State 194: Assessing the Institutional Capacity of the Palestinian Authority as the Foundation for an Independent State

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Abstract

Mahmoud Abbas’s 2011 attempt to obtain Palestinian statehood through the United Nations challenged the status quo “Middle East peace process” by offering an alternative solution to the system of bilateral negotiations that has otherwise been stagnant for much of the last decade. Since Salam Fayyad became prime minister in 2007, the Palestinian Authority has been actively working towards building institutions that would serve as the foundation for the future State of Palestine. International accolades for Fayyad’s initiative garnered far-reaching support to facilitate the state-building program.

In the six years since then, the Palestinian Authority has developed the institutions that are necessary for Palestine to become a state of its own. In reality, however, the Palestinian Authority has not evolved into the de facto state that Fayyad’s program had intended it to. This is largely due to the fact that Israel has not sufficiently minimized its occupation of the West Bank, inadvertently placing a glass ceiling on the Palestinian Authority’s ability to further develop its institutions.

The purpose of this research is to provide a better understanding of post-intifada, post-Arafat Palestine by analyzing the capacity of its institutions to function on a level comparable to other states. This research identifies specific criteria attributed to statehood, utilizing the cases of Israel and Kosovo to illustrate the role that institution building and support from the international community plays in obtaining recognition as a sovereign state. It also identifies the state-building programs enacted by the Palestinian Authority to demonstrate how the institutional capacity of the Palestinian Authority has evolved since the conclusion of the second intifada.

This research argues that the most accurate to measure a state is by assessing the existence of institutional infrastructure and the ability of state institutions to carry out the functions of a state. This research concludes that if Israel lifted its draconian restrictions in the West Bank and the U.S. also began to actively support the state-building programs, Palestine could sufficiently exist and a sovereign and independent state.
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Introduction

On May 14, 1948, the day that the British Mandate in Palestine was set to expire, the Jewish People’s Council convened in Tel Aviv to declare the independence of the State of Israel. In a proclamation of independence, David Ben-Gurion declared: “by virtue of our natural and historic right and on the strength of the resolution of the United Nations General Assembly, hereby declare the establishment of a Jewish state...to be known as the State of Israel.”¹ Four decades later, the Palestine National Council petitioned the UN Security Council, proclaiming: “The Palestine National Council hereby declares...on behalf of the Palestinian Arab people, the establishment of the State of Palestine in the land of Palestine.”² Still seeking independence, Palestinian Authority President Mahmoud Abbas returned to the UN in 2011, petitioning the United Nations for recognition as a sovereign state. The issue of Palestinian statehood is still unresolved.

The parameters for peace established in Oslo in the early 1990s are no longer sufficient to fulfilling a two state-solution solution. The al-Aqsa intifada of the early 2000s left an indelible mark in the eyes of the Israeli public that the Palestinians were an existential threat that ought to be feared. Repeated conflicts between Hamas in the Gaza Strip and Israel continue to validate the assumption

that Palestinians are not to be trusted. For the Palestinians, the continuation of peace talks without implementation of any solutions indicates the current Israeli government is not a willing partner for peace and that the situation on the ground will remain the status quo so long as this is the case. The unsustainable nature of the current status quo in the current environment of the Middle East necessitates that the “peace process” be looked at from a different angle. In order for a new series of negotiations to start, however, both parties need to be equally seated at the negotiating table.

State-building within the Palestinian Authority is the most pragmatic alternative to bilateral talks under the current negotiations regime. For the last six years the Palestinian Authority has actively worked to reform the government apparatus in the West Bank to establish legitimacy and credibility as a capable state. A genuine assessment of the institutional capacity of current Palestinian state would provide a baseline from which new negotiations could begin, absent of the political and religious dogma that has mired any attempts at finding a resolution to this point in time. For the purpose of this research, the institutional capacity of a state is measured by the development of an administrative framework for executing government operations that allow state institutions to function, even at the most minimal level. This research will argue that the Palestinian Authority has developed an institutional framework that is sufficient to establish a state, however, the continuation of the Israeli occupation of the West Bank and the lack of support from the international community has precluded the Palestinian Authority from reaching its full potential. Analyzing
the current state of affairs in Israel-Palestine from this perspective will provide an alternative point-of-view that eliminates some political morass that has stalled the resolution of the conflict to this point in time. While there is an abundance of scholarship relating to the Israeli-Palestinian conflict, the vast majority of that scholarship analyzes the current conflict predominately through the paradigm established in Oslo. This research will seek to expand into a more contemporary paradigm of analysis that assesses Palestinian statehood based on technical capacity of state institutions rather than power politics. By looking at the capacity of the current Palestinian Authority and the future Palestinian state, scholars and policymakers will be challenged to reconcile the perpetuation of an asymmetric status quo with an earnest exercise of self-determination.

This research will begin with a theoretical study of state-building by looking at classical theories of statehood as well as contemporary scholarship and legal precedent for state creation. Analyzing the theoretical basis of statehood will determine the criteria commonly attributed to statehood. This section will be supplemented by case studies of states that emerged from conflict by establishing the institutional capacity of state entities before petitioning the UN for recognition as independent states. This research will look at Yishuv Israel and Kosovo to demonstrate how state-building was implemented, as well as to show the role the international community played in supporting the institutions that were necessary for emerging states to succeed. The second portion of this research will look at the institutions of the Palestinian Authority and the framework for the continued development of the Palestinian Authority into a full-fledged state. This
section will be supported with primary sources to make the argument that the Palestinian Authority has the institutional framework to evolve into a sovereign state. The third section of this research will look at external assessments that indicate how developed Palestinian institutions actually are. This research will conclude by arguing that, despite internal and political flaws enigmatic of all modern states, the Palestinian Authority has the potential to govern as a sovereign state through the development of state institutions begun under Prime Minister Salam Fayyad. The perpetuation of an Israeli occupation that limits Palestinian potential, as well as the absence of supportive leadership from the international community, however, are impassable barriers that have precluded a state from developing, and will continue to do so if the status quo is sustained in perpetuity.
PART I: THEORETICAL PERSPECTIVE

Classical Thought

The modern concept of a state came into being with the Peace of Westphalia in 1648 when international norms began to recognize states, rather than feudal and monarchal systems, as sovereign entities for the first time. The new international system established by this treaty determined that self-determination, territorial integrity, and legal parity between nation-states were some of the key pillars of statehood, and this system is still used today. Since then, scholars from myriad schools of thought have expounded upon the original tenets laid forth at Westphalia—state sovereignty and territoriality—to better understand the identity of states in the international system. This section would look beyond state sovereignty and territorial integrity to understand how authoritative power is established within a state and how specialization of authoritative duties is specialized within a bureaucratic system of governance. By looking at theories of statehood, this section will determine the components that distinguish states from other entities.

Marx and Durkheim: The Economy of a State

One school of thought regarding statehood is based in economic principles of state structure and was originally articulated by Karl Marx. According to Marx, the framework of a state, both structurally and legally, is derived from the

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economic foundation of society, particularly illustrated in the bureaucratization of government administrations that manage and allocate state resources.\(^4\) This is because the state as an early institution of governance arose out of production and economic activity.\(^5\) Prior to large-scale industrialization, societies were structured around feudalism and had a limited capability to engage in far-reaching trade and commerce.\(^6\) As administrative entities developed the capability to manage and allocate resources, governments consolidated power that allowed a state-like structure to emerge as a central apparatus in economic management

One of the benefits of Marx’s analysis is that he understands the concept state development from an economic baseline that represents a dependent variable, an attribute that can be easily compared from one state to another. Another important attribute of a state is its political structure, but due to the uniqueness of individual polities, the political structure serves as an independent variable that is best used to understand the distinct make-up of a state when comparing one state entity from another.\(^7\) By understanding the distribution of resources as an economic baseline and dependent variable when comparing states, Marx argues that the sovereignty of a state is determined by the degree of its control over the access to and distribution of particular resources.\(^8\) In the operation of the state itself, the two resources that Marx argues are necessary for a state to control is the bureaucracy and the use of force—both through military and

\(^6\) Ibid.
\(^7\) Badie and Birnbaum, 4.
\(^8\) Ibid., 5
policing. Control over the civilian bureaucracy in particular is important because the bureaucracy is the instrument that the government of a state uses to determine how specific goods and services are distributed. The creation of a political superstructure arises as a distribution mechanism, leading to the centralization of political authority within the administration of the state, based on a ruling elite that takes on the role of exclusively controlling some of the means of production. This exclusive control, in the state sense, is seen as an exertion of authoritative control that a state would want to possess to be successful over other state entities. By maintaining exclusive control over the bureaucracy, the state retains its independence from both internal and external actors who might otherwise try to use the bureaucratic system to challenge the authority of the state.

Another school of thought argues that within the superstructure of the state is the distribution of labor within society. This idea was made popular by Emile Durkheim who explored Marx’s ideas of dividing labor within the material, economic-based paradigm of the state, by looking at the development of a central ‘governing organ’. By dividing labor between different levels of society, Durkheim argued that society becomes specialized as different functions and responsibilities of the state distributed to the most capable actors. With the state taking on an increasing number of new and diversified functions, additional responsibilities necessitate that centralization simultaneously take place to

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9 Ibid., For the purpose of this research, a more in-depth analysis of the control on the monopoly of force will be provided by Max Weber.
10 This resulted in the politicization of society, leading to the development of political parties that determined how state resources would be distributed. For the sake of brevity, this research will not look at the direct effects of the politicization of society, but this is certainly a topic that is pertinent to Palestinian statehood and could merit further research in the future.
11 Morrison, 130-132.
promote a unity of effort by the different bureaucratic actors of the state. The division of labor, from Durkheim’s perspective, enabled a functional state to emerge within the economic-based framework of a state that was argued by Marx.

While Marx suggested that the control over the distribution of resources within the bureaucracy institutionalized central authority, Durkheim added another element of state development by correlating the functionality of the bureaucracy to the legitimacy of the administration of the state. The states who are able to centralize power and constitute a powerful administrative apparatus are the most successful. In addition to the economic theory proposed by Marx, the necessity of specialization through the division of labor, and the centralization of power in a governing apparatus, as argued by Durkheim, also leads to the creation of a modern state.

The Weberian State

One of the most fundamental principles of statehood, according to the work of political scientist and sociologist, Max Weber, is the exercise of a monopoly of force by the state. In his essay *Politics as Vocation*, Weber argues “ultimately, one can define the modern state sociologically only in terms of the specific means peculiar to it…namely, the use of physical force.” He goes on to say “a state is a human community that (successfully) claims the monopoly of the legitimate use

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12 Badie and Birnbaum, 11-14.
13 Ibid., 12.
of physical force within a given territory.”  

To understand the state in more definite terms, Weber argues that it is not what institutions are attributed to a state, but how those institutions are unique to the state system. The legitimate claim to the use of force in particular, is a criterion necessary for a state to be considered a state because it is something exclusive to individual states. This is necessary to possess because it retains sovereignty in the central government, preventing competing entities from undermining the central authority of the state. The use of force is an enforcement mechanism that prevents the state from falling into anarchy. 

In addition to a monopoly on the use of force, the second clause to Weber’s definition of a state suggests that a state also has to be able to exercise authoritative force in a “given territory.” This is an essential attribute of a state because it determines what physically constitutes a state, geographically, as well as who constitutes the citizens of that state. This is important as it establishes the parameters of a states authority. Weber refers to this as organized domination whereby the government administration of a state claims legitimacy of its rule and demands obedience from a population. In order for a state to be able to claim dominion over a particular territory, the government administration needs to have the capacity to “control the personal executive staff and the material implements of administration,” which Weber suggests is possible through a monopoly on the use of force. The Weberian model of a state, which is still used to understand
statehood today, indicates that territorial integrity, authoritative domination (sovereignty), and legitimacy derived from the power to implement authority are all components of a state and are all derived from the basic prerequisite of claiming a monopoly of the use of force.

Tocqueville

Of classical state theory, nothing has been arguably more influential in understanding the institutions necessary for statehood than the successful independence of the United States and the eventual evolution of a democratic society there. In his work *Democracy in America*, notable political scientist Alexis de Tocqueville recounted his observations in American governance in the mid-nineteenth century. To differentiate between the *ancien regime* of old monarchies and the new era of republics, Tocqueville observed centralization of power and the subordination of aristocracy to democracy as two attributes of a new democratic state. When considering the Palestinian question, it is important to understand some of the core principles of democracy because the current international system is arguably more welcoming to fledgling democracies than other regimes and a future Palestinian state would benefit from being democratic in nature so that it does upset the balance of global power.

Centralization of authority is an important attribute of a state because it acts as a mechanism that allocates power between the rulers and the ruled. According to Tocqueville, “a nation [cannot] enjoy a secure or prosperous
existence without a powerful centralization of government."¹⁹ Tocqueville argues that centralization of authority is necessary because the antecedent to centralization is multiplicity of power centers within a society, which will ultimately compete with one another for authority. As a result, a state will be unable to enforce the rule of law and there will be a decreased incentive for the general public to adhere to authority.²⁰ To ensure that a central governing authority does not become despotic, however, Tocqueville distinguishes between centralization of the government and centralization of the local administration. While the centralized government represents the aggregate interests of a population, the local administration reflects the individual interests of a local polity.²¹ This is an important distinction to make in a democratic system because it retains power in both national and local authority apparatuses while also allowing for a degree of autonomy between localities, checking the central government from completely subduing local interests. Tocqueville’s writings regarding the centralization of power within a state are important because it allocates supreme authority to a singular apparatus while simultaneously decentralizing political power to provincial governments. This is important for the Palestinian case because centralization of power eliminates the potency of competing factions that otherwise fragment the Palestinian polity and undermine its capacity to declare independence.

²⁰ Ibid.
²¹ Ibid., location 1562.
Tocqueville lays the foundation for the modern democratic state in his writings by underscoring the importance of centralized power and authority to create obedience within a populace, while also illustrating how this is represented by the exercise of self-determination within polities. In order to be democratic, a modern state of Palestine would need to have a high degree of institutional capacity within its national and local government administrations, measured by the political will of individual Palestinians and their ability to use local governance to check the power of the central government authority.

The criteria that the early theorists recognized as important hallmarks that distinguish a state from a non-state are important because these criteria contribute to the argument of developing the institutional capacity of the state. As argued by Marx and Durkheim, a state needs to have a superstructure that, while largely dictated by economic principles in their writings, has the capacity to regulate and manage resources, consolidate power in a central bureaucracy, and allow that bureaucracy to divide labor and specialize administrative tasks. Weber supplements this by arguing that a state needs to possess a monopoly on the use of force so that it can act as an implementation mechanism while also acting as an attribute wholly unique to states. Finally, Tocqueville argues that a centralized administrative government is essential particularly in democratic regimes, because the government is also tasked with distributing power between leaders and their constituents. While on-going scholarship continues to reassess the concept of statehood, these criteria today act as the foundation for understanding why some entities are states and others are not.
Contemporary Theory

Classical theorists distinguished what made a state a state by identifying institutional attributes, like the bureaucracy and the military, which enable the state to emerge as a separate entity from society. In doing so, the classical theorists laid the foundation for the basis from which states ought to claim their sovereignty, as well as the role that institutions play in organizing the state system. With the emergence of new states out of post-conflict zones in the twentieth century, theorists began to codify and delineate the criteria that states ought to possess in order to be seen as sovereign entities. This process began with the Montevideo Convention in the 1930s and the definition of statehood still continues to be debated through precedent and theoretical scholarship.

