to negotiate and enforce an agreement with Israel.

Here again, the United States should have a set of principles that guide its approach. This must start with the recognition that it is the responsibility of the Palestinian people and political leadership to build a unified leadership, based on regular elections, and legitimate, accountable, transparent, and responsive institutions that can transition into a state. The United States and other outside players can communicate standards and support the process, but by its nature the project must be Palestinian-led. The United States should also voice its expectation that the Palestinian government will uphold core commitments to recognition of Israel and its legitimacy, to peaceful negotiations as the sole means of settling the conflict, and to the rejection of violence.

Second, the United States must change its posture toward intra-Palestinian reconciliation. The American position has evolved from outright opposition to quiet acquiescence. It must go further and encourage such efforts, by becoming more flexible regarding the composition of the government that is formed and selected by Palestinians. The United States is not obligated to engage with every member in a Palestinian government; it can determine that certain government members do not merit U.S. engagement. The United States can make clear that it will not meet with members of political parties that support violence, as Hamas currently does. But it

may need to find a way to work with a Palestinian government that includes Hamas even if it does not engage with Hamas directly. What that means in practice is that the Quartet conditions are obsolete and should be retired and replaced with the principles laid out above.

Palestinian unity is impossible without a more functional political arrangement in Gaza. The United States can also do more, working in close coordination with Egypt and UNSCO, to encourage a sustainable political arrangement for Gaza based on two pillars: (1) an agreement between the PA and Hamas on the gradual reintegration of the West Bank and Gaza, and (2) a long-term cease-fire between Israel and a group of Palestinian factions that includes Hamas and Fatah and that has the blessing of the PLO. Numerous efforts to pursue these tracks independently have failed. Integrating them would bring a greater chance of success. For example, a cease-fire between Israel and Hamas would require the easing of the Israeli blockade on Gaza, which is only possible with Israeli consent, a much harder prospect without a PA presence in Gaza. Similarly, reintegration without a serious cease-fire would last only as long as the quiet lasts, as a new major Hamas-Israel conflict would make it impossible for the PA to continue to simultaneously integrate with Hamas while maintaining peace with Israel.

And, very importantly, if progress is made and Palestinian factions do agree on holding elections, the United States should support them, make clear it will respect the outcome, and press Israel to allow voting in East Jerusalem, as it did in 1996, 2005, and 2006. The U.S. position should be that if Israel refuses, the Palestinians should conduct elections anyway in the territories it can with others voting absentee, and the United States together with the international community should make clear that doing so in no way abrogates the rights of Palestinians in the areas where Israel prohibits them from voting to do so in the future, nor does it negate any Palestinian claims in those areas.

The United States must also prepare for the possibility of a Palestinian leadership transition in the years ahead. The United States should not in any way dictate the outcomes of such a process. In that scenario, Washington can continue to express the expectations of the reforms it would like to see from the Palestinian leadership in terms of both unity and responsive governance.



Palestinian Hamas militants are seen during a military display in the Bani Suheila district in Gaza City, Gaza. The problem of Palestinian division—between Hamas and the Palestine Liberation Organization, and Gaza and the West Bank—is at the heart of the challenges facing Palestinian governing institutions. These challenges have increasingly become a major obstacle for any progress on the Israeli-Palestinian track. (Chris McGrath/Getty Images)

Freeze or Reverse Settlement Activity

The United States has long struggled to change the trajectory of the settlement project through its own policies. A first challenge has been an unwillingness to use available American leverage to induce a change in Israeli behavior. The main options to shift Israeli behavior are the ones outlined in the box on pages 41 and 42 on U.S. tools for persuasion. A second key question is whether and how to deal with differentiating among Israeli settlement activity in different areas.

The biggest concern with taking a differentiated approach is that it creates an implied zone of permission that undermines the U.S. view that all territory in the West Bank is subject to negotiations between the parties, and encourages Israel to pocket any U.S. concessions and build in those areas even as it rejects constraints on building in other areas. Moreover, a policy that implicitly condones any settlement construction is in direct contradiction of international law.

The alternative argument is that, given the composition of the current Israeli government, a full settlement freeze is politically unrealistic. While all settlements

may be equal under international law, there are settlements that the overwhelming majority of Israelis already consider part of Israel—most notably Jewish neighborhoods in East Jerusalem. When the United States criticizes construction in these areas, it spends political capital, provokes wide hostility with Israelis, and fails to get meaningful changes in behavior from the government.