The Montevideo Criteria

In 1933, the International Conference of American States met in Montevideo, Uruguay to discuss the definition of statehood. The Montevideo Convention concluded with the signing of a treaty that laid forth four criteria for what constitutes a state in international law. The first article of the treaty enumerated the four “Montevideo criteria”: permanent population; a defined territory; government; and the capacity to enter into relations with other states. Although these criteria are not universally accepted and continue to be debated, the

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22 Montevideo Convention on the Rights and Duties of States, 26 Dec. 1933.
23 Ibid.
Montevideo criteria continue to be used as benchmarks of statehood in the current era largely due to the absence of an alternative way of looking at statehood. In the post-World War II international order, international organizations have started to play a larger role in determining what consists as a state. While the criteria established in Montevideo determine statehood by declarative means, the constitutive theory of statehood argues that international consensus also plays a role. The constitutive theory of statehood argues that in order for international law to recognize a state as a state, other states also need to consider the state as a state. The United Nations in particular has become a forum for states to obtain constitutive recognition. Although UN recognition in and of itself does not make a state a state, those who are full members of the United Nations are recognized as states, supporting the assertion that the constitutive theory of statehood is relevant when assessing emerging states today. In the present international order, state institutions, the benchmarks established in Montevideo, and peer recognition of states in the United Nations are the main criteria used to distinguish states from other entities.

**Fukuyama: Defining Institutional Capacity**

Throughout the second half of the 20th century, the primary challenge of the international system was absorbing newly independent states from the

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26 Ibid.
27 Grant, 446.
decolonized world. In the 21st century this is no longer the case as the period of
decolonization has come to an end. Rather, the primary challenge of the present
era is the proliferation of failed and failing states that destabilize volatile regions
of the world and harbor non-state entities that are threats to international security.
Aside from enumerating specific criteria for statehood, another way to understand
whether or not Palestine could be a state is to understand the Palestinian
Authority’s capability to govern through the lens of failed and failing states. By
looking at the capability of state institutions to function, one can discern whether
or not a Palestinian state can satisfactorily operate independently, making the case
that a sovereign Palestine would benefit, rather than burden the current
international system.

An accurate method to measure a state is to determine its scope and
strength. According to political scientist, Francis Fukuyama, the institutional
capacity of a state is determined by the scope and strength of the government
apparatus. The scope of a state is defined by the level of its activity in deriving
laws and policies, and the strength of a state is understood by the states ability to
actually execute and implement laws and policies. State institutional capacity is
a good metric for distinguishing between satisfactory states and failing states
because it demonstrates how well a state is able to not only execute sovereignty
within its own borders, but also the degree to which a state can interact with other
states in the international system. In the case of Palestine, determining the scope
and strength of the Palestine Authority would make the case as to whether or not

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the Palestine can function as an independent state, and whether or not it would enter the international fraternity of states in good standing.

The institutional capacity of a state is a sufficient metric for understanding whether or not a state, particularly an emerging state like Palestine, is able to join the international system of states because such capacity can be determined by both external and internal indicators. Good state functions, such as effective administration, government transparency and accountability, and the ability to enforce laws, as well as state maladies, such as corruption, are regularly monitored by international agencies. As Fukuyama notes, organizations like Transparency International, Freedom House, and the World Bank, aggregate data regarding specific aspects of state strength and scope that are translated into indices that allows for a state-by-state comparison. In determining whether or not a virtual state, like Palestine, is able to execute full independence, external indices reflect how capable its institutions are in exercising good governance, according to contemporary norms of statehood.

In addition to external indices and reports, internal demand for institution building and reform is also important in discerning the state’s institutional capacity. Fukuyama argues that in cases where there is an absence of internal demand for domestic institutional reforms, foreign donors may apply pressure or an outside occupying force may intervene to develop the institutions necessary to effectively govern. Conversely, he argues that a state that can generate sufficient internal demand for institutional development is more successful in exercising full

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sovereignty than a state that cannot.\textsuperscript{30} This is an important metric, particularly for
the case of Palestine, because it measures the support an emerging state has for
developing capable state institutions. States that are on the verge of failure will
arguably necessitate the intervention of external actors to keep the state from the
brink of total collapse. Determining the demand for institutional development and
reform in the Palestinian Authority will establish a metric for understanding
whether or not external forces are needed to support the state, indicating the
degree to which an independent Palestine could exercise its own sovereignty.

State theory has evolved from the age of nineteenth century political
philosophy where states were only just beginning to emerge from archaic
monarchial empires. In the modern era of the state-centered internal order,
measuring the ability of a state to adequately function as a state has become the
accepted norm for determining which entities are states and which are not. It is
for that reason that this research seeks to understand the issue of Palestinian
statehood from a lens of institutional capacity rather than political paradigms or
even social movements. Understanding institutions and reforms to improve the
functionability of such institutions will give the most accurate and least biased
assessment as to whether or not the Palestinian Authority is capable of
functioning as a sovereign state. The follow sections will look at cases of states in
the making and how they obtained international recognition of statehood.
Utilizing a case study analysis will indicate how these theories were implemented,
and particularly, how the maturation of the functions of state institutions
eventually lead to the recognition of the state.

\textsuperscript{30} Ibid., 35-36.
PART II: CASE STUDIES

While it is important to recognize the emergence of state theory and some of the key tenets of statehood, it is more important to understand how these theories were applied. This research will look at two cases, Israel and Kosovo, to further illustrate the application of state theory in areas with conditions similar to the current situation in Palestine. Israel serves as a good case study because it demonstrates that statehood did not necessarily emerge at a vote in the UN, but that decades of building Jewish institutions in spite of both the Arab inhabitants in Palestine and the British mandatory government gave the Jews the credibility to argue that they needed—and were ready to manage—a state of their own.

In a more contemporary context, Kosovo is also a good case study too look at when trying to understand the Palestinian issue because Kosovo sought independence out of an asymmetric conflict, much like the Palestinians today, and they unilaterally declared their own independence after decades of state-building by the UN, NATO and other European-led efforts. This is an important study to look at because it shows the potential of the UN to engage in guided state-building by acting as the guardian of state-status seeking entities that may or may not have the ability to become a state on their own volition. More importantly, this example shows the role recognition from the international community plays in determining how a state obtains the official recognition as a state, demonstrating how internal politics within the UN system can determine the fate of a state’s status, irregardless of their own capabilities to function as a viable
state. Both of these examples provide an insight into the Palestinian issue by illustrating how states become recognized as states and how state theories are implemented in the state-building process. They also show that developing the institutional capacity of their respective pre-state entities was important to obtaining international recognition that would allow Israel and Kosovo to join the international regime of states.

Israel

*The Israeli Yishuv: “State in the Making”*

The Israeli Yishuv is an example of how economic, social, and political institutions enabled the State of Israel to become fully independent. The case of Israel is unique because it is shows an evolution from theory and concepts of the state, to the creation of institutions through a “state in the making” paradigm, and finally to the point where a strong state was produced and formally recognized by the world order. What also makes Israel an interesting case to look at is the way in which statehood was achieved through quasi-governance. While many modern states realized independence through revolution and military coups, Israel was a beneficiary of British colonial support. This analysis of the Israeli Yishuv will be broken down into three parts in order to show the progression of state-building within Mandatory Palestine until the declaration of statehood in 1948. The evolutionary progression of the development of an independent Jewish state will
show how Israel was successful, as well as provide a precedent for other
endeavoring states to follow.

**Zionism and Socialism**

Understanding the ideological framework from which a state emerges lays the
foundation through which civil society, the bureaucracy, and administrative
apparatuses develop and function. According to Baruch Kimmerling aside from
the technical dimension of statehood—through administrative and bureaucratic
mechanisms—a state also requires an identity dimension that reflects on the
collective identity of the inhabitants of a society and the character of the civil
society that eventually emerges.\(^{31}\) The impetus for Jewish emigration to the
British Mandate of Palestine in the late nineteenth and early twentieth centuries
can be found in political Zionism. At a time when European states were
consolidating under ethnic and national identities, the disparate Jews of Europe
also wanted to have their own territorial homeland. More than anything, the Jews
of Europe wanted to create their own nation and become a normalized entity in
the world order of that time.\(^{32}\) Persecution and pogroms had left an indelible
mark on Jewish collective identity and many Jews believed that collective
security could only be attained through a sovereign state.\(^{33}\) Theodor Herzl, the
father of the Zionist movement, came to a consensus with his colleagues that
Israel should come into being in the Jews’ ancient homeland—Palestine.\(^{34}\) This
territory served two purposes: on the one hand it was a symbol of religious and

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\(^{34}\)Ibid., 54.
Jewish-ethnic identity that would bridge the spatial divides that separated the Diaspora, and on the other, Palestine was a defined territorial space through which a sovereign Jewish nation could establish its own political entity. The collective history of the Jewish people and their ancestral connection to the land of Palestine thus gave the political Zionist enterprise a base of legitimacy. The tradition of self-determination and political sovereignty in Europe imposed itself on the Jewish Diaspora, necessitating the creation of a political entity unique to the Jewish people but also assimilating into the growing world order of nation-states. Political Zionism as an idea created a movement that lead to active organization and politicization of the creation of a Jewish nation-state in Palestine.

While political Zionism laid the groundwork for political and national organization of the Jewish people, socialism served as the economic and social tool through which the infantile Jewish settler community began to organize in the early twentieth century. Labor was especially important to the Jewish settlers that came from Eastern Europe and Russia during the second aliyah. The kibbutz system was a direct contribution of those Jews who settled during this time and eventually became an early template for communal governance. The focus on community in the Jewish narrative made it possible to organize labor and resources, and gave the Jews a stake in the success of their endeavor. The idea of these Labor Zionists was to make the Jewish settlers part of the land of Palestine

35 Ibid., 54-55.
38 Dowty, Israel/Palestine: 39.
and to make the land of Palestine part of them.\(^{39}\) In this regard the Jews were to become an integral part of the immigrant enterprise in Palestine.

Aside from the ideological-Marxist ideals of socialism that were supported by some of the Jewish immigrants, socialism as a framework for distributing resources and allocating labor was also important in achieving an autonomous Jewish state. Some settlers believed that the only way to truly have a distinguishable Jewish state was through economic autonomy. Avenues to achieve this separation not only included Marxist socialism, but also the economization and productivization of the Jewish population.\(^{40}\) Socialism provided an ideological framework for the mobilization of both manpower and resources.\(^{41}\) The necessity of structured order and division of labor in a socialist community required the Jewish immigrant community to create institutional organizations that could make this happen. While the land of Palestine was still under Ottoman rule the Jews were developing institutions and communal system of governance that carried through to the British Mandatory period.\(^{42}\)

*Institutions of the Yishuv*

For both the political and socioeconomic dreams of the early Zionist movement leaders in the British Mandate of Palestine to be achieved, an institutionalized framework had to be built. On the international level, the World Zionist Organization (WZO) was the broad reaching umbrella that joined the Diaspora to

\(^{39}\) Ibid., 38.
\(^{42}\) Ibid., 51.
the settler community in Palestine.\textsuperscript{43} The WZO endowed the Jewish settler community with the international support and financial resources it needed to survive. One extension of this role was the through the Jewish National Fund. The Fund was maintained by support from Jews in the Diaspora and was the backbone of land purchases by Jewish settlers in Mandatory Palestine. More importantly the ability of the Jewish settlers to purchase land enabled the Jewish political Zionist movement to consolidate power territorially within the early Yishuv.\textsuperscript{44} The ability of the Jews to purchase land in this organizational framework was elemental when it came to the consolidation of Jewish power into a coherent Jewish political national center because it gave them \emph{de facto} presence and legitimate claim to territory.\textsuperscript{45}

While the Jewish National Fund (JNF) enabled the Jews to consolidate power, it was the Jewish Agency, the executive branch of the WZO, which affirmed Jewish political control within the Yishuv itself. The British Mandate in Palestine recognized the desire for the Jews to establish their own national homeland, and made provisions for that in the terms of the Mandate. The Jewish Agency was subsequently created to assist the British in matters regarding the Jews of the Palestine, as well as to give the WZO a direct extension relating to its own interests in the Yishuv.\textsuperscript{46} The legal authority for the Jewish Agency was found in Article 4 of the Mandate directly stating that the Jewish Agency would act as an intermediary advising body to the British administration, both in

\begin{footnotes}
\footnotetext[43]{Dowty, \textit{Israel/Palestine}: 37.}
\footnotetext[44]{Migdal, 68.}
\footnotetext[45]{Ibid., 38.}
\footnotetext[46]{Dowty, \textit{The Jewish State: A Century Later}: 52.}
\end{footnotes}
Palestine as well as in London. Unlike the Arab natives of Mandatory Palestine, the Jews were given a provision of authority that was devolved directly from British rule. This provision made the Jewish Agency a quasi-governmental organization with advisory powers to the British colonial rulers, and gave the Jewish leadership a form of legitimacy it needed to hold rules binding over the Yishuv population. The Jewish Agency was tasked with the role of being both the diplomat and the overseer of economic development. In this manner the Agency conducted negotiations, organized immigration, and guided economic development in the Yishuv. The fact that the Jewish Agency was a diplomatic partner to the British colonial government, and had the means to manage both human capital and economic development enabled the Agency to gain legitimacy on a national level.

The other main national institution that emerged within Mandatory Palestine was Knesset Israel. Where the Jewish Agency was a subsidiary of the World Zionist Organization, Knesset Israel was the legal recognition of the Jewish community in Palestine by the British government, as well as the national authority over Jewish governing organizations. The main role for Knesset Israel was to serve as a platform for political competition between competing parties, as well as managing its own governing bodies that paralleled the framework of the WZO. Enabling competition amongst political parties, as well as providing the medium through which British power could devolve through, meant that Knesset

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47 Horowitz and Lissak, 45.
48 Ibid., 17-19.
49 Ibid., 45.
Israel became a staple institution in the Jewish political center.\textsuperscript{51} Recognition of Knesset Israel by subsidiary parties and periphery organizations endowed Knesset Israel with a basis of legitimacy that individual parties acting on their own interests would have lacked.\textsuperscript{52} Knesset Israel acted as an institution that broadened consensus and formulated the political agenda of the emerging Yishuv government.

Aside from the formal institutions that were created by the British and supported by the Diaspora, the Jews in the Yishuv also created informal institutions that governed aspects of daily life. These institutions were critically important because they imposed measures of social control on the population. Joel Migdal argues that social control by those who govern the rules of the game in society is a key attribute that leads to the crystallization of the state and the development of effective state capabilities once a state has been formed.\textsuperscript{53} One such institution that proved to be a key actor in the evolution of the Yishuv and the consolidation of power was that of political parties, particularly the Labor Zionist party, Mapai. Political parties were important to the development of the Yishuv because the existence of political parties preceded that of society itself.\textsuperscript{54} Peter Medding notes that the political parties that developed in the Yishuv were “united by a common goal of national independence and political sovereignty to enable them to operate…on the basis of power sharing.”\textsuperscript{55} This shared national aspiration helped shape the civil society that emerged in the Yishuv. A unique attribute of the political parties of the Yishuv was that they voluntarily

\textsuperscript{51} Ibid., 52-53.
\textsuperscript{52} Horowitz and Lissak, 167.
\textsuperscript{53} Migdal, 29-32.
\textsuperscript{55} Ibid.
participated in Knesset Israel, and that they shared power in a system that
patterned after consociational governance.\textsuperscript{56}

Although the political parties had to compete with one another for
influence as well as broker coalitions with one another, Mapai was able to forge a
path ahead of all the others due to its connection with the Labor movement.
Labor was harnessed by early Yishuv immigrants to cultivate the land and
develop communal systems of governance. Once these systems were in place
there grew a need for capital as the settler community expanded. Dependant on
the patronage of JNF funding, the Labor Zionists used the control of labor to
create the capital necessary to create jobs for the settler population.\textsuperscript{57} The
development of parties within the Labor movement had been created with the
intent to control and manage resource allocation as well as capital. Other parties,
most notably from the Revisionist camp, lacked the resources to control that
would have made it more competitive with Mapai. Mapai developed the
organizational framework and rules of the game that made it a leading institution
with the Yishuv’s political system.\textsuperscript{58}

The Labor movement continued to be the basis through which other
institutions became focal power players in the Yishuv, particularly through the
national union or the Histadrut. The Histadrut was founded in 1920 around an
institutional framework that promoted political labor considering industrial labor
was largely nonexistent in the Yishuv.\textsuperscript{59} The Histadrut not only managed labor
and employment concerns of workers, but it also provided services like healthcare

\textsuperscript{56} Dowty, \textit{The Jewish State: A Century Later}: 46.
\textsuperscript{57} Horowitz and Lissak, 70; Medding, 9.
\textsuperscript{58} Horowitz and Lissak, 82-85.
\textsuperscript{59} Medding, 9.
and education, and became a player in determining policy of social services.\(^{60}\)

Under Mandatory rule, the function of Histadrut as a national union as well as a provider of social services in the Jewish community made it indispensable. Institutions with a vital importance had to be carefully controlled by the leaders of the Yishuv.\(^ {61}\) The Jews knew that the British both wanted to lay the foundation for a Jewish state in Palestine, however in the 1920s it became apparent that control would pass over to the majority population of Mandatory Palestine.\(^ {62}\) The Jews were a minority compared to the indigenous population, thus this change in British policy posed a significant risk to the continued existence of the Jewish enterprise in Palestine. The Histadrut proved to be a critical organization that would project Jewish power and influence despite the obvious demographic disadvantage it faced vis-à-vis the Arabs. Baruch Kimmerling argues that the “ability to mobilize Jews in Palestine and in the Disapora for political ends” was one of two necessary preconditions for the Yishuv to be a viable political entity in Mandatory Palestine.\(^ {63}\) The Histadrut embodied the ability of the Jews to organize and mobilize, as well as provide services for the Jewish community that were otherwise absent under British rule.

A final institution that solidified Jewish strength and semi-autonomy in the Yishuv was Haganah. While Kimmerling noted that mobilization for political ends was fundamental to Jewish self-determination and political autonomy in Mandatory Palestine, the other prerequisite for the success of the Yishuv was an

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\(^{60}\) Dowty, *The Jewish State: A Century Later*: 75; Medding, 9.


\(^{63}\) Kimmerling, 65.
institutionalized power that could produce organized violence. Haganah was created in 1920 at the same time the Jews were realizing that their continued existence through the British was uncertain. The WZO especially did not trust the British Mandatory government to be the exclusive guarantor of Jewish security. Haganah was created under the auspices of colonial rule and formally became an instrument of security for the political center of the Yishuv. After the Arab Revolt in the 1930s, Haganah experienced a dramatic paradigm shift that moved it more towards a professional army and away from the decentralized local outfit that it had been during the 1920s. Like Histadrut in the labor sector, Haganah became important because it was an institution that mobilized manpower, particularly in matters of defense and national security. The most important role of Haganah in the Yishuv, however, was the fact that its centralized existence challenged the monopoly on force that the British had otherwise held. With these institutions the Jewish political center was able to consolidate power that would enable it to become the natural successor of governance over Palestine once the British Mandate expired.

The Israeli state came into existence, not because of a vote in the United Nations, but rather, because the institutions of the Yishuv period had been well-developed prior to 1948. The institutions that were part of the Yishuv maintained a mechanism of force, managed the allocation of resources, particularly labor, and served as functioning bureaucratic organs that managed Jewish society. The power-sharing structure that had emerged in the communal governance of the

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64 Ibid.
65 Horowitz and Lissak, 46.
66 Ibid., 50.
67 Ibid., 51.
Yishuv made it possible for the Yishuv institutions to consolidate their own power under the newly emerged Israeli state. Although the main focus of this research is not the politicization of societies, a distinguishing factor between the Jews in the Yishuv period and the Palestinians today is the degree to which political will is encapsulated in communal identity. For the Jews, developing a political process within Mandatory Palestine led to the growth of independent institutions, making Israel a unique case in this regard. Nonetheless, the Yishuv period serves as a model for successful state-building because it showcases the institutional characteristics a strong, functioning state needs to possess, as well as the political dimensions that are also part of the state-building process.

Kosovo

With the collapse of the Soviet empire, a multitude of new states emerged in Central and Eastern Europe. The dissolution of Yugoslavia was particularly violent as archaic ethnic tensions surfaced in the contest for independence. In the Former Yugoslavia, Kosovo had been a semi-autonomous region of Serbia that was home to both Serbs and Albanians. Slobodan Milosevic’s rise to power increased Serb nationalism, empowering Serb minorities to fight for the realization of “Greater Serbia,” the emanation of a Serb ethnic homeland, which also consequentially included Serbs within Kosovo.68 Under Milosevic, Serbia claimed the Albanian-majority territory of Kosovo as part of Serbia, revoking the autonomous status that had previously been held by Kosovars under Yugoslav

The 1995 Dayton Accords did not address the emerging conflict between Serbia and Kosovo, with war eventually breaking out between the two sides. NATO intervened in 1999, paving the way for NATO, the UN, and other international organizations to begin a decade-long state-building program in Kosovo.\(^{70}\)

For the purpose of understanding Palestine’s current quest for independence, Kosovo is a good case study to analyze because it is an example of how international tutelage can build the institutions needed for a future state to succeed. The UN and NATO were two of the most instrumental international organizations guiding the state-building program in Kosovo because they established Kosovo’s administrative and security institutions, respectively. In the beginning of the conflict, NATO was instrumental in consolidating armed militant groups, particularly the Kosovo Liberation Army (KLA), and recognized a new security force, the Kosovo Force (KFOR).\(^{71}\) Once the immediate security situation had been resolved, the United Nations Interim Administration Mission in Kosovo (UNMIK) was established to develop the political and institutional capacity of a future independent Kosovo state.\(^{72}\) While the case of Kosovo is still controversial and in some cases, unrecognized as an independent state, it illustrates the role that the international community plays in facilitating modern

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\(^{72}\) Hehir, 9.
state independence and how the development of the institutional capacity of the state provides the basis for a credible claim of state sovereignty.

Kosovo Force

Both the UN and NATO became involved in Kosovo in 1998 as a peacekeeping operation to create a stable and secure environment that would bring a resolution to the conflict between Albanians and Serbs over the status of Kosovo. Citing humanitarian concerns, the UN Security Council invoked Chapter VII of the UN Charter, giving the Security Council authority to act to establish an international security presence in Kosovo. Article 3 of UN Security Council Resolution 1244 specifically stated that an “international security presence” would need to be established in Kosovo to ensure the withdrawal of Yugoslav forces. The failure of the Kosovo Verification Mission to diplomatically resolve the conflict led NATO to take the initiative to use force against Serbia to ensure the right of self-determination for the Kosovar Albanians was upheld while also providing a path to ending the war and discerning the final status of Kosovo.

The Kosovo Force (KFOR) was a NATO-led institution that served as the armed forces tasked with managing the security aspect of the conflict in Kosovo. KFOR found its authority in UN Security Council Resolution 1244, where KFOR

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73 Hehir, 7.
74 Chapter VII of the UN Charter addresses breaches of peace and acts of aggression.
76 The Kosovo Verification Mission had been a diplomatic effort to uphold a 1999 ceasefire.
77 Solana, 116-117.
was designated as the primary international security presence in Kosovo.\textsuperscript{78}

KFOR’s initial objective was to deter any renewed hostilities between Serbs and Albanians, demilitarize the KLA, and establish a secure environment for civilians affected by the conflict.\textsuperscript{79} An international security presence was necessary reign in armed political violence from the KLA and to give Kosovo the capacity to secure itself from outside threats.\textsuperscript{80}

While KFOR did not necessarily demilitarize the KLA, it did absorb militant fighters into the Kosovo Protection Corps (KPC), the primary policing agency of Kosovo.\textsuperscript{81} This became apparent when the KLA and Kosovo political leadership signed an “undertaking of demilitarization and transformation of the KLA” with the command of KFOR in June 1999.\textsuperscript{82} The KPC has since evolved into the Kosovo Security Force (KSF), a professional and lightly armed force committed to law enforcement and emergency management, with an outlook of the KSF eventually taking on the role of providing Kosovo’s national defense.\textsuperscript{83} Although KFOR is still deployed in Kosovo as a NATO force, it has taken a position of minimal presence and assisting international actors in carrying out their missions as the security situation on the ground has increased.\textsuperscript{84}

\textsuperscript{79} Dziedzic, 334.  
\textsuperscript{80} Ibid.  
\textsuperscript{82} Brand, 47.  
\textsuperscript{83} Comprehensive Proposal for the Kosovo Status Settlement, 7.  
The evolution of KFOR’s role in Kosovo following the ceasefire between Belgrade and Pristina, all through Pristina’s declaration of independence in 2008 illustrates the role the international community can play in managing the security of a territory seeking statehood. While there is an argument that NATO has not done enough to fully withdraw all of its troops allocated to KFOR, NATO has been successful in facilitating the construction of an organic security apparatus in Kosovo, as demonstrated by the development of the KPC and KSF. In the case of Palestine, KFOR’s role in integrating militant political forces into a professional police unit has significant potential in addressing some of the security concerns posed by Israel when it comes to Palestinian statehood. Although it would be difficult to advocate for a NATO-style intervention in Palestine at this time, it would be advantageous to take a more detailed look at NATO’s role in developing Kosovo’s security structure and how that can be applied to present-day Palestine.

UNMIK

Prior to the situation in Kosovo, the UN had not directly intervened in the sovereignty of another state. Kosovo was the first time in which the UN Secretariat became the executive authority over a state in a post-conflict zone, and took on the duties of the state as mandated by UN Security Council Resolution 1244. Resolution 1244 effectively authorized the UN Secretariat to initiate a plan for the international administration of the conflict in Kosovo, with

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85 Executive authority was given to the UN Secretariat by decree.
86 Dziedic, 334.
the objective of creating self-rule in Kosovo through interim international governance.\(^87\)

The initial governing body established by Resolution 1244 was the United Nations Interim Administration Mission in Kosovo (UNMIK). The structure of UNMIK was divided into four pillars, with the Special Representative of the Secretary-General to the UN (SRSG) overseeing the entire pillar system. UNMIK, under the SRSG, thus became the sole governing authority in Kosovo.\(^88\) The first pillar of UNMIK addressed humanitarian issues with the UN High Commissioner for Refugees charged with developing the humanitarian aid program. The second pillar addressed civil administration and was run directly by the UN. The third pillar was managed by the Organization for Security and Cooperation in Europe’s Mission in Kosovo, addressing democratization and institution building in Kosovo. The final pillar was managed by the European Union and was tasked with developing a program for economic reconstruction and development.\(^89\) Under this four pillar structure, UNMIK was to develop provisional institutions that would eventually form the basis for a transfer of administrative authority to local leaders once a political settlement had been reached.\(^90\)

One of the biggest challenges for this new method of creating a self-governing state out of a conflict zone was being able to generate internal credibility and legitimacy for UNMIK from Kosovars. When Resolution 1244

\(^{87}\) Brand, 8.
\(^{88}\) Ibid.
\(^{89}\) Ibid., 10.
\(^{90}\) Brand, 8-9.
went into effect, a major issue for UNMIK was the existence of parallel governing structures. In the early 1990s, the Republic of Kosova, housed in Pristina, claimed sovereignty in Kosovo independent of existing Kosovo’s semi-autonomous status.\textsuperscript{91} Initially, the Republic of Kosova had more domestic credibility than UNMIK because the Republic of Kosova boasted a political and economic base amongst the Kosovo population that UNMIK did not. The only legitimacy that UNMIK could claim was the authority decreed in Resolution 1244.\textsuperscript{92} From the onset UNMIK risked falling into a trap of becoming an internationally recognized neocolonial government within Kosovo.

The disestablishment of the Republic of Kosova in 2000\textsuperscript{93} and the recognition of UNMIK as the legitimate civilian authority apparatus in Kosovo is applicable to the case of Palestine, particularly in regards to the challenge Hamas poses to the Palestinian Authority. A parallel government in the Gaza Strip has challenged the Palestinian Authority since Hamas took unilateral control over the territory in 2007.\textsuperscript{94} As a result, the Palestinian Authority has had difficulty obtaining internal legitimacy and external credibility, given Hamas’s mal intentions towards the State of Israel. The Hamas-Palestinian Authority issue is one of the main barriers to recognition of the Palestinian Authority as the legitimate government of Palestine by the international community, particularly Israel and the United States. UNMIK as a provisional administrative apparatus

\textsuperscript{91} Brand, 11.  
\textsuperscript{92} Ibid.  
\textsuperscript{93} The Republic of Kosova was officially disbanded on February 1, 2000, following the passage of the Joint Interim Administrative Structure Agreement by all Kosovar leaders in December 1999 (Brand 13-15).
demonstrates the potential role the UN can play in mediating differences between competing governments in conflict zones.

**Joint Interim Administrative Structure**

To address the deficiency of internal legitimacy created by UN-led governance, UNMIK developed the Joint Interim Administrative Structure (JIAS) in 2000, the purpose of which was to disband parallel institutions and to include local administrative leadership in the UNMIK system. The JIAS Agreement recognized the need for consolidating authority under the UNMIK system while simultaneously establishing joint administrative control between UNMIK and domestic Kosovar leadership.

A key issue that JIAS resolved was the existence of parallel institutions particularly from the Republic of Kosova. Because the Republic of Kosvoa claimed partial sovereignty over Kosovo, it had been a major challenge towards any one, central government from claiming full authority over the territory since the inception of UNMIK. The new JIAS system became a mechanism for absorbing competing governing bodies while simultaneously institutionalizing the governing structures established by JIAS as legitimate components of Kosovar self-rule.