Many of the proponents of a differentiated approach argue that Israel should agree to no construction outside undefined “blocs” or beyond the security barrier in exchange for no criticism of Israeli construction inside the barrier. Variations of this approach have been put forward by Dennis Ross and David Makovsky, Commanders for Israel’s Security, and the Institute for National Security Studies (INSS).¹³⁷ This would be the simplest approach, as a line for the barrier already exists (though there are places where it has not been built and remains the subject of controversy). The downside is that the barrier is a line that was unilaterally drawn by Israel, and one that Israel committed to the United States (in George W. Bush’s exchange of letters with Ariel



Israeli soldiers man a checkpoint to an Israeli settlement inside the city of Hebron—one of the tensest areas inside the West Bank. (Chris McGrath/Getty Images)

Sharon in 2004) was a security measure that would not prejudice negotiations over borders and territory with the Palestinians. Freezing outside the barrier would not address some of the most sensitive spots, especially in East Jerusalem, and the barrier in some places cuts off Palestinian residents from their own lands and otherwise imposes hardships that the United States may not want to endorse or make permanent. Agreeing to allow Israel to build inside undefined blocs would be even more problematic, as the Israeli government could then argue that parts of a future Palestinian state are indeed “inside the blocs” unless the United States has specifically ruled them out. In the end, the United States should view an Israeli government decision to agree to stop building outside the barrier as a positive step, but still insufficient.

Because of the strong disagreements associated with this issue, we lay out a number of options for policy-makers to consider—some that simply take a hard line on any settlement construction and others that begin to look at some differentiated options but only in a much more constrained way.

OPTION 1: STOP SHIELDING ISRAEL FROM THE CONSEQUENCES OF SETTLEMENTS IN THE INTERNATIONAL ARENA.

One option would be to simply continue the approach laid out in Chapter 3 that focuses on deterring Israeli action and not protecting Israel from actions by international actors taken in response to Israeli behavior that contradicts U.S. policy on settlements. This is the cleanest and simplest approach consistent with U.S. policy. We recommend the United States initially pursue this approach, partially because it is much easier to implement quickly than the alternatives listed below and because we believe it is imperative for the United States to reverse the Trump administration’s greenlighting of Israeli settlement construction. If the United States finds that this strategy is working, it should continue. However, if it finds that it is not having the desired effect or that it wishes to do more to frame what a final territorial compromise may look like, it can move on to the options below.

OPTION 2: PROPOSE A CLEARLY DEFINED PARTIAL SETTLEMENT FREEZE IN EXCHANGE FOR GREATER U.S. PROTECTION IN INTERNATIONAL INSTITUTIONS.

In this option, Israel would agree to freeze construction in all settlements outside the barrier as well as in areas in East Jerusalem and other sensitive areas inside

the barrier. This would address some of the problems associated with simply defining the barrier as the basis for a freeze by ensuring *all* of the areas that are viewed as hotly contested by the United States are addressed. In exchange for this freeze, the United States would not greenlight any settlements, but it would relax some of its criticisms of Israel, take a more sympathetic posture in international institutions, and resume some of the steps it took during the Obama and Trump administrations to protect Israel from international opprobrium. Such a freeze could be a private arrangement between the United States and Israel, or it could be publicly announced. It is also possible that Israel could announce publicly no construction beyond the barrier and then reach agreement privately with the United States on limitations inside the barrier. Palestinians would not be asked to agree to the freeze but would, of course, be consulted. Importantly, it would have to be a pure U.S.-Israel arrangement not contingent on any actions taken by the Palestinians, which was ultimately the reason the settlement freeze agreed to in 2009 collapsed, as it was still not viewed as sufficient by the Palestinians and led them to take a harder public position. This option still has the downside of validating certain Israeli settlement construction. However, it could also create a much more solid framework for deterring future Israeli settlement activity and clearer expectations on all sides about the likely final map.

OPTION 3: CONSULT WITH THE PARTIES AND LAY OUT A U.S. MAP AS THE BASIS FOR POLICY.

Another option is for the United States to put down its own map that includes swaps west of the Green Line and make that the basis for settlement policy. This approach would respond to and replace the Trump administration’s proposed map, which in many ways has made it more of an imperative for a different U.S. administration to put down a detailed map and present an alternative vision. The United States would make clear that the final map for a two-state agreement must be agreed to by Israelis and Palestinians, but until they agree to such a map the United States will use this map as the basis for its policy. The map would include swap areas of equal size and comparable value. U.S. policy would still take a harsh view on any settlement construction but would take a very hard line on construction on areas outside of what would remain in Israel. It could also make clear that it would only relax its highly critical posture toward settlement construction if Israel took steps to allow the Palestinian Authority access to and ability to develop

the swap areas. It could support Israeli legislation that compensated settlers who moved from areas of the map meant for a Palestinian state back into Israel or areas that the United States sees as part of Israel in any future agreement. The United States could also try to build international support for this map. This approach has the benefit of providing a clear integrated strategy, and would send a definitive signal that the Trump plan's map cannot and will not remain a component of U.S. policy or a de facto U.S. baseline for Israeli behavior. However, it would be very complicated to implement, and has some of the same downsides of validating Israeli construction in certain settlements and imposing a solution. It may be best to use the possibility of tabling a map as leverage to deter Israeli settlement activity or encourage a partial freeze. If those options prove ineffective, tabling a map could be a last resort.