In order for JIAS to be accepted by competing factions, the Interim Administrative Council (IAC) was created to include competing governing

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95 Brand, 13-15.
96 Ibid.
97 Ibid.
structures in a comprehensive institution under UNMIK.\textsuperscript{98} IAC became the most important political body because it exercised \textit{de facto} legislative powers that other JIAS components were unable to.\textsuperscript{99} It was the primary mechanism within the JIAS agreement that political power was devolved too. Another major institution expanded upon under the JIAS agreement was the Kosovo Transitional Council (KTC). The KTC was developed to provide a platform for the various stakeholders in Kosovo to be represented in.\textsuperscript{100} The primary purpose of the KTC was to be consultative rather than legislative, with the main focus of promoting and representing the interests of the different stakeholders rather than creating solutions.\textsuperscript{101}

The JIAS Agreement also developed the administrative ministries that were necessary to compromise a functioning bureaucracy. The administrative departments consisted of reforming already existent governing ministries as well as creating entirely new ones. The purpose for developing the administrative duties was to institutionalize a well-functioning civilian bureaucracy that would operate on technical capability and functionality during the interim period as well an independent Kosovar state was proclaimed.\textsuperscript{102} While JIAS established the framework and the institutions for an interim government, the second phase of transitioning UNMIK into the State of Kosovo necessitated the completion of elections.

\textsuperscript{98} Ibid., 13.
\textsuperscript{99} Ibid., 18.
\textsuperscript{101} Brand, 20.
\textsuperscript{102} Ibid., 24.
Framework for Provisional Institutions of Self-Government

In October 2000, municipal elections were held under the JIAS framework, bringing newly elected municipal governments into power, devolving administrative power from UNMIK to local authorities. With the transfer of power to municipal governments, the Provisional Institutions for Self-Government (PISG) was established in 2001 under the Constitutional Framework for Provisional Government. The objective of PISG was to transfer interim authority to local institutions, with the intent of using this framework to transfer authority to institutions on a national level. The Constitutional Framework was significant in the state-building process in Kosovo because it established the rules of the game for Kosovar institutions and determined how those institutions would function after the 2001 elections.

The Constitutional Framework focused on establishing the primary institutions of governance. The four main institutions that encompassed PISG were the Assembly, President of Kosovo, Government, and Courts. The Assembly of Kosovo is the most important PISG institution under the Constitutional Framework because created a legislative apparatus that would represent the Kosovar public in the larger context of the SRSG and UNMIK. An important power given to the Assembly was the election of the President of

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103 Lemay-Hebert, 200.
104 Ibid.
105 Brand, 32.
106 Ibid., 35.
107 Ibid., 36.
Kosovo using a secret ballot.\textsuperscript{108} This was significant because it devolved power to an elected body, creating a mechanism for allocating administrative authority between Kosovars and UNMIK. Despite this, the President’s executive powers were limited to coordinating external relations with the SRSG and consulting with political parties to identify a candidate for Prime Minister in the Assembly.\textsuperscript{109}

The Government of Kosovo consisted of the prime minister and the ministers of the administrative departments. The Government itself was restricted by the amount of autonomy it had on a national level because UNMIK reserved powers for its own discretion, limiting the scope of the Government of Kosovo’s powers within the PISG framework.\textsuperscript{110} Chapters 8 and 12 of the Constitutional Framework reserved specific administrative powers to the SRSG, with the SRSG also having supreme authority over the PISG.\textsuperscript{111}

Although creating these institutions was important for creating a momentum towards self-rule, the main limitation on the new PISG framework was that it did not completely devolve authority to national institutions. Under the SRSG, UNMIK still retained its power as the sole authority in Kosovo, resulting in little to no change in the political situation on the ground in Kosovo.\textsuperscript{112} Authority was not completely devolved to institutions because power was transferred on the basis of operational and functional credibility rather than political legitimacy.\textsuperscript{113}

\begin{flushleft}
\textsuperscript{108} Ibid., 38.  \\
\textsuperscript{109} Ibid., 37.  \\
\textsuperscript{110} Ibid., 39.  \\
\textsuperscript{111} Ibid.  \\
\textsuperscript{112} Lemany-Hebert, 201.  \\
\textsuperscript{113} Brand, 40.  \\
\end{flushleft}
Within the PISG framework, the special representative of the secretary general, Michael Steiner, established a policy of “standards before status,” designating specific benchmarks that Kosovo would have to meet for the UN to determine the final status of Kosovo. The eight benchmarks focused primarily on economic and political goals and consisted of: functioning democratic institutions, rule of law, freedom of movement, returns and reintegration, economy, property rights, dialogue with Belgrade, and the function of the Kosovo Protection Corps. Establishing benchmarks to transition from occupation to independence is important because they establish a task list that otherwise represents a timeline towards independence, mapping out a clearly defined end game. These benchmarks hold the UN accountable in determining Kosovo’s final status while also giving the Kosovar public a metric to assess their progression towards statehood. By retaining supreme executive authority over national institutions, however, UNMIK under the SRSG jeopardized the viability of an independent Kosovar state that had the sovereignty to manage its own affairs. The continuation of a status quo where Kosovo institutions were subordinated to international rule necessitated a reassessment of Kosovo’s final status as an independent state.

The Ahtisaari Plan and Kosovar Independence

In 2007, Finnish diplomat Martti Ahtisaari was appointed UN Special Envoy to Kosovo and in February of the same year he published the Comprehensive Proposal for the Kosovo Status Settlement. Since UN Security Council

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114 Edelstein, 146.
Resolution 1244 laid the foundation for a state-building program in Kosovo in 1999, the “Ahtisaari Plan,” as the proposal was referred to, evaluated the work done by the international community up to that point and implicitly advocated for Kosovo’s independence while also establishing a transitory timetable under which such independence should arise. In order to develop the capacity of Kosovar institutions to a point where independence could successfully be declared, however, the Ahtisaari Plan created two new institutions—the International Civilian Representative (ICR) and the International Steering Group for Kosovo (ISG).

The ICR was created to implement the recommendations spelled out in the Ahtisaari Plan. According to Article 11.4, “the ICR shall have overall responsibility for the supervision, and shall be the final authority in Kosovo regarding interpretation of this Settlement.” In order to interpret and successfully implement the letter and spirit of the plan, the ICR was given exclusive authority independent of existing authoritative bodies. Furthermore, the ICR would remain the sole executor of the Ahtisaari Plan until the ISG could determin that the terms of the settlement had been satisfactorily implemented.

The ICR was important because it minimized UNMIK’s role as the sole guarantor of executive authority in Kosovo. At the same time, it created a pathway for

116 Aside from administrative governance, another key aspect of the Ahtisaari Plan was the institutionalization of an International Military Presence (IMP). The IMP was to continue under the aegis of NATO and was to establish the Kosovo Security Force (KSF). As previously mentioned, the development of the KSF was important, from a security standpoint, because it established a process for demilitarizing competing groups while also enabling for the management of the territorial integrity of Kosovo vis-à-vis Serbia (Comprehensive Proposal for the Kosovo Status Settlement, 55).
117 Comprehensive Proposal for the Kosovo Status Settlement, 7.
118 Ibid., 8.
sufficiently transferring international authority to Kosovar institutions where previous agreements had fallen short.

The other main institution to emerge out of the Ahtisaari Plan, the ISG\textsuperscript{119} was responsible for appointing the ICR and was responsible for obtaining endorsement from the Security Council.\textsuperscript{120} The main authority of the ISG, derived from Annex IX, Art. 5 of the Ahtisaari Plan, states “the mandate of the ICR shall be terminated when the International Steering Group determines that Kosovo has implemented the terms of this Settlement.”\textsuperscript{121} Both the ICR and the ISG were responsible for implementing and executing Ahtisaari’s proposal, while also acting as indicators that would determine when the Kosovo was ready to be weaned off of international support and become an independent state.

One of the most important components of the Ahtisaari Plan was the timetable for a transition of power from international authority to self-governance in Kosovo. According to Article 14, UNMIK and the Constitutional Framework for Provisional Self-Government would “remain in effect until the end of the [120 day] transition period.”\textsuperscript{122} Under Article 14.1, the plan explicitly states that “at the end of the transition period UNMIK’s mandate shall expire and all legislative and executive authority vested in UNMIK shall be transferred en bloc to the governing authorities of Kosovo.”\textsuperscript{123} This clause resolves prior issues of adequately devolving administrative authority by clearly stating how power will

\textsuperscript{119} The ISG compromised France, Germany, Italy, Russia, United Kingdom, United States, European Union, European Commission, and NATO.

\textsuperscript{120} Comprehensive Proposal for the Kosovo Status Settlement, 52

\textsuperscript{121} Ibid., 53

\textsuperscript{122} Ibid., 9

\textsuperscript{123} Ibid., 10
be decentralized, to whom it will be given, and the period of time it will take to fully devolved power to the Kosovar state. While not explicitly declaring independence on behalf of the Kosovars, the Ahtisaari Plan, recognized the necessity of an eventual cessation of internationally exercised authority in Kosovo.

In March 2007, UN Secretary-General, ban Ki-moon, stated his support for the Plan. In the report, the Secretary-General cited that continued international administration of Kosovo was not sustainable because it continued an environment of political uncertainty that prevented the economy in particular from being able to develop to it’s fullest capacity. Because the international administration of Kosovo had denied Serbia any claim of sovereignty over Kosovo since 1999, the Secretary-General also made the argument that an independent Kosovo was the only viable option left to pursue. Due to political division within the UN Security Council, the Ahtisaari Plan was not fully implemented. As a result, Kosovo unilaterally declared its independence from Serbia on February 17, 2008.

The Ahtisaari Plan is important to understand the progression of Kosovo’s independence, particularly as it relates to the present issue of Palestinian statehood. Utilizing previous agreements, the Ahtisaari Plan established benchmarks to assess whether or not Kosovo was ready to become an independent

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125 Ibid., 3.
126 Ibid., 3-4.
127 Russia, an ally of Serbia, posed the greatest obstacle to fully implementing the recommendations put forth in the Ahtisaari Plan.
128 Borgen, Christopher J., “Kosovo’s Declaration of Independence: Self-Determination, Secession and Recognition,” American Society of International Law (29 February 2008); 12, 2.
state, created new institutions that would take over the authoritative capabilities that UNMIK and the SRSG had otherwise reserved from themselves, and defined a timeframe in which the objectives of the Ahtisaari Plan were to be fulfilled. The Palestinians have been signatories to international agreements much like the Ahtisaari Plan, which provide a guide for how to obtain an independent Palestinian state, the most notable of which was the 2003 Roadmap for Peace. Without seeing any progress from meeting internationally agreed benchmarks, the Palestinians took their case to the UN in 2011 in a similar manner that the Assembly of Kosovo declared its own independence in 2008. Both the governments of Kosovo and the Palestinian Authority demonstrate that in the absence of recognized independence, emerging states may look outside the scope of provisional frameworks to meet their ultimate objectives.

The Kosovo Precedent?

As of 2013, 99 of a potential 193 UN Member States, including the United States, have recognized Kosovo’s independence. The support and recognition of Kosovo by the international community begs the question: can a state become a state simply by declaring itself as one? Some would argue that the case of Kosovo is “unique” and cannot be considered a model for other independence movements because it is routed in a conflict that arose from the breakup of Yugoslavia, while the ethnic cleansing of Albanians by Serb forces in that conflict also expedited the necessity for an independent state in Kosovo on the grounds of

humanitarian action. In this regard, it is argued that Kosovo would not provide a satisfactory model for other independence movements because of the immediacy of conflict or threat to one’s livelihood is absent that was unique to Kosovars. While Israel’s occupation of the West Bank does not pose an immediate danger to the Palestinian people, it does create perpetual hardships that in the long run, undermining the longevity of the Palestinian population. This study would thus argue that while the case of Kosovo was unique in a certain regard that does not make it inapplicable to other independence movements, such as the case of Palestine.

Despite the immediacy of resolving the security issue, Kosovo’s story of independence is a satisfactory example for other movements to follow because of the equally unique role the international community played in developing the institutions that would eventually compromise a future, independent Kosovar state. The declaration of UN Security Council Resolution 1244 set a precedent by allowing the UN Secretary-General to assume the administrative authority of the state, for the first time, in the UN’s history. As a result, the UN ascertained a new authority that could allow the UN Secretariat to act as the guardian of an autonomous region while institutions were being constructed, with the intent of that government executing its own sovereignty once it was determined that that government had the capacity to do so. This has important implications for Palestine as a form of UN guardianship could weaken the control of the occupation regime while also assessing the ability of Palestinian institutions to function as a sovereign state. The case of Kosovo illustrates the potential the

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130 Borgen.
international community has in enabling occupied regions to exert sovereignty, particularly through UN-managed guardianship over internal state-building processes.

In both the cases of Israel and Kosovo, statehood did not come instantaneously, but rather, it resulted from a process of institution building that spanned decades. Israel relied on an ideological foundation for building momentum within the Jewish population, a strong international Diaspora, and leniency from the British Mandatory government in Mandatory Palestine to foster the institution building process. These factors culminated into the declaration of Israel’s independence in 1948. Ethnic conflict that resulted from the collapse of Yugoslavia and the dissolution of states in the Balkans region, necessitated intervention from the international community in Kosovo to protect the Albanian population from a humanitarian disaster. Kosovo was thus born out of a decade of guided independence whereby the United Nations and NATO, along with other international organizations in Europe, built institutions in Kosovo with the intent of transferring the authority of those institutions to the Kosovo people. In 2008, the Kosovars declared their independence from Serbia and their readiness to take over those institutions necessary for operating a sovereign state. These two case studies are important in analyzing the current status of Palestine because they show the role institution building played in enabling future independence, as well as the role the international community played, particularly the UN, in recognizing state sovereignty.
PART III: State of Palestine

State in the Making: The Institutional Development of the Palestinian Authority

The Palestinian Authority is the recognized governing body of the Palestinians in West Bank and Gaza\textsuperscript{131} and was established during the Oslo peace conference in 1993. Today the Palestinian Authority exercises full autonomy over Area A and civilian autonomy of Area B, compromising only 30 percent of the territory in the West Bank.\textsuperscript{132}

![Map illustrating Palestinian territorial control in the West Bank](Image)

Figure 1 Map illustrating Palestinian territorial control in the West Bank

\textsuperscript{131} The PA had jurisdiction over Gaza until Hamas won municipal elections in 2006 and unilaterally assumed authority over the Gaza Strip in 2007. The Palestinian Authority still finances some public institutions in Gaza.

\textsuperscript{132} Area C compromises 60 percent of the territory in the West Bank and is under full Israeli civilian and security control.
From 1993 the end of the second intifada to the present day, the new Palestinian leadership has been working to establish the Palestinian Authority as a legitimate government in the West Bank with well functioning institutions that resemble the functional capacity of other recognized states. This is to demonstrate that the Palestinian Authority has the capacity to form a recognized state in the West Bank, particularly from the views of the international community. This section will look at how the Palestinian Authority has evolved since its inception in 1993 by looking at institution building during the Oslo years and after the second intifada. It will show that, while Palestinian institutions are imperfect, the present institutional framework of the Palestinian Authority has the capacity to govern a sovereign state in the West Bank and the potential to continue building institutions.

Oslo and the Birth of the Palestinian Authority

Yitzhak Rabin, then Prime Minister of Israel and Yasser Arafat, chairman of the Palestinian Liberation Organization (PLO) met at the White House in September 1993 to sign the Declaration of Principles on Interim Self-Government, commonly known as the Oslo Peace Accords. This agreement provided for the establishment of the Palestinian Authority, to begin administering Palestinian governance in 1994, and committed to transferring authority to the Palestinians.

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133 This section looks exclusively at the Oslo years, defined from 1993-1999, and the post-intifada years, starting with the establishment of a new Palestinian government in 2007. This analysis does not look at the intifada years from 2000-2005, due to the unique expression of violence at this time that otherwise stymied state-building efforts.
after an interim period of five years. The Palestinian Authority was conceptualized to be an administrative, governing body, distinct from the Palestinian Liberation Organization while also part of the negotiation process. In this manner, the Palestinian Authority was to be a platform for managing and negotiating the future Palestinian state, not the start of a long term institution building program. Per the agreement, civilian and security authority would eventually be transferred from the Israeli government to the Palestinian Authority once an elected legislative parliament began its term. Through the “peace process,” the Palestinian Authority formed the basis of a new Palestinian government that could operate in Palestinian territory, in addition to a bilateral customs union, and the Palestinian Legislative Council, which constituted the building blocks of the Palestinian state in the making during the interim period.

In addition to the establishment of an administrative body, the Oslo period also created a framework for Israeli and Palestinian economic interactions. Meeting in Paris in 1994, Israeli and PLO representatives signed the Gaza-Jericho Agreement, otherwise known as the Paris Protocol. The agreement created a customs union between Israel and the Palestinian territories, which made Israel a steward of Palestinian economic development with the intent to open Palestine

134 The Declaration of Principles on Interim Self-Government, arts. 1 and 7, (September 1993).
136 The Declaration of Principles on Interim Self-Government, art. 7.
137 As a steward, the Israeli government controls border security between the Palestinian Territories and the State of Israel, collects import duties on behalf of the PA, and manages West Bank access to Mediterranean Sea ports. (National Affairs Department of Palestine Liberation Organization, “Paris Protocol,” http://www.nad-plo.org/ etemplate.php?id=48 (accessed April 15, 2013)).
to Israeli markets, enabling economic development. The preamble of the official agreement states “this protocol lays the groundwork for strengthening the economic base of the Palestinian side and for exercising its right of economic decision making in accordance with its own development plan and priorities.”

Although not an institution in and of itself, the Paris Protocol is the operational paradigm for economic development in Palestine.

Using the Paris Protocol as the basis for growth, the PLO created a vehicle for implementing economic development. The Palestinian Economic Council for Development and Reconstruction (PECDAR) was created in 1993, independent of the Palestinian Authority, to facilitate economic policy institutionalize economic development in the Palestinian Territories. PECDAR is an important institution from the Oslo period because it formulated the Palestinian Authority’s economic policy, while also implementing its policy into development projects. More importantly, it was a tool for international donors to use to support development projects while not becoming embroiled in domestic nepotism and corruption. Development projects facilitated through PECDAR in the Palestinian Authority’s infant years included infrastructure development, job creation and private sector investment, and fostering the growth of Palestinian

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142 Corruption and favoritism was a major internal obstacle for Palestinian institutional development under Yasser Arafat’s tenure as PA president (Refer to excerpt from Interview #12 in appendix).
ministries, agencies, and municipal governments. PECDar continues to play an important role in development construction in the West Bank and Gaza.

In addition to facilitating the economic development of the Palestinian Territories, the Oslo Process also provided for the creation of a Palestinian parliament that would operate alongside the newly created Palestinian Authority. In 1996, the Palestinian Legislative Council (PLC) met for the first time after national elections. The primary purpose of the PLC was to provide executive oversight to the PLO and Palestinian Authority, with Yasser Arafat as the dual-hatted leader of the Palestinian Territories. To engage in oversight, the PLC scrutinized the administration of the Palestinian Authority and promoted accountability of government operations, approved the budget, and issued resolutions to establish a policy agenda. The main challenge for the PLC during the Oslo years was to legislate while also accommodating Arafat’s vision for the future Palestinian state. Arafat found the source of his power in ruling by decree, and his legitimacy of rule in charismatic leadership of executive office. As a result, the PLC was an impotent body unable to legislate, wrest power away from the executive branch, or facilitate political activity in the Palestinian Territories. Although wholly unintended as long-term solutions, the Palestinian Authority, PLC, and other agencies and agreements devolved from the Oslo...
Process into the building framework for the eventual establishment of the State of Palestine.

*Palestinian Reform and Development Plan, 2008-2010*

With the establishment of a new cabinet and government under Salam Fayyad in the immediate aftermath of the second intifada, 2007 proved to be a pivotal year for the Palestinian Authority. In advance of the December 2007 Paris donors conference, the Palestinian Authority prepared a medium-term program known as the Palestinian Reform and Development Plan (PRDP), establishing how the Palestinians would wrangle in the foundering Palestinian economy and develop the foundations for the institutions that would support a well-functioning state.

The PRDP is guided by the Palestinian National Policy Agenda (PNPA), a set of goals and objectives that the Palestinian Authority established representing a framework for how the Palestinian Authority would prioritize PRDP initiatives.\(^{148}\) There are four primary principles of the PNPA: self-determination of the Palestinian people; independence in a sovereign state; territorial integrity based on securing the borders from 1967; and the promoting values of democracy.\(^{149}\) These principles reflect the Montevideo criteria, as well as the objectives pursued by both Israel and Kosovo when they sought their own independence, respectively. According to the PNPA framework, the only way that the Palestinian people can realize these goals in the long term is through full

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\(^{148}\) The PNPA, as excerpted from the PRDP, can be found in the appendix.

independence by ending Israel’s occupation of Palestinian territories.\textsuperscript{150} The strategy of the Palestinian leadership at this time was to use the PRDP as a source of credibility and legitimacy in the international community with the hope that donor states and other international supporters would put enough pressure on Israel to withdraw the occupation.

In order to end the occupation and achieve these long term principles, the PNPA laid out four primary objectives: safety and security; good governance; increased national prosperity; and enhanced quality of life.\textsuperscript{151} These four objectives have restructured how resources are allocated in order to achieve these immediate goals. The purpose of the PRDP is to implement the goals and objectives of the PNPA by appropriately allocating financial and personnel resources towards government ministries that best represent these goals and that will best undermine the continuation of Israel’s occupation of Palestinian territory.

The PRDP itself is a strategy for implementing the goals laid out in the PNPA. Its primary focus is allocating Palestinian Authority expenditures to government ministries that will be the most successful at achieving the Palestinian Authority’s short-term objectives and long-term goals. By adopting this policy, the Palestinian Authority effectively used the PRDP to determine which institutions would be most useful in achieving the Palestinian Authority’s long-term goals—ending the occupation and establishing an independent state.

\textsuperscript{150} Ibid., 24
The heart of the PRDP is the policies and programs the Palestinian Authority intended to implement from 2008-2010, and these policies and programs are divided into four sectors: governance; social; economy; and infrastructure. The first sector, governance, cites the Office of the President, the Prime Minister’s Office, the Ministries of Finance and Planning, and the General Personnel Council as the main state-level bodies that would be responsible for carrying out reforms and policy plans. The primary responsibility of these bodies is to be the decision-makers and to manage public fiscal and human resources.\textsuperscript{152}

To empower these bodies with greater authority, the PRDP proposed security sector reform (including strengthening the rule of law), fiscal reform, and administrative reform. These reforms would be accomplished by restructuring the security sector, addressing two major sources of Palestinian Authority expenditures—public sector salaries and subsidized public energy consumption—and promoting accountability and oversight that would enhance the Office of the Prime Minister, the Palestinian Legislative Council, and the Financial Administration Control Bureau to monitor, audit, and report on Palestinian Authority policies and implementation.\textsuperscript{153} The main purpose of these reforms was to enhance the capacity of public sector offices to execute policies in accords to the four objectives laid out by the PNPA.\textsuperscript{154}

The Palestinian Authority also recognized the need to improve its own ability to provide social services to the Palestinian people. Reforms and development in the social sector look to enhance the role of the ministries of

\textsuperscript{152} Ibid., 35
\textsuperscript{153} Ibid., 40-44.
\textsuperscript{154} Ibid., 35-36.
Education, Health, and Social Affairs in providing Palestinian services.\textsuperscript{155} As argued by Marx, one of the ways a state apparatus distinguishes itself within a society and apart from other states is through monopolization on the distribution of resources and services.\textsuperscript{156} The PRDP indicates that providing quality health and education services are one of the ways the Palestinian Authority believes it can provide social coherence and economic growth.\textsuperscript{157} Health and education are two indicators of continuity of administrative policy that, if they show improvement over time, will indicate a maturation of a state’s administrative bureaucracy and the quality of life within the population.

One of the ways that the Palestinian Authority sees itself being able to improve the economic well being of the West Bank is through private sector-led growth. The ministries of Finance and Planning, as well as the Palestinian Central Bureau of Statistics and the Palestinian Monetary Authority are the public sector and specialized agencies that are targeted to lead private sector growth in the Palestinian Authority.\textsuperscript{158} The major barriers facing private-led growth is the continued physical occupation of the West Bank, Israel’s role as the guardian of the Palestinian economy, as indicated in the Paris Protocol, and a lack of substantial reforms in the civil service and inflation of the public sector within the Palestinian Authority.\textsuperscript{159} Because the Palestinians themselves do not have control over their own economy, there is a glass ceiling on the amount of progress they can make in empowering state-level economic institutions to develop and execute

\textsuperscript{155} Ibid., 50.
\textsuperscript{156} Badie and Birnbaum 5.
\textsuperscript{157} Palestinian Reform and Development Plan, 51.
\textsuperscript{158} Ibid., 63.
\textsuperscript{159} Ibid., 68-69.
monetary and fiscal policies, as well as easing the pressure on the pocketbooks of average Palestinians. The major factor influencing the Palestinian Authority’s desire to reform the economic sector in the short-term is to “[restore] trust in the Palestinian Authority’s economic management capability.”\textsuperscript{160} All states struggle with economic management, however, as indicated in this section of the PDRP, the Palestinian Authority wants to improve its own capacity and capability to manage the Palestinian economy so that success within Palestinian Authority institution building would confront the continuation of Israeli hegemony over Palestinian economic affairs, inciting a renegotiation of economic relations.

The final sector that the PRDP targets for reform and development is infrastructure. As noted in the PRDP “sound infrastructure is a fundamental requirement for sustainable development.”\textsuperscript{161} Developing local and state-level infrastructure needs would enable the PA to modernize the state to improve the governing capacity of administrative institutions and also promote modernization that would lead to eventual private investment for economic growth.\textsuperscript{162} The PRDP notes that a dependency on Israeli electric and water companies limits the Palestinian Authority’s ability to exploit its natural resources.\textsuperscript{163} As a result, the occupation is extended beyond the military realm into the government and economic periphery of Palestinian authority. The improvement of infrastructure is important to the success of the Palestinian Authority due to the cross-cutting impact infrastructure has on the aforementioned sectors for institutional reform. It

\textsuperscript{160} Ibid., 63.
\textsuperscript{161} Ibid., 78.
\textsuperscript{162} Ibid., 78-79.
\textsuperscript{163} Ibid., 80-82.
would strengthen the capacity of public ministries to work interdependently while also promoting private investment for the physical growth of the West bank.

The PRDP laid the groundwork for a post-intifada State of Palestine by detailing the framework of Palestinian goals for self-determination, and a roadmap for how the Palestinian Authority envisioned itself executing those goals. Although the plan itself is vague on how specific implementation of reform programs would be enforced, it detailed the public institutions that would be tasked with executing sector-specific programs while also providing short-term objectives that would act as benchmarks for measuring success. The continuation of the status quo\textsuperscript{164} was the primary barrier to successful implementation of the PRDP, despite that, however, it began the on-the-ground, \textit{de facto} state-building program for the Palestinian Authority.

\textit{Program of the Thirteenth Government—Ending the Occupation, Establishing the State}

In 2009, Prime Minister Salam Fayyad commissioned the Program of the Thirteenth Government to identify the roles of public sector agencies identified in the PRDP\textsuperscript{165} within the narrow objective of ending the occupation and establishing a sovereign State of Palestine. The primary difference between the PRDP and the new Program of the Thirteenth government was the emphasis on

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\textsuperscript{164} Status quo in this case references: “the lack of sovereignty over resources and borders, and severely circumscribed ability to implement economic and fiscal policy, creates an extremely uncertain political and economic environment, and places significant constraints on the successful implementation of the PRDP” (\textit{Palestinian Reform and Development Plan 2008-2010}, 9).
\textsuperscript{165} Refer to the Appendix for list of ministry objectives, excerpted from \textit{Program of the Thirteenth Government—Ending the Occupation, Establishing the State}
\end{flushright}
“establish[ing] a de facto state apparatus within the next two years.”

Rather than producing a plan for reform and development programs that would help achieve short-term goals, the Program of the Thirteenth Government aimed at achieving statehood by changing facts on the ground. This strategy was more aggressive at attaining de facto statehood and was inspired by two arguments—on the one hand, juxtaposing de facto Palestinian statehood with an Israeli occupation would increasingly become a tough sell for the international community. Likewise, Fayyad also argued that Israeli statehood itself had not just happened in 1948, but rather, institutions had been developed well before the State of Israel had even been declared. With the Program of the Thirteenth Government, Fayyad sought to deconstruct the structure of the occupation regime that would otherwise continue to be the status quo ad infinitum.

The foundational basis for the Program of the Thirteenth Government within the Palestinian narrative is the 1988 Declaration of Independence and the 2003 Basic Law, both of which supported the development of a democratic

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168 Ibid.
169 Ibid., 125.
170 Formal declaration of Palestinian independence written by poet Mahmoud Darwish and proclaimed by PLO Chairman Yasser Arafat in Algiers in November 1988. The declaration recognizes the PLO as the political representative of the Palestinian people and recalls agreements made by the international community after the collapse of the Ottoman Empire and formal resolutions produced by the United Nations to recognize Palestinian sovereignty and self-determination in the land of Palestine.
171 Articles 34-46 specify the interim powers of the President of the Palestinian Authority; Articles 47-62 specify the powers of the Palestinian Legislative Council; Articles 63-96 specify the operation and procedures of the federal government, including the powers of the Prime Minister and the Council of Ministers; and Articles 97-109 state the powers of an independent judiciary. In 2005, the Basic Law was amended to include term limits for elected officials.
and pluralistic system of government in the State of Palestine. Rather than emphasizing abstract ideals pertaining to freedom and independence, the plan cites existing documents that support the notion of a future state based on universally accepted principles of democracy and the rule of law. By doing so, however, the Program of the Thirteenth Government inherently politicized the nature of Palestinian state-building by calling for new elections and urging the Palestinian polity to unify around the shared goal of independent statehood.

The Program overpromises and under delivers in institutionalizing electoral processes and structurally reforming the economy. In Fayyad’s personal foreword to the document, he cites that collective dedication and unity with help the Palestinian people achieve their shared aspiration of establishing an independent state. The main problem with this assumption is that while Palestinians ubiquitously want an independent state, the way of obtaining said state differs between Palestinians. For Fayyad, as indicated by the Program of the Thirteenth Government, the Palestinians need a de facto state to challenge the Israeli occupation. Fayyad himself, however, is an unelected presidential appointee who lacks domestic political clout. With Fatah otherwise dominating the political environment in the West Bank, it would be difficult to hold the elections promised in the Program without Fayyad losing his job and Fatah losing ground to Hamas.