Support Nongovernment Society-to-Society and Back-Channel Negotiation Efforts

As detailed in Chapter 1, neither the political leadership nor the public attitudes among Israelis and Palestinians are currently supportive of negotiations or the tough compromises a final agreement would entail. Neither public has faith that the other side is prepared for compromise and coexistence. There are a number of steps the United States should take to try to overcome this obstacle and begin to rebuild a fruitful societal and political environment for negotiations. These steps should target political leaders across the spectrum, community leaders of various kinds, the general population, and also marginalized communities that might play either a positive or a spoiler role in peace efforts.

As a first step, the United States and especially the State Department must elevate wide political and societal engagement from an afterthought into a core component of a diplomatic strategy that is, as this report has proposed, focused around preserving possibilities for compromise and creating conditions for renewed, effective negotiations. It is common for senior U.S. officials visiting Jerusalem or Ramallah to make a quick side trip to a U.S.-funded development project or “American Corner” library. We propose a much more consistent, focused, and resourced strategy by American officials to engage across the range of Palestinian and Israeli society to listen to the priorities and concerns of leaders and communities about the conflict and its potential resolution. To envision possibilities for successful inducement of the negotiating parties, and to construct diplomatic strategies that will win political and public support, the United States needs a more fine-grained understanding

of the political dynamics at work and how we can cultivate conversation and, ultimately, consensus on terms for conflict resolution. By engaging openly, respectfully, and patiently even with frustrated or anti-American interlocutors, American officials model the kind of engagement they want to see between Israelis and Palestinians and can also temper what may currently be sharp attitudes toward proposals that come from Washington.

A second prong of this strategy is public diplomacy. American officials should be engaging Israeli and Palestinian media actively to enunciate the principles outlined earlier in this report and to discuss prospects for conflict and conflict resolution. The United States should also acknowledge that various religious constituencies—Christian, Jewish, and Muslim—have deeply held views about the future for the Holy Land and that those constituencies can drive conflict. By listening to their views and better understanding them, these constituencies and narratives can be better channeled toward improving the state of the conflict. John Kerry's State Department did this to some extent through its Office of Religion and Global Affairs, and such efforts could be reactivated and enhanced.

By engaging openly, respectfully, and patiently even with frustrated or anti-American interlocutors, American officials model the kind of engagement they want to see between Israelis and Palestinians and can also temper what may currently be sharp attitudes toward proposals that come from Washington.

A third prong of this strategy is active U.S. support for Israeli-Palestinian people-to-people engagement. Congress should pass and the executive branch should implement the \$250 million Partnership Fund for Peace, which is currently before Congress. The fund includes \$110 million over five years to dramatically increase funding for people-to-people programs that bridge Israeli and Palestinian society, as well as \$140 million for Palestinian economic projects. This project also creates opportunities for additional international funders to join the initiative, and the U.S. government should encourage participation from other members of the international community. This flow of money will give a huge boost of

funding and legitimacy to the grassroots work so necessary to try to rebuild a constituency for peace among Israelis and Palestinians, especially youth.

An approach related to the third prong of this strategy would involve a focus on incitement to violence, which throughout the years since Israel and the PLO recognized each other has remained a concern, and a grievance, for both sides. Palestinian officials continue to pay homage to individuals who have carried out attacks on Israelis by naming sites and organizations in their memories. Israeli leaders have celebrated soldiers convicted of wrongful violence against Palestinians. Some Israeli community leaders, including rabbis, have promoted violent attacks on Palestinian civilians, and Palestinian terrorist organizations continue to recruit and organize in the West Bank and carry out regular rocket attacks from Gaza. Media and textbooks on both sides have long promoted narratives of the conflict and the situation today that do not acknowledge the legitimacy of the other side's identity or the reality of the conflict.¹³⁸ Even if Israelis and Palestinians can be persuaded to put their faith once again in a process of negotiations, it is hard to imagine any form of peaceful coexistence without official, political, and communal leaders taking a strong stance against incitement and without consistent efforts to marginalize extremism and to teach tolerance and coexistence. Part of the reinvestment in building bridges between Israeli and Palestinian society should focus on supporting civil society programs to hold both sides accountable for concrete steps to

marginalize extremism, root out incitement from official discourse, and promote a culture of peace.

Finally, the United States should encourage efforts in so-called Track Two dialogue to explore the substance of potential negotiations in an informal and unofficial setting. Historically, the most meaningful breakthroughs in the conflict have come from precisely these types of Track Two or Track 1.5 talks, far away from the media and political spotlight. Importantly, the United States does not need to run or own these negotiations and they should not be the centerpiece of U.S. strategy. The success of American strategy should not hinge on whether these types of negotiations happen or whether they result in a breakthrough, as the likelihood of such an outcome in the next few years is unlikely. But unofficial engagements that bring relevant political, security, and other leaders from the two sides into conversation help to lubricate Israeli-Palestinian relations in all kinds of ways, from changing perceptions to creating informal channels for crisis management.