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172 Program of the Thirteenth Government, 6.
173 Ibid., 3
174 Although this paper looks exclusively at the development of a Palestinian state through the recognized government of the Palestinian Authority in the West Bank, it goes without saying that violent insurrection, as promoted by Hamas, and non-violent protest, as promoted by Fatah and unaffiliated political leaders, are the two competing strategies for obtaining an independent Palestinian state.
The other shortcoming of the Program of the Thirteenth Government is that it is limited in the amount of structural economic reforms that can be made under a foreign economic regime. Despite the fact that the Program develops a bureaucratic and administrative governing apparatus for the Palestinian Authority, it does not offer a solution to the longstanding conflict with Israel. As a result, the Palestinian Authority still does not have the ability to exploit land in Area C for industrial and private sector growth, while Israeli settlement construction on the same section of land simultaneously increases.\textsuperscript{175} The Program recognizes the need for private sector-led growth however, the Palestinian Authority continues to operate as a quasi-rentier state, funded by external donations and customs duties transferred by the State of Israel.\textsuperscript{176} The absence of clear-cut structural economic reforms that would diminish the role of external donations in the internal revenue structure of the Palestinian Authority perpetuates an unsustainable economic model.

Despite these shortcomings, however, the Program of the Thirteenth Government has seen great success in building a security apparatus that is able to coordinate with Israeli security forces, as well as building a technocratic bureaucracy where ministries function on the authority of their office rather than individual charisma. Security reform is one of the core components of successfully achieving an independent Palestinian state as insecurity during the second intifada was the main cause of an increased Israeli military presence in the West Bank, which included internal security checkpoints that severely restricted
freedom of movement and limited the ability of the Palestinian Authority to govern. The intifada was a period where the rule of law broke down and the Palestinian Authority did not have a firm grasp on groups posing a security liability to Israel, resulting in tighter Israeli controls. By managing security risks and promoting the professionalization of Palestinian security forces, the Program of the Thirteenth Government has restored a sense of security to the West Bank.

The professionalization of the Palestinian security forces has been a joint effort between Israel, the Palestinian Authority, and American military personnel. In 2005, the United States authorized the Office of the United States Security Coordinator for Israel and the Palestinian Authority (USSC), with the mission of building a security apparatus under the Palestinian Authority that would be accountable to civilian leadership while maintaining security for the Palestinian Authority and the State of Israel. U.S. training of Israeli and Palestinian security forces has been widely lauded by the international community, where the security situation on the ground has outpaced the diplomatic processes in finding a resolution to the conflict. This is because a neutral process for security reform, created by the USSC, developed before and independent of economic and government reforms.

Thus, when the Palestinian Authority began to enact reforms under the PRDP and the Program of the Thirteenth Government, the

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177 Interview #10, interview by author, Ramallah, 5 Jan. 2013.
178 Broning, 106-108.
181 Ibid.
security forces were already institutionalized as professional force, with mutually recognized improvement of the security situation on the ground between both governments of Israel and the Palestinian Authority.

The Program of the Thirteenth Government has also led to the development of a technocratic administrative bureaucracy with authority resting in ministerial offices rather than the ministers themselves. During the Oslo period, government ministries were operated by General Directorates, who were beneficiaries of a lucrative patronage system, sponsored by the Office of the President.\(^\text{182}\) As a result, governance within the Palestinian Authority rested on a network of friendships with authority subsisting in individuals rather than institutions. Administrative staff also operated under a similar system where ministry personnel were associated as that ministry rather than part of it.\(^\text{183}\) Reforms initiated under the PRDP and continued under the Program of the Thirteenth Government professionalized the administrative bureaucracy so that ministries were made functional, more efficient, and accountable to the Prime Minister’s government.

The PRDP and the Program of the Thirteenth Government both represent a structural development of the institutional capacity of the administrative and bureaucratic aspects of a Palestinian state. Although the political aspect of the Program of the Thirteenth Government is imperfect at best, the Palestinian government of the Office of the Prime Minister and the ministries under his

\(^{182}\) Interview #12, interview by author, al-Quds University, East Jerusalem, 6 January 2013.

\(^{183}\) Ibid.
charge has grown in the post-intifada years to function and operate in state-like manner.

National Development Plan, 2011-2013

While the PRDP initiated the process of institution-building in 2007 and the Program of the Thirteenth Government determined the powers and authorities delegated to government ministries, the National Development (NDP) assesses the Palestinian Authority’s success at building a State of Palestine by defining specific benchmarks of success. The national policy agenda defines three ultimate objectives—Independence, sovereignty, and open borders—to be established through reform and development programs in the sectors of governance, social, economy, and infrastructure.\(^{184}\) The 2011-2013 NDP builds upon previous government programs by subdividing the implementation of reforms into 23 sectoral strategies, with the prioritization of development expenditures.\(^{185}\)

For each of the four national sectors, the NDP records a baseline marker and a target for improvement in the course of two years. The PRDP initiated the process of institution building and detailed reform and development programs in each sector, however, it did not establish empirical figures for gauging the success or failure of PRDP programs. The NDP provides a 2013 target for the strategic objectives of each national sector. Some of the most important measures of strategic sectoral initiatives include: decreasing the wage bill of public sector


\(^{185}\) Ibid., 9
employees, decreasing recurrent public expenditures in favor of increased
development spending, economic growth, and a decrease in electricity subsidies
provided to municipalities. The targets for these objectives are based upon a
national fiscal policy that was generated from evaluations of PRDP reforms from
2008-2010, and incorporated into the strategies outline by the Palestinian
Authority’s national policy agenda.

The NDP is particularly beneficial to understanding the progression of
institution building within the Palestinian Authority because it analyzes recorded
data from 2008-2010 and also addresses alternative scenarios, particularly the
continuation of the status quo, when assessing projected success of reform
programs by 2013. The core finding of the PRDP was that despite an increase in
constraints imposed on the Palestinian Authority by the occupation, the
Palestinian Authority experienced economic growth that exceeded
expectations. From 2006-2010, net revenues increased while the recurrent
budget deficit decreased along with unemployment. Because the occupation
regime had not abated, as was assumed in the PRDP, the 2011-2013 NDP
incorporates the continuation of the status quo in determining the projections for
2013. The NDP reveals that economic growth and budgetary revenues would
contract if the status quo were maintained, and that “recurrent spending would
continue to crowd out public investment.” The latter finding is telling as it

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186 Ibid., 62
187 Ibid., 61-63
188 The 2011-2013 NDP still assumes an ease in the restrictions imposed by the Israeli occupation; however the inclusion of the status quo as an alternative scenario provides a more realistic outlook to gauge the feasibility of success.
189 Ibid., 65
shows the insolvency of the Palestinian economy under the status quo. Whereas the objective for 2013 is to have a greater expenditure output for development than for the recurrent budget, this would not be possible under the current state of affairs.

Although the NDP marks a clear strategic outlook for the Palestinian Authority, there continues to be major shortcomings towards establishing an independent, sovereign State of Palestine. The PRDP, Program of the Thirteenth Government, and the 2011-2013 NDP do not have political processes for implementing the reforms they each call for. In an introductory statement of the NDP, Prime Minister Salam Fayyad states “effective institutions alone are not enough; we must also answer our people’s call for political unity.” While it goes without saying that a political process is needed to facilitate the “roll-back of the forces and infrastructure of the occupation,” a process for reconciliation between Hamas and Fatah, as well as disparate groups is also needed. The need for a political process between Israel and the Palestinian Authority, as well as the West Bank and the Gaza Strip was increasingly apparent in the NDP as certain programs, such as rebuilding airport in Gaza or establishing Palestinian sea ports on the Mediterranean coast, will not be possible under the current political climate. (Although these are important factors to take note of, they contribute more to a political discussion rather than to a discussion on the actual development of Palestinian institutions).

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190 Ibid., 68
191 Ibid., 5
192 Ibid., 5
In conjunction to the absence of institutionalize political processes, the NDP does not gauge the likelihood of success for the national development expenditure plan of sectoral reforms. While the NDP prioritizes the most important reform programs in accords to the policy agenda of the Palestinian Authority, it does not prioritize the feasibility of reform programs across national sectors. Under the development expenditure plan for the infrastructure sector, the Palestinian Authority aims to increase funding towards “international gateways” by 13% from 2011 to 2013.193 By increasing Palestinian access to international gateways, Palestinian Authority leaders argue that this would open Palestinian markets to the international community and enable the development of a knowledge-based economy through the transfer of technology and innovation between trading partners and Palestine.194 The Palestinian Authority seeks to establish these international gateways through airports in Jerusalem and Gaza and the construction of ports along the Gaza coast.195 As previously mentioned, the current political environment within the Palestinian polity and between Israel and the Palestinian governments in the West Bank and Gaza would make a project like this impossible. Prioritization of projects based on feasibility would enable the Palestinian Authority to more prudently allocate scarce financial resources between its four national sectors.

The NDP is a continuation of the state building process that shows maturation of the Palestinian government in the West Bank and the development of government institutions that are able to execute reform and development

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193 Ibid., 86
194 Ibid., 10
195 Ibid., 88
programs. While the absence of political processes is pervasive in each of the national plans, the NDP measures the success of institution building over time.

While the development of Palestinian institutions has not been perfect over the last two decades, the current state of the Palestinian Authority has reached a greater capacity to manage a Palestinian state that was not present during its inception under the Oslo Process. While the Oslo interim framework for eventual statehood was good in theory, it was not implemented as intended by either party. With the introduction of a new government in 2007, the Palestinian Authority has engaged in an aggressive attempt to build a de facto state in the absence of genuine political negotiations. While many in the international community were cautiously optimistic at Prime Minister Fayyad’s early attempts at state building, the success of the Palestinian Authority in recent years has brought the Palestinian Authority’s state-building efforts credibility on an international scale. Through the evolution of the Palestinian state in the making initiative, the PA is now on the verge of a remarkable breakthrough in the Israeli-Palestinian conflict, while teetering on the precipice of a spectacular failure.
PART IV: ASSESSING THE PALESTINIAN AUTHORITY

The Oslo peace process was originally intended to provide the Palestinians a viable route to statehood and independence through the Palestinian Authority. While Israel did not implement the Oslo Accords as intended, the Palestinian government was also incapable of effectively governing under a system where the executive exerted too much power. As a result of these factors, and the eruption of the second intifada, the Oslo process stalled, the occupation regime intensified, and to this day there is no fully recognized and independent Palestinian state.

Within the Oslo framework, the international community has been the primary benefactor of aid to the fledgling Palestinian community, however, it has played an important role in assessing the success or failure of the peace process through conferences, summits, and written reports. This section will look at assessments made at the end of the interim period during the late 1990s, as well as assessments made in recent years to understand the international community’s opinion on Palestinian statehood. After the 2011 gambit for statehood in the United Nations, it is increasingly important to understand if de facto state building on the ground by the Palestinian Authority is translating into de facto recognition by other states. International recognition of the Palestinian Authority as a capable governing body of a future Palestinian state is leading to increasing isolation of Israel and the occupation regime.
The Rocard Report

When the Oslo Accords were signed, it was determined that the Palestinian Authority would work under limited autonomy for a five-year interim period, after which, Israel would transfer civil, economic, and some military authority to the Palestinian Authority. In 1999, an independent task force, led by former Prime Minister of France, Michel Rocard, convened to provide the first assessment of the Palestinian Authority at the conclusion of the 5-year interim period. For the purposes of this research, the Rocard Report identifies to what degree Palestinian Authority institutional development had been successful in the course of its first five years of existence, providing a good comparison for understanding the current institutional capacity of the Palestinian Authority.

The Rocard Report identified criteria it believed was necessary for a permanent resolution to the conflict, arguing that by enhancing the capacity of the Palestinian Authority to exercise good governance that would lend to “the strengthening of Palestinian public institutions.” The Report named seven reforms that the PLO could enact, independent of political negotiations with Israel. The first four recommendations dealt with the three branches of government and the establishment of a constitution to discern the principles under which the three branches of government would operate. While creating a constitution and developing the legislative and judicial capacities of formal public institutions is important, the task force recommended a “leaner office of the

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197 The PLO was the political institution representing Palestinians in negotiations with Israel. Since then, the PA has increasingly assumed much of the negotiating authority the PLO once held.
presidency” that had the ability and will to transfer administrative authority to other branches of government.\textsuperscript{198} This recommendation is important because Yasser Arafat, double-hatted as both the PLO chairman and the Palestinian Authority president, aggregated an immense amount of power in himself. Arafat’s own power was largely determined by decree, giving him the capability (although not necessarily the authority) to abrogate legislation and initiatives enacted by other institutions.\textsuperscript{199}

The other three recommendations the Rocard Report gave for strengthening public institutions dealt largely with building the capacity of the Palestinian Authority to administer efficiently and effectively. Transparency in managing finances and merit-based civil service selection were two recommendations made that addressed the issue of corruption and nepotism within the Palestinian political leadership. At this time it was not uncommon for government ministers to utilize public resources for personal gain, or to make preferential business arrangements with close friends and relatives.\textsuperscript{200} As a result, public institutions governed under a system of patronage rather than good governance. The Rocard Report identified recommendations to improve the ability of public institutions to govern effectively because nepotism, corruption, favoritism, and the concentration of power were factors that indicated the Palestinian Authority was not yet ready to govern a state of its own in 1999.

These recommendations began to be enacted, in earnest, once Yasser Arafat no longer possessed complete executive power over the Palestinian

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\textsuperscript{198} Sayigh and Shikaki, 8.
\textsuperscript{199} Brown, 101.
\textsuperscript{200} Brown, 4.
Authority. In 2003, the Basic Law was amended to include the Office of the Prime Minister. While the legal document itself is not perfect, it lays out the authorities of public institutions and is a source from which authority can be derived from. By creating an Office of the Prime Minister, executive power was divided so that the executive himself was not the sole source or executor of authority in the Palestinian Authority. Subsequent reform programs under the Office of the Prime Minister have lead to an improved government structure that has the capacity to monitor progress and the will to be more transparent and accountable to the Palestinian people and the international community than in the past.

*IMF and World Bank Reports*

Since the inception of the Palestinian Authority, the World Bank and the IMF have been instrumental international agencies that have gathered and distributed aid to development projects throughout the Palestinian Territories. For the purposes of this paper, the World Bank and the IMF have also been useful in understanding the development of Palestinian institutions from an economic perspective. In 2011 and 2012, both institutions published annual reports analyzing new trends in the Palestinian economy revealing that a Palestinian state, independent of the current occupation regime, could function and even flourish economically.

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In its 2011 assessment, the IMF concluded “the PA is now able to conduct the sound economic policies expected of a future well-functioning Palestinian state, given its solid track record in reforms and institution-building in the public finances and financial areas.” The IMF cited reforms undertaken by the Palestinian Monetary Authority (PMA) to improve Palestinian monetary governance internationally and domestically. Internationally, the PMA established a regulatory framework that was on track to implementing the Basel Accords. This is important because the Basel Accords establishes a global norm for managing capital and assessing how well banking systems are able to function amid risk and fluctuation. By adopting reforms towards implementing this framework, the PMA is establishing for itself an international presence of a Palestinian entity in the global political economy.

The PMA has also implemented domestic reforms that improved the ability of the Palestinian Authority and its financial institutions to manage internal monetary exchanges. According to the IMF, the PMA has established a modern payment infrastructure, engaged in a cooperative relationship with the Bank of Israel, and has enacted new legislation to strengthen the financial legal framework in the West Bank. These reforms have lead to greater efficiency within monetary institutions, decreased risk, and legal mechanism for monitoring the

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implementation of Basel initiatives.\textsuperscript{204} As a result, the PMA as a financial institution under the Palestinian Authority acts in the same manner the Bank of Israel does in Israel and the Federal Reserve does in the United States. This is an important metric for understanding whether or not the Palestinian Authority could govern a sovereign state in Palestine because it reveals that the Palestinian Authority is actively working with external actors, in concert with internal financial networks, to allow the Palestinian Authority to engage in normalized monetary practices that impact the ability of a government to effectively govern.

While the IMF has found that institutional reforms has given the Palestinian Authority the capacity to formulate economic policy, a lack of implementation of initiatives spelled out in formal agreements with Israel have not been implemented to the fullest extent that would enable Palestine to act on its latent economic potential. The most recent development agreement facilitated by the Quartet included an agreement to open ports in Gaza for the export of West Bank goods to international markets.\textsuperscript{205} This has not transpired, which has furthered to stymie private sector growth in the West Bank.\textsuperscript{206} Another factor impacting further Palestinian growth is the system of clearance transfers that exists between Israel and the Palestinian Authority. With nearly three-quarters of the Palestinian Authority’s budgetary revenues coming from duties collected on behalf of the Palestinian Authority by Israel, the Palestinian Authority is severely handicapped by volatilities in Israeli policy.\textsuperscript{207} As a result, the transfer of customs

\textsuperscript{204}“Recent Experience and…Committee,” 11.
\textsuperscript{205}Ibid., 42.
\textsuperscript{206}Ibid., 6.
\textsuperscript{207}Ibid., 15.
duties is a tool repeatedly used by Israel to force the Palestinian Authority to capitulate to Israel’s political demands and to cause continued undue stress on the Palestinian Authority’s economy. Implementation of already agreed upon reforms, as well as providing more Palestinian autonomy over territory in the West Bank, would give the Palestinian Authority a greater degree of economic sovereignty. These factors, however, can only be implemented by Israel, which will not gain traction so long as Israel can continue to benefit—politically and economically—from the current status quo.

While the 2011 IMF report largely addressed the development of the monetary policy in the Palestinian Authority, the latest World Bank report, issued in April 2012, addresses fiscal and trade policy. Like the IMF, the World Bank also concluded that security restrictions imposed by Israel on the West Bank continue to prevent economic growth. The World Bank cites that private sector investment is necessary for economic growth; however, security restrictions discourage private sector investment while also necessitating foreign donor aid to keep the Palestinian Authority economy from total collapse. The World Bank indicates 2007 as a significant turning point in the Palestinian Authority’s development when Prime Minister Fayyad’s “Caretaker Government” presented an institution-building agenda in Paris. This led to an increase in aid from the

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208 The author’s visit to the West Bank in late December 2012 to early January 2013 witnessed protests against the PA that resulted from the PA’s inability to pay salaries to its public workers. Protests erupted in direct correlation to a freeze in the transfer of Palestinian tax revenues collected by Israel that had gone into effect at the same time.

international community, allowing the state building program to commence, leading to initial economic growth.\textsuperscript{210}

According to the World Bank, corruption is no longer a significant constraint on private sector development in the West Bank.\textsuperscript{211} This is an important indicator of the Palestinian Authority’s capacity to govern an independent state due to the role corruption and nepotism played in internally undermining state building efforts during the Oslo period. The World Bank also argues that reforms have successfully improved the judiciary system over recent years.\textsuperscript{212} The improved ability to manage and appropriately adjudicate cases fosters a good environment for business, as the judiciary is no longer seen as an impediment to growth.\textsuperscript{213} Overall, the World Bank argues that the Palestinian Authority’s financial system is “able to meet the needs of the private sector.”\textsuperscript{214} While the Palestinian Authority’s management of the economy is by no means perfect or ideal, there has been a consistent effort over the last five years to build the capacity of Palestinian institutions.

The World Bank cites two major factors impeding the Palestinian Authority’s institution building initiative. Although the rejuvenation of donor aid in 2007 initially led to growth in the economy, the Palestinian Authority economy has turned the Palestinian Authority into a quasi-rentier state. The recurrent budget—the expenditures appropriated for administrative operations—necessitates most of the Palestinian Authority’s internal revenue, squeezing out

\textsuperscript{210} Ibid., 3.  
\textsuperscript{211} Ibid., 107.  
\textsuperscript{212} Ibid., 108.  
\textsuperscript{213} Ibid., 108.  
\textsuperscript{214} Ibid., 112.
funding for investment. As a result, development is totally dependent on donor funding, and with donor funds now financing recurrent budget expenditures as well. The Palestinian Authority could certainly benefit from further administrative reforms that enable the domestic fiscal policy to reorient the economy towards development, however, with the Palestinian Authority already taxing what it can to the maximum, the only alternative to genuine internal revenue is reliance on foreign aid. The Palestinian Authority could be able to restructure its economy and commit more revenues towards investments if there is a formal establishment of a sovereign state and the removal of restrictions that would enable the Palestinian Authority to adequately generate tax revenues.

Although the heavy reliance on foreign aid and the subsequent structure of the current economy have stymied further growth, the World Bank argues that the main limitation on private sector led development is the continuation of restrictions imposed on the Palestinian Authority by Israel. With the advent of the second intifada, the Israeli Defense Forces manned roadblocks inside the West Bank, making it impossible to move internally. The World Bank accounts for the reduction (although not complete removal) of roadblocks in the West Bank, however, a major impediment to Palestinian sovereignty and economic growth is the absence of territorial integrity over Palestinian land in the West Bank. The Oslo process was designed to facilitate a transfer of land from full Israeli civil and military control to complete Palestinian control by the Palestinian Authority.

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215 Ibid., 5.
216 Ibid., 6.
217 Ibid., 119.
218 Interview #5, interview by author, Nablus, 2 January 2013.
Israel continues to claim control over Area C, which constitutes 60 percent of Palestinian land in the West Bank. This is a major barrier to private sector development, and even the expansion of the jurisdiction of government institutions, due to a sheer lack of land available for development.\textsuperscript{219} The World Banks suggests that improving the Palestinian Land Authority’s (PLA) ability to register public lands and better manage resources on those lands,\textsuperscript{220} however, without full civil authority in Areas B and C, the PLA is still subjugated to the Israeli law and Israel’s judiciary system.\textsuperscript{221} This not only limits private development projects, but also the exploitation of water aquifers under Palestinian land and the improvement of physical and communication infrastructure that would benefit private sector development and the capacity of Palestinian institutions to function at their fullest potential. While restrictions have significantly decreased from the intifada period, there has been no improvement in ceding Palestinian territory to Palestinian institutions, and there likely will not be one independent of a political settlement.

As shown in both the IMF and World Bank reports, the Palestinian Authority has the capacity to function as the government of an independent state, however, the occupation regime that is maintained by the State of Israel creates significant barriers to full sovereignty. The absence of the implementation of Oslo initiatives that would open the Palestinian economy to global markets and

\textsuperscript{219} Ibid., 97
\textsuperscript{220} Ibid., 98
\textsuperscript{221} During the course of Interview #12, the interviewee shared an anecdote with the author, whereby there came a point where he was trying to develop a piece of land that his family possessed a deed for but courts in Israel blocked his attempt to develop his land for private use. The land in question was located outside of Area A in the West Bank.
return territorial sovereignty to Palestinian institutions continues to impede the statehood process. In the absence of full implementation of these reforms, the Palestinian Authority has developed its central banking system, building confidence in the business sector, as well as introduced a new, reform-oriented government in 2007, hailing confidence from the international community through the implementation of donor aid to fund institution-building projects. While the state-building program has not produced a fully independent Palestinian state, it has led to greater scrutiny from the international community to ascertain the capacity of the Palestinian Authority to transition into statehood.

**Petition at the UN**

Reports produced by external actors are important in assessing the current capabilities of the Palestinian Authority because they identify specific successes and failures of the present Palestinian leadership. More important than reports, however, is the actual reception and recognition of the Palestinian Authority as a peer state in the international system because it shows how Palestine, as an independent state, could improve, or detract from, the current concert of states.

In May 2011, Palestinian President, Mahmoud Abbas, published an editorial in the *New York Times*, indicating that the Palestinian Authority would pursue an alternative route to statehood, particularly through the international community. To justify his position, President Abbas cited that the Palestinian Authority had, in fact, met the criteria laid forth at Montevideo:
“Despite Israel’s attempts to deny us our long-awaited membership in the community of nations, we have met all prerequisites to statehood listed in the Montevideo Convention…the permanent population of our land is the Palestinian people, whose right to self-determination has been repeatedly recognized by the United Nations, and by the International Court of Justice in 2004. Our territory is recognized as the lands framed by the 1967 border, though it is occupied by Israel. We have the capacity to enter into relations with other states and have embassies and missions in more than 100 countries.”

According to the declarative theory of statehood, Palestine could be a state, as it suffices the aforementioned criteria that the modern understanding of what makes a state an actual state.

In September 2011, President Abbas first petitioned UN member states for the recognition of a full state. This initial attempt failed to come to fruition, as it required UN Security Council approval. A year later, Palestine returned to the UN again, this time seeking nonmember observer status, which did not require a vote by the Security Council. The recent attempt to obtain statehood through the UN is important because it serves as an indicator as to whether or not other states also believe that Palestine constitutes a state. With 130 member states voting in favor of upgrading Palestine’s status, it is clear that an overwhelming majority of states in the current international system support an independent Palestinian state.

In the absence of tangible results from the Abbas’s statehood bid at the UN, Palestinians in the West Bank have become to express their discontent with the Palestinian Authority over the course of the past year. A major problem affecting Palestinians over the past year has been an increase in taxes and the Palestinian Authority’s inability to pay public sector wages. As previously,

mentioned, part of the institutional reforms included expanding the tax base. In order to meet its budgetary obligations, the Palestinian Authority expanded its domestic sources of revenue by increasing taxes, and in some cases, doubled the amounts of taxes owed by the richest Palestinians. Business leaders criticized the Palestinian Authority by citing that high taxes hurt business and stifle investment.\textsuperscript{224} Unable to raise sufficient domestic revenues and shortcomings in donor aid contributed to a large financial crisis in 2012, leaving the Palestinian Authority unable to pay public sector wages. As the public sector is the largest employer in the West Bank, the inability of the Palestinian Authority to pay wages in full and on time has had strong consequences on the entire Palestinian economy.\textsuperscript{225}

With worsening economic conditions on the ground in the West Bank, many Palestinians have taken to the streets, much like their brethren in the rest of the Arab world. Much of the blame for rising prices and wage freezes has been directed at Prime Minister Salam Fayyad, who lacks domestic political legitimacy. While the Israeli occupation is one of the main contributors to the economic woes in the West Bank, some Palestinians feel that the Palestinian Authority is cooperating with the Israeli occupation too much, acting like a proxy to the occupation regime without Israel bearing the financial burden of administering the West Bank.\textsuperscript{226} In September 2012, protests focused in Hebron.

\textsuperscript{225} Ben Lynfield, “Palestinian Authority unable to pay salaries even as it pursues statehood,” \textit{The Christian Science Monitor}, 13 Nov. 2012.
and were carried out in response to an increase in prices that coincided with austerity measures enacted as the Palestinian Authority attempted to decreases its expenditures. While the protests continue to pose an internal challenge to the Palestinian Authority and threaten to destabilize an already volatile region, the protests themselves are not as violent as they could be. The Palestinian security forces have been successful in containing protests while maintaining their professional demeanor. This is important to note because just a few years ago an internal Palestinian security force would not have had the authority or the capability to manage domestic protests.


__During the author’s field research in the West Bank, the author experienced a demonstration as it began to erupt in the city center of Nablus. While young men protested by lighting tire fires, the Palestinian Authority security forces were on the scene, contained the protest to a city block and dispersed the protestors within a couple hours.__
Conclusion

Since the end of the second intifada in 2005, the Palestinian Authority has actively worked to produce a viable state in the West Bank. The Palestinian Authority’s 2011-2012 UN bid challenges the continuation of Israel’s occupation regime in the West Bank by presenting the argument that Palestine is able to be an independent state and is viewed as such by the majority of states in the United Nations. The purpose of this research is to determine what criteria a state-like entity needs to possess in order to obtain full statehood. As demonstrated in a theoretical analysis and a case study analysis, this research concludes that a state needs to have a centralized government with an administrative bureaucracy; a monopoly on the use of force; defined territory with a permanent population; recognition from the international community; the ability to conduct foreign relations with other states; and, finally, a legitimate claim to sovereignty. The purpose of this study was not to provide a definitive solution to the conflict or navigate the political environment, but rather, the purpose of this research is to determine what institutions the Palestinian Authority has and if they function as an anticipated.

To assess these functions, this study argues that determining the institutional capacity of the state is the best way for the current international system to differentiate between states and non-states. Institutional capacity, as argued by political scientist Francis Fukuyama, is understood as the scope and strength of the state, particularly a state’s ability to implement the appropriate institutions necessary to enable the government to execute the functions of the
state. By analyzing the government plans produced by the Palestinian Authority, under the leadership of Prime Minister Salam Fayyad, one can see that the PA is taking an active role to develop institutions and improve existing ones.

Comparing the *Palestine Reform and Development Plan, 2008-2010* to the *National Development Plan, 2011-2013* illustrates the a targeted scope of PA activity in the West Bank, as well as areas of successful implementation of institutional reforms over the last five years. These government programs indicate that the Palestinian Authority is actively undergoing reforms to develop its institutional capacity, in the anticipation of sovereign statehood. Palestine is a unique case in this regard because its leaders have been actively reforming the administration in spite of a military occupation and the absence of a domestic political system.

The caveat to this assessment, however, is the continuation of Israel’s occupation in the West Bank. As external studies conducted by the World Bank and the International Monetary Fund indicate, the Palestinian Authority has reached a glass ceiling to further development, a result of the Israeli occupation. Realizing that private sector growth is key to the longevity of the Palestinian Authority, any development outside of Area A or integration with international markets is otherwise impossible so long as Israel continues to limit the civil and economic authorities of the Palestinian Authority. The 2011-2012 UN bid is significant in this regard because it has demonstrated that the international community supports an independent Palestine while implicitly condemning the continuation of harsh restrictions in the West Bank. Despite an external
occupation in the West Bank, the premise of this argument remains the same—the Palestinian Authority, on its own accord, has actively engaged in institution building measures that improve its institutional capacity to function as an independent state. The Palestinian Authority now needs the support of Israel and the United States to continue building institutions.

Although the scope of this study is deep, there are limitations of this study and areas that could be improved. One of the main limitations of this study is that it intentionally omitted the political and social aspects of institution building. On the political side, this study did not look at political fragmentation within the larger Palestinian polity and it did not consider Hamas’s opposition government in the Gaza Strip. This decision was made to give a greater voice to the institutional building programs by the Palestinian Authority and the immediate potential of coming to an agreement between Israel-Palestine, exclusively in the West Bank. On the social side, this study also neglects to look at the role that NGOs and localized social movements play in realizing Palestinian statehood. Keeping the Arab Spring in mind, another volume on this topic of institution building could be written from the perspective of social movements and organizations within civil society that execute some of the welfare roles that a strong state might otherwise execute. In order to provide a well-developed study on Palestine’s quest for statehood, this study chose to exclusively analyze the Palestinian Authority in the West Bank and its institution-building program from the a more technical perspective, rather than predominately political or social.
While the purpose of this study was to look at the Palestinian Authority to understand whether or not it has the institutional capacity to become a state, the implications of this research are far reaching. One question this study raises is whether or not certain criteria for statehood, such as defined borders, ought to impinge on overall acceptance as a state. States like Cyprus, India, Pakistan, the Republic of Korea, and the Democratic People’s Republic of Korea all have borders that are ceasefire and armistice lines. If these states exist as states with part of their borders represented by a mutually agreed upon ceasefire line, why is the 1967 borders between Israel and the West Bank unsatisfactory in meeting this requirement? The issue of territorial integrity also comes to mind when looking at Cyprus considering the division of Cyprus between Turkish and Greek jurisdictions along the ceasefire line.