Jewish men pass a store selling Palestinian clothing in the Muslim Quarter of the Old City in 2017 in Jerusalem. Another consideration for a revitalized American approach to Israeli-Palestinian diplomacy is to expand American engagement with the two societies in conflict. (Chris McGrath/Getty Images)

CHAPTER 5

Reshaping the U.S. Role

Chapter 5: Reshaping the U.S. Role

The United States should take a series of steps to change both the way it engages with the rest of the world on the Israeli-Palestinian conflict and how policymaking is developed inside the U.S. government. The United States should:

- Pursue more cooperative and flexible engagements with other international actors, instead of attempting to monopolize the work of Arab-Israeli diplomacy or build cumbersome coordination mechanisms like the Quartet.
- Put greater emphasis on working with Jordan and repairing the damage done to the Israeli-Jordanian relationship, while encouraging the warming of ties between Israel and the Gulf states.
- Develop an interagency process including key stakeholders such as the Department of Defense (DoD), the State Department, USAID, and the intelligence community, and appoint a special envoy or senior State Department official as the focal point on Israeli-Palestinian affairs.
- Pursue serious internal U.S. contingency planning on alternative outcomes to a negotiated two-state solution or amendments to the two-state paradigm.

Collaborate Flexibly with International Players

The United States must not simply abandon Trump's "go-it-alone" approach to Israeli-Palestinian diplomacy—it must recognize that Washington should no longer monopolize the work of Arab-Israeli diplomacy as it has in previous administrations. America's own relations with the Palestinian leadership and society are fractured; its relations with Israel are for now entangled with partisan politics. Meanwhile, other international and regional actors have developed their relations with Israel and/or the Palestinian Authority in recent years in ways that give them opportunities for engagement and influence that they did not have in the past. As Washington works to rebuild fractured relationships and credibility on this issue and others, cooperation with like-minded actors will be essential to have near-term impact.

In the past, U.S. presidents, secretaries of state, and special envoys treated other external actors as parties to be briefed and informed, and on occasion asked to add their efforts to an American initiative, but never as genuine partners. Previous mechanisms for multilateral coordination on Middle East peace, such as the Quartet of the United States, European Union,

United Nations, and Russia, were designed primarily to prevent non-American partners from getting out ahead of American diplomatic initiatives or undermining American policy goals. Such mechanisms are, therefore, not likely to be useful as architecture for a more flexible American approach to burden-sharing on Middle East peace efforts.

European governments have always cared about the Israeli-Palestinian issue but have treaded carefully for fear of angering a United States that saw this as its domain and have preferred to instead follow the U.S. lead. The new U.S. administration should signal that it wants a genuine partnership with European governments on these issues and acknowledge that there are times when Europeans can apply pressure and exercise influence with the parties that the United States cannot.

European policy against permanent occupation and in support of a two-state solution is clear and strong. Even European governments friendliest to Netanyahu, such as Poland's and Hungary's, have a stake in a diplomatic stance that rejects the acquisition of territory by force (most immediately because of Russia's takeover of Crimea and areas of Georgia). Even European governments that have been active and invested participants in Israeli-Palestinian diplomacy through the Oslo years see American leadership on the issue as important to catalyzing European action.

The administration should therefore take an early opportunity for in-depth consultations with European partners, through Brussels and individually, to share analysis and coordinate policy steps to halt the backward slide of the conflict, to respond to urgent needs or crises, and to reinforce the objective of a negotiated agreement that realizes the rights of Israelis and Palestinians to security, dignity, and self-determination. Existing mechanisms for policy coordination and joint action, such as the Ad Hoc Liaison Committee (chaired by Norway, cosponsored by the United States and the EU, and focused on development aid to the Palestinians) and regular U.S.-EU policy dialogues on the Middle East, can be examined, revitalized, and/or adapted to strengthen their impact on both policy coordination and outcomes.

An early, high-level statement of American principles and parameters such as that recommended earlier in this report should be previewed with key U.S. partners such as Canada, the U.K., Norway, Germany, France, and the European Union. It should be followed by early consultations with those partners and others on how they view their own interests and ability to influence the near-term dynamics of concern that we discussed in Chapter 3, with the aim of developing a set of shared near-term



The United Nations Security Council meets to hear from Palestinian President Mahmoud Abbas at the U.N. on February 11, 2020, in New York City. The new U.S. administration should seek flexible coordination and cooperation with Europe, the Arab states, and other key stakeholders in the international community on the Israeli-Palestinian issue. (Spencer Platt/Getty Images)

objectives and a division of labor among relevant actors in achieving those aims.

A good example of how the United States can deploy a more flexible and collaborative international approach is in Gaza, where it has a meaningful role to play but cannot single-handedly improve the situation. The two most important international actors in Gaza are Egypt and the United Nations Special Coordinator for the Middle East Peace Process, who have been part of efforts to improve the economic situation and facilitate reconciliation talks between Fatah and Hamas. Other actors such as Norway, Qatar, the European states, and the United Arab Emirates all play significant roles economically and/or diplomatically. The United States has the most influence with Israel and the greatest level of convening power in trying to align various international actors to make sure they are all pushing in the same direction. Thus, the United States can be most effective by engaging with Egypt and UNSCO to jointly develop an initial plan to improve conditions in the Gaza Strip and support reconciliation. Washington could then share the diplomatic labor with Egypt and UNSCO. Washington would work to align the international community and engage with the Israelis, while Egypt and UNSCO would be the central players on the

ground in Gaza and in negotiations between Fatah and Hamas, and Egypt would work together with the United States on engaging the Gulf.

Coordination with international actors beyond Europe and the United Nations is also worthwhile, although such coordination may be more tentative and subordinated to other issues on the relevant bilateral agendas. China's role in the region is growing, including important economic ties in Israel and Arab states such as the United Arab Emirates. But China has, so far, remained carefully balanced in its approach to the Arab-Israeli conflict and kept its distance from diplomatic efforts. Still, Israel's expanding diplomatic and economic relations with China, India, and Russia are an expression of those states' growing interest in the Middle East and of Israel's desire for diversified economic relations that are less dependent on the European Union. Ignoring these actors when it comes to the Israeli-Palestinian conflict thus enhances Israel's ability to play them and the Europeans off against one another to escape unwelcome policy pressures. And, as the United States refines its strategy toward a more globally assertive China, it must continue to work closely with Israel and other regional actors to ensure they are not undermining U.S. policy goals in their own relations with China.

Reinvest in Jordan and Harness Ongoing Gulf-Israel Normalization to Advance Progress on the Israeli-Palestinian Track

The United States must reevaluate how its relations with Arab governments connect to its Israeli-Palestinian diplomacy. During the Cold War and its immediate aftermath, American officials saw Arab-Israeli conflict resolution as a crucial means of resolving tensions among America's own regional partnerships. During the Oslo Process, the Arab states were seen as key interlocutors with the Palestinian leadership (particularly Egypt under Hosni Mubarak) and as offering Israel a major incentive for peace with the Palestinians, in the form of the Arab Peace Initiative and its promise of full normalization.

Today, it is not clear that any Arab leader has great leverage over the PLO leadership, and indeed some Arab governments have begun to look elsewhere for Palestinian political interlocutors. And the reality is that Gulf states have deprioritized this issue and begun enhancing relations with Israel apart from the Palestinian issue. Indeed, the Israel-United Arab Emirates and Israel-Bahrain agreements signify an alignment of certain regional interests that includes setting aside the question of Palestine in favor of other priorities. At the same time, they also demonstrate that though it no longer dominates, the Palestinian issue remains a factor, as the United Arab Emirates normalization depended on Israel promising to halt moves toward annexation.

The new U.S. administration should start by reinvesting in its dialogue and cooperation with Jordan. The Hashemite monarchy was largely frozen out by the Trump administration on Israeli-Palestinian peacemaking and, while continuing to enjoy strong support in Congress, was subject to intense pressures by the White House to acquiesce to the Trump plan proposals. Jordan, more than any other Arab state, is vulnerable to the consequences of the degrading status quo between Israel and the Palestinian Authority. And Jordan is the country that has demonstrated the most consistent interest in this issue and played the most constructive role over the years in trying to bring the conflict to an end. The long and close Israeli-Jordanian relationship is today at one of its lowest points since the Israel-Jordan peace treaty 26 years ago. A stable and strong Jordan is essential to Israeli security as well, making Jordan a key vector for influencing Israeli decision makers' choices.

We discussed earlier the essential role that the Egyptian government plays and will play in Gaza. But apart from that, the United States should not expect too much from Egypt. The Sisi regime remains focused on crushing internal political dissent and fighting an

ongoing ISIS insurgency in the Sinai. It has limited bandwidth and complex motives in any effort to broker Fatah-Hamas negotiations. Sisi does not and will not have the kind of influence over the PLO leadership that Mubarak had over Yasser Arafat. Egypt's role, while important, will mostly remain limited, and the United States should not expect too much from this partnership.

The United States should put the Arab Gulf agreements with Israel into an appropriate context. Rapprochement between these states and Israel is positive for the governments involved. It has the potential to dramatically improve Israel's connection to the Arab Gulf states, as well as bring new economic benefits and increased capacity to confront threats to regional stability. It may also create opportunities down the line for Israeli-Palestinian peacemaking. However, a realistic assessment must acknowledge that the Israeli-Palestinian conflict remains first and foremost about Israelis and Palestinians and they will be the ones who solve it. The Gulf Arab opening to Israel is not driven by concern for the Palestinians and has, in significant ways, reduced Palestinian leverage in future negotiations. Just as the Bahrain and United Arab Emirates governments did not allow the concerns of their citizens over the Israeli-Palestinian conflict to prevent them from seizing the opportunity to pursue common interests with Israel, so too they are unlikely to persuade the Palestinian public or leadership to make concessions. Nor is the Gulf likely to condition their cooperation with Israel on its



Prime Minister Benjamin Netanyahu meets with Jordan's King Abdullah II during a visit to Amman, Jordan, on January 16, 2014. The Israeli-Jordanian relationship is today at one of its lowest points since the Wadi Araba Treaty 26 years ago. A stable and strong Jordan is essential to Israeli security, making Jordan a key vector for influencing Israeli decisionmakers' choices. (Kobi Gideon/GPO/Getty Images)

policies toward the Palestinians. If Israel-Gulf relations ever do contribute to Israeli-Palestinian peacemaking, that will not be the path.

The reality is that across the Middle East, sympathy for Palestinian rights remains significant, and the Gulf governments' response to the prospect of Israeli annexation makes clear that they understand there are ways in which the Israeli-Palestinian conflict acts as a threat to their interests. A new U.S. administration should open new conversations with Gulf governments about where, precisely, they see the Israeli-Palestinian conflict within their own set of interests and priorities, what they are willing to invest to prevent the conflict from degrading into a more conflictual phase that threatens stability in an already unbalanced region, and what they can and will do to set the conflict back on the path to a diplomatic resolution. As Palestinian politics move closer to leadership succession, another key topic for U.S.-Gulf discussion is the imperative of strengthening a Palestinian leadership with real domestic political legitimacy that can bolster Palestinian Authority institutions and negotiate effectively with Israel. Finally, the commitment of Israel and the United Arab Emirates to invest in people-to-people ties may, over time, reshape Israeli public perceptions: perhaps relieving their sense of isolation in a hostile region, altering their perceptions of Arabs and the Arab world, and increasing the value they see in the so-called "peace dividend." Through such open conversation, opportunities for constructive Gulf engagement on the conflict might emerge, and the United States should be awake to the possibilities.

Build a New Architecture for Israeli-Palestinian Policy within the U.S. Government

The policies described in this report demand persistence and a patient, multifaceted approach that uses a panoply of U.S. policy tools and includes engagement with a wide range of international actors as well as a focused congressional strategy. It should, therefore, be clear that this effort also needs a redesigned policy architecture to replace previous structures more appropriate to high-level negotiations to achieve a final status agreement. Each of the presidents since Jimmy Carter presided over the Camp David treaty signing has yearned for his own photo of a historic handshake on the White House lawn—but the next American president should begin from an understanding that such a photo is almost certainly out of reach in the near-term.

The quest for signed diplomatic agreements, beginning with the Madrid Conference in 1991, pushed the American policy architecture for the Middle East peace

process out of the Near Eastern Affairs Bureau and concentrated efforts in an office that reported directly to the secretary of state and often to the White House itself. In the George W. Bush administration, diplomacy with Israel was run primarily through senior National Security Council (NSC) staff. To some extent, this hyper-concentration of policy work on the conflict was also a consequence of the close U.S.-Israeli relationship and the strong preference of Israeli leaders to have a direct line for discussion of such sensitive matters. As noted, the conflict is not in a stage right now where such immediate close contact is necessary—or, from the perspective of this report's recommendations for American policy, desirable.

This compartmentalization of Israeli-Palestinian policy at high levels of State and the White House short-circuited the process of policy coordination both within the State Department and in the interagency, resulting in a number of weaknesses: Separate channels

A healthy interagency process with key stakeholders sitting at the table, including NSC, State, USAID, the DoD, and the intelligence community, can result in more rigorous and well-thought-out policy that can sustain itself better over time because it has the force of consensus.

of communication with key actors resulted in missed or garbled messages to and from some foreign counterparts; the lack of interagency consultation reduced the range of policy tools available to work the issue; too small and secretive of a team often led to groupthink about strategies and content; and the lack of regular process within the State Department and in the interagency prevented peace policy efforts from being implemented fully in coordination with other relevant policies, whether regional or international in nature.

There is a balance to be struck. An interagency process that is too inclusive is prone to leaks, deadlock, and limitation on creative options. But a healthy interagency process with key stakeholders sitting at the table, including NSC, State, USAID, the DoD, and the intelligence community, can result in more rigorous and well-thought-out policy that can sustain itself better over time because it has the force of consensus. It is time to

reestablish the work stream of Israeli-Palestinian policy within the regular interagency process while also maintaining flexibility as needed through a special envoy closely coordinated with the Bureau of Near Eastern Affairs, though not necessarily a senior figure.

The expectation among Israeli and Palestinian leaders of regular presidential involvement during the Oslo years created a sort of inflationary effect on U.S. diplomacy, where Israeli, Palestinian, and other interlocutors took messages from officials below the president to be less than definitive and perhaps even unauthoritative. This tendency has been exaggerated by Trump's unprecedented hyperpersonalization of the U.S.-Israeli relationship (along with other key international relationships). In January 2021, the president of the United States will face continuing domestic crises in public health, the economy, and racial inequality. He will also face pressing international challenges outside the Middle East and pressing Middle East security issues outside the Israeli-Palestinian conflict. Personal involvement by the president made sense when the parties were engaged in serious negotiations, but today the conflict is far from ripe for negotiations. Resetting the expectations of Israelis and Palestinians about presidential engagement in their conflict is simply a necessity. Doing so might also have the salutary effect of allowing the parties to reexamine their situations without the backstop of American attention and clarifying that they will need to take their own actions toward de-escalation and reengagement if they wish to offer serious enough prospects for progress to secure presidential attention.

Undertake a Serious Contingency Planning Effort on Alternatives to Two States

A key judgment, on which many analysts disagree, is whether a two-state outcome remains the most viable and effective means for resolving the Israeli-Palestinian conflict peacefully. As discussed in earlier chapters, we believe strongly that a two-state outcome should remain the preferred outcome for U.S. policy as it is the consensus of the international community and the nominally stated preference of the leadership of the two sides. But the trends in the conflict suggest that this outcome may be slipping out of reach, and in any event decades of efforts have failed to achieve it.

Thus, even as the United States remains committed to pursuing a two-state agreement, the U.S. government should also begin a serious policy effort to examine alternatives. Such an undertaking can certainly take place in think tanks and academic settings, but an effort

inside the U.S. government would be able to make use of intelligence analysis and other resources to produce a more detailed examination of the likely consequences of different scenarios both for the region and for American interests. The locus for such an effort inside the U.S. government could be the State Department's Policy Planning office, the Strategy Directorate at the NSC, or a structured interagency effort under a presidential study directive.

Indications that the United States is actively considering and planning for other possibilities may also give a boost to the two-state model by giving the parties an incentive to alter their trajectories unambiguously toward two states. The hint of American consideration

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of a single democratic state, for instance, could reorient Israeli policy rather than risk the enormous costs that would accrue as a result of American support for a single state. The United States should continue to signal a clear preference for a two-state outcome, but also signal that this preference should not be taken for granted given the situation on the ground.

Such an undertaking can and should examine a range of options.¹³⁹ These include a democratic nonsectarian state, a perpetuation of the current nondemocratic status quo, and various formations for confederations, some of which might be seen as adjustments to the more-traditional two-state solution.

One democratic state. A single democratic state with equal rights for Jews and Palestinians would most resemble the United States. In a hypothetical world, that might be an ideal solution: a binational state that serves as a national home for both the Jewish and Palestinian peoples with secure borders, prosperity, protection for minority rights, freedom of movement for all, and limited need to uproot populations. There are also different forms of one-state solutions that could include significant forms of federalism that devolve local power to regions, as is the case in the United States or Switzerland, or even a consociational electoral system where, for example, half of the seats in parliament could be reserved for Jews and the other half for Palestinians (though there are many variations and formulas).¹⁴⁰ Indeed,

today Palestinian citizens constitute one-fifth of Israel's population and as they continue to integrate into Israeli society and increase their political influence, they make the strongest real-life case for why such an outcome may be possible. In addition, one state for both peoples solves all of the final status issues at once, as variables such as borders and security need only be negotiated over in the context of separation into two entities.

A single democratic state in this case, however, is severely complicated by the variables at work in the Israeli-Palestinian conflict. It would mean that neither side gets to realize its national aspirations in a recognizable way and must compromise having full self-determination, even if it is premised on a laudable foundation of democracy, equality, and reconciliation.

More tangibly, a major impediment to a single state is that Israeli Jews are dead set against it given their long history of exposure to violence, genocide, and discrimination when they had no state of their own and having achieved

political sovereignty in

their historic homeland, which the United States supports. Israelis will not simply give up on Israel as a Jewish-majority state in light of their history and struggle to restore a state of their own, not to mention the power imbalance between the sides. The Palestinian side, at least within Gaza and the West Bank, seems somewhat evenly split, with 39 percent supporting two states and 37 percent supporting one state.¹⁴¹

One democratic state would be in line with U.S. interests in promoting democracy and liberal values, and if achieved it could also be in line with American security interests by removing a constant source of regional friction. However, the strong objections of Israelis and the split preferences of Palestinians weigh against it; indeed, it is difficult to imagine the circumstance in which Jewish Israelis would voluntarily yield up their hard-won state to this alternative. In addition, the time it would take to achieve such an outcome would likely be considerably longer than the decades spent pursuing a two-state outcome and thus would also involve a longer continuation of the highly undesirable status quo and ongoing violence.

Perpetuation of the nondemocratic status quo. Should the status quo continue, it would amount to enshrining a Jewish-dominated nondemocratic state. This is the scenario envisioned by many right-wing Israelis who argue for some limited form of Palestinian "autonomy" in which Palestinians administer their own

population centers as a local government but have no control of the territory that connects these population centers and therefore lack agency over basic things like freedom of movement, economic opportunity, or control of their own borders. Palestinians would have a say over the entity that controls some aspects of their lives if the Palestinian Authority were to hold free and fair elections and operate as a responsive municipal government. However, in reality they would have no vote or control over the government that actually controls the most significant aspects of their lives.

This is an outcome the United States should reject outright as entirely unacceptable and work assiduously to avoid. It perpetuates the ongoing structural violence of the status quo. And it violates basic American values and would obviously be devastating to Palestinian society, further engendering a sense of injustice and making additional conflict almost inevitable. It would also be highly damaging to Israel and to U.S.-Israel relations. It

would create an even more polarizing issue in

American political discourse, which would inevitably begin to harm U.S.-Israel military and intelligence cooperation. The U.S.-Israel relationship would remain, but it would lose a number of the "special" elements based on shared values. It would also hurt American standing in the Middle East and across the globe, as the United States has been the central international mediator of the conflict and would inevitably be implicated in an outcome that Arab states and much of the rest of the world would refuse to accept. It would ultimately force any administration into a choice between downgrading ties with a critical and longtime partner or accepting a fundamentally unjust and undemocratic outcome in a conflict in which the United States has long been intimately involved. This outcome is entirely antithetical to American values and interests.

Israeli-Palestinian confederation. A confederation model involves two sovereign states with clear borders but with a number of joint institutions for shared functions working on an equal and undifferentiated basis. The main power rests with the individual sovereign states, but some amount of power is given up to joint institutions.¹⁴² The power given up could be minimal or substantial. There is no fixed formula. One version of confederation would include two sovereign states with borders that have some permeability and with a number of joint institutions for shared functions working on an equal and undifferentiated basis.

An Israeli-Palestinian confederation should be tailored to the needs of the situation and would need to be negotiated between the sides. Areas for joint institutions could include many of the following: the economy, security, Jerusalem, residency, borders, immigration, foreign affairs, and a legal system. Just as is the case with the two-state solution, the details of a confederation are complex, and many rest on a level of cooperation and trust that is sadly absent between the two sides.

Yet on a more limited basis, the long-envisioned two-state solution contains within it options for elements of shared functions that are elements of confederation. Most notably, many formulations for a two-state solution envision a shared capital in Jerusalem and potentially shared sovereignty for the Old City.¹⁴³ Economically, the two states could agree on a joint economic union or a joint currency governed by a central bank with governors appointed by both sides, which would replicate many economic aspects of confederation. From a security perspective, the Palestinian leadership has acceded to a demilitarized state where Israel would be responsible for protecting both entities from outside invaders, and cooperative security arrangements inside the Palestinian state have been proposed that look more like a confederation than an arrangement between two wholly separate entities.¹⁴⁴

Depending on how it is formulated, a confederation system could have the advantage of removing some of the highest logistical hurdles in a two-state outcome. For instance, a model that allows citizens of each state to be residents of the other while retaining national voting rights in their home states could help address issues such as the status of some settlers, and refugees.

However, there are some major challenges to a confederation. Foremost among them is the extent to which borders are open and the relationship between borders, security, and immigration, which for both Israelis and Palestinians is the paramount question. Indeed, the confederation solution likely requires more trust between the parties than is available in a two-state solution. If a confederation were to include the creation of a shared security force, it would pose the challenge of integrating the Israeli and Palestinian security forces. There would also be challenges integrating Israel's more robust and transparent governing institutions with the Palestinian Authority's more fragile and opaque ones. One of the greatest challenges would be the invariable and ongoing enormous power imbalance that would still exist between the two parts of the confederation. As with the two-state solution, there would also be logistical barriers to be overcome on the precise outlines of

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conflicting desires for sovereignty in particular areas. And as is the case in Israel, where its Palestinian citizens live in a Jewish-majority state and are subject to its laws, regulations, and policing, so too would Jewish residents in a Palestinian state be subject to its laws, regulations, and policing.

Given some of the confederative elements envisioned in a traditional two-state outcome, it is worth reflecting on and probing with the sides whether integrating elements of confederation might ease the way into a solution—especially on Jerusalem. The current consensus around a traditional two-state outcome ensures that it remains the more realistic option for the immediate term, but if trends continue along their existing trajectory, there may come a moment when the United States might seriously consider shifting to this approach. Particularly if annexation takes place and Israeli and Palestinian territory becomes more intertwined, the likelihood of the separation envisioned by the two-state model shrinks.

At the end of the day, the United States should be clear that the perpetuation of the nondemocratic status quo is unacceptably inconsistent with American interests and values and that any outcome to this century-old conflict must provide both Israelis and Palestinians with freedom, democracy, and equal rights.

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