Another issue raised by this discussion on institutional capacity is the role of failed and failing states vis-à-vis emerging state entities, like the Palestinian Authority. States like Yemen, where tribal rulers and non-state actors challenge the administrative authority of the central government, or Iraq, who was occupied by a foreign army for over a decade, are considered failed states in the 2012 Failed States Index, however, they are still recognized as states nonetheless. If these states are unable to execute the functions of a state argued in this paper or consistently fulfill the requirements for statehood, why are they recognized as states when Palestine is not? These specific examples and particular questions ought to be nuanced further in additional volumes of research, however, they
adequately illustrate the fact that the accepted criteria for statehood are not applied to all states and state-aspiring entities on an equal basis.

Continuous change in the Middle East necessitates the issue of statehood be addressed prudently in the aftermath of the UN bid. With the General Assembly’s vote recognizing Palestine’s popular right to sovereignty, Israel and the United States are becoming increasingly isolated. Protests in neighboring countries as well as domestic protests targeting grievances against the Palestinian Authority threaten to undermine the state-building program that has taken place over the past several years. The recent resignation of Prime Minister Fayyad, while not unraveling reforms, shows the limitations that individual leaders face when trying to promote active change on the ground. Assessing the Palestinian Authority from a lens of institutional capacity rather than political readiness demonstrates that the institutional framework for Palestinian sovereignty is in place, and continuous reforms over the last half-decade suggest that the Palestinian Authority is not only building new institutions but improving on existing ones. Going forward, this framework could replace the defunct Oslo process by understanding what it means to become a state, regardless of political propriety.
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Palestinian Economic Council for Development & Reconstruction.


Appendix I

The following are excerpts from interviews conducted in Israel and the West Bank from December 29, 2012-January 8, 2013. Comments given by interviewees are organized by question topic. All interviews have been coded for non-attribution. Special thanks to the Renee Crown Honors Program and the Crown Scholar fund for enabling me to conduct field interviews.

What is the current security situation in the West Bank?
Interview #5: Security is the most important and economy is tied to security…roadblocks used to promote security but impeded economic development. Security is the most important yet it is the only area where any progress has been maintained (referring to removal of roadblocks in Nablus in 2009).
Interview #7: The main [security] issue in Palestine is human security…not borders, checkpoints.
Interview #8: The security situation has two dimensions…internally secure because there is active police…externally insecure because of Israel.
Interview #10: After Abbas was elected, a campaign was initiated for militias to give up weapons and become part of PA security force. Now all security is controlled by PA security forces with help of U.S. and EU. The financial crisis is threatening security because officers and soldiers are not being paid…there is a risk that they might not obey PA authority [if they are not paid]. PA focused on security because it thought that [security] was the most important…if you control security you control all other situations.

What is the state of the occupation in the West Bank?
Interview #3: Israel controls resources that the PA should be distributing…water, electric, and 3G.
Interview #8: [PA] can’t control resources because of occupation…Israel controls everything…PA planning is good but needs control to implement plans.
Interview #9: Israel uses occupation to affect Palestinian markets…intentionally done to benefit Israel. Israel doesn’t allow 3G access which makes communication difficult.

What needs to be done to restructure the economy to focus on private sector-led growth? What is the PA doing to decrease dependence on external aid?
Interview #3: Our project was funded by al-Masri who invested in infrastructure rather than the operating costs…the investor sees the fruits of his investment rather than not knowing how exactly the money is spent.
Interview #4: The system, transparency, departments all built by Fayyad…the structure [for a state] is in place…but there is no focus on economics or investment…Israeli’s income is three times more than Palestinians, but Palestinians pay Israeli prices.
Interview #7: Economic development is completely under Israeli control…Israel controls the means of development…PA can’t exploit land and settlements are Israeli land grab

Interview #9: Need strategy because Israelis control economics…30 percent of production in Palestine meets needs of the people…70 percent has to be imported [from Israel (per Paris Accords)]…there are no strategic stores, no industrial infrastructure, no strategic economic development form PA. Palestinians can’t ensure security of investment because Israel controls economic environment…you need permission from Israel to export or important certain goods…Israel uses security to benefit [their own] industries. Villages need more economic development but [the villages (mostly in Areas B & C)] need Israeli permission [to develop]. There is no room for industrial zone in Area A; Israel doesn’t allow industrial zone in Areas B and C.

What do President Obama and Benjamin Netanyahu need to do on their end to empower the Palestinian Authority?

Interview #2: Obama has potential to act now that he is not shackled by elections…John Kerry will likely lead new peace talks as he has leeway to act on foreign affairs while the president is focused on internal economics.

Interview #3: There are two problems facing the PA: the Israeli government and the White House

Interview #4: Israel and the U.S. must say yes to a state for it to be a state. The U.S. donates to the Palestinian people through infrastructure, education, water, security…the U.S. is engaged with NGOs and locally…not politically.

Interview #5: Israel benefits from the PA…PA manages Palestinian people, pays salaries, provides security…[with the growth of the PA] Israel isn’t responsible for this anymore.

Interview #7: Need real American involvement. U.S. veto was [Israel’s] only protection in international community and UN…the U.S. must allow sanctions against Israel. Israel needs to clearly end occupation. The U.S. needs to stop sabotaging international pressure…the U.S. is on top in the UN…U.S. can’t use hegemonic position to sabotage role in conflict…needs to join [consensus of] international community.

Interview #8: Full withdrawal of occupation is needed [from Israel]…two states for two people is needed from President Obama.

Interview #10: This U.S. president is crucial for Palestinians…he will determine future U.S. involvement in peace process…Palestinians will lose trust if U.S. doesn’t change.

Interview #14: The security paradigm dictates Bibi’s policies even though the majority [of Israelis] support two-state solution. The only way to challenge [Bibi’s] security paradigm is to offer a credible alternative political platform (in Israel’s domestic political system).

How does the rift between Hamas and Fatah affect the state-building program?
Interview #2: Hamas won politically [referring to Operation Pillar of Defense]…Abbas won diplomatically at the UN…the PLO needs to be restructured based on power sharing.
Interview #10: Fatah-led demonstrations in West Bank show that people are aware Fatah can organize…has gained Fatah more respect, more publicity.

What is your opinion of President Abbas’s 2011 attempt to pursue statehood in the UN?
Interview #2: It’s a diplomatic process where Israel needs to be forced into a willing partner
Interview #8: The PA is a virtual state…built on paper not in reality. UN bid recognizes PA under occupation not as a sovereign state.

What is your opinion of Salam Fayyad’s state-building program?
Interview #4: Fayyad’s policy is self-sustaining…the problem is that the PA can’t provide self-sustainability. Another problem is that Fayyad is not grounded in Fatah and is politically weak.
Interview #5: The organization infrastructure is already in place…need capable leadership and political framework to see institutions reach their full potential.
Interview #10: Fayyad employed a lot of people, half in security, half in [government] administration.
Interview #11: Education is the largest institutions…employs most people in the public sector.
Interview #12: Arafat paid salaries to underqualified employees, resulted in bloating of public sector and created a buffer for Arafat’s own leadership. [Under Arafat] there had been a problem with politicization of individual authority…lack of professionalism of leadership positions…someone would call Ministry of Finance, instead of answering “Ministry of Finance how can I help you?” secretaries would answer “this is so and so how can I help you”…individuals became associated with certain ministries.

What do you think are the future prospects for peace?
Interview #2: The Arab Peace Initiative should be the cornerstone for future progress. This was originally a Saudi plan, however, the Saudis have been hesitant to lead…if the king of Saudi Arabia engaged with Israel, this would be a major breakthrough.
Appendix II


3. The Palestinian National Policy Agenda

The Palestinian National Policy Agenda is a framework of national policy goals and supporting objectives which set out the priorities for the PNA over the medium term. It is the guiding policy framework for the PRDP, to provide: a clear rationale for the activities of ministries, agencies, and other public bodies; a basis for establishing priorities in the allocation of financial resources; and, a forward-looking agenda for Palestinian development and for reforming Palestinian institutions. The PNPA was prepared by consolidating existing PNA policy and plans into a single integrated framework, and was adopted by the Council of Ministers on 10th September 2007.

The PNPA framework is based on the substantial research, analysis, consultation and planning carried out in recent years. This includes the MTDPs for 2005-2007 and 2006-2008, the Strategic Economic Plan 2006-2008, the Palestinian Private Sector Resilience and Recovery Plan, the Urgent Plan for Dealing with the Emergency Situation, the Quick Recovery Program July-December 2007, MAS’s report Towards Formulating a Palestinian Development Vision, and the development plans of a number of ministries including Education and Higher Education, Agriculture and Health.

3.1 Guiding Principles and Vision Statement

The PNPA focuses on what the government seeks to achieve on behalf of the Palestinian people over the next three years, as a basis for determining the most effective and efficient allocation of the funding available from domestic and international sources. In recognition of the unique context in which the PNA operates, and the challenges and limitations it faces, the formulation of the PNPA was guided by four fundamental principles.

- It is the intention of the PNA to support and sustain, through all of its policies and programs, the steadfast determination of the Palestinian people to remain on their land and to continue to pursue their livelihoods, not succumbing to the pressures placed upon them by the Occupation. The PNA will give priority in the short term to the provision of humanitarian relief, by its own agencies and by other national and international bodies, to those most urgently in need as result of the measures imposed by the Occupation. However, its policies and programs will be designed to support the transition from relief to development as the principal focus of activity and expenditure at the earliest opportunity.
• The policies and programs of the PNA will be directed towards the ending of the Occupation and the establishment of an independent, viable sovereign state. Since its formation in 1994 the PNA has pursued a process of institutional development and state-building leading towards statehood. Despite the political, economic and fiscal crises that have arisen since 2000, as a result of the collapse of the peace process this remains its undisputed direction of development.

• The eventual Palestinian state must be able to exist securely on the pre-June 1967 borders, including East Jerusalem, the Gaza Strip and the West Bank, and be capable of protecting its citizens and their land and property from incursion, confiscation and destruction, in accordance with international law. The Palestinian people have suffered not only from the expropriation of their land due to Israeli settlement policy and the further annexation of significant areas of land by the Separation Wall, but also from repeated military incursions which have led to the damage or destruction of large parts of their infrastructure, including housing units, schools and roads.

• The eventual Palestinian state will be founded on democratic and pluralistic principles and humanistic values. Its institutions will protect human rights, religious tolerance and the rule of law, promote gender equality, create an enabling environment for a free and open market economy, and serve the needs of disadvantaged and vulnerable groups, enabling all citizens to fulfill their potential.

The PNPA is also based on the following vision statement:

“Palestine is an independent Arab state with sovereignty over the West Bank and the Gaza Strip on the pre-June 1967 occupation borders and with East Jerusalem as its capital. Palestine is a stable democratic state that respects human rights and guarantees equal rights and duties for all citizens. Its people live in a safe and secure environment under the rule of law and it promotes equality between men and women. It is a state which values highly its social capital, social coherence and solidarity, and identifies itself with Arab Palestinian culture, humanistic values and religious tolerance. It is a progressive state that values cordial relationships with other states and people in the global community. The Palestinian government is open, inclusive, transparent and accountable. It is responsive to citizens’ needs, delivers basic services effectively, and creates an enabling environment for a thriving private sector. Palestine’s human resources are the driving force for national development. The Palestinian economy is open to other markets around the world and strives to produce high value-added, competitive goods and services, and, over the long term, to be a knowledge-based economy.”
3.2 Structure and Contents of the PNPA

3.2.1 Structure

The PNPA framework consists of a logical hierarchy comprising three levels: goals, objectives and policy areas. This is designed to clarify the rationale and priority of all government activities (and hence expenditure) and, in particular, how they ultimately contribute to the achievement of high-level national objectives. A graphic outline of the PNPA framework is attached at Annex 1.

The objectives and policy areas included in the PNPA have been limited to results which are, at least in principle, achievable by the PNA. While working towards its overarching goal of bringing about the end of the illegal Occupation, the PNPA will deal with internal goals and objectives that are at least to some degree under the influence of the PNA. The PNPA will focus on practical objectives for the purposes of planning how the resources of the government should be allocated over the medium term.

However, the priorities of the PNPA are shaped to a large extent by the facts and consequences of the Occupation. For example, the need for the reconstruction or rehabilitation of destroyed infrastructure, or to counter the effects of the loss of lives and the loss of freedom, and of the loss of access to land, water or educational and health facilities. These realities are reflected not so much in the high-level objectives as in the specific objectives and instruments proposed for individual policy areas. Here, they shape both the proposed government activities and the operational constraints on economical and efficient service delivery.

3.2.2 National Goals

The national goals represent the long-term aspirations and intentions of the Palestinian people and the PNA. They cannot be achieved in three years, and their full realisation depends on the achievement of independent statehood and the end of the Occupation. However, progress towards the attainment of these goals is possible in the next three years even under adverse circumstances.

The national goals express the highest-level purposes of the PNA, all of which are regarded as equally important, and to which all public sector activities will be linked. They provide a clear indication of the principal priorities for national reform and development in the short, medium and long term, and will inform all policy-making, planning and budgeting processes. All other elements of the PNPA are directly linked to the achievement of these goals.

Table 3.1 National goals
3.3.3 Objectives

The objectives set out in the PNPA describe the results that must be delivered – or obstacles that must be overcome – in order to achieve the national goals. They are more specific than the national goals, and progress towards them can be measured using agreed indicators, subject to quantitative targets, for the delivery of results over time.

Objectives are on two levels, primary and intermediate. Primary objectives contribute directly to the attainment of national goals.

Table 3.2 Primary objectives

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<th>In support of Safety and security:</th>
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<td>• Strengthen the civil and criminal justice system</td>
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<td>• Increase the professionalism, accountability and effectiveness of the security services</td>
<td></td>
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<tr>
<td>In support of Increased national prosperity:</td>
<td>In support of Enhanced quality of life:</td>
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<tr>
<td>• Move towards fiscal stability</td>
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Safety and security: a society subject to law and order, which provides a safe and secure environment in which the people of Palestine can raise their families and pursue their livelihoods and businesses, free from crime, disorder and the fear of violence

Good governance: a system of democratic governance characterized by participation of citizens, respect for the rule of law and separation of powers, capable of administering natural resources and delivering public services efficiently, effectively and responsively, and supported by a stable legal framework, a robust legislative process and accountable, honest and transparent institutions which protect the rights of all citizens

Increased national prosperity: economic security, stability, viability and self-reliance, achieved through an increase in sustainable employment and an equitable distribution of resources, leading to the reduction and eventual eradication of poverty and the growth of individual and national wealth

Enhanced quality of life: increases in material wealth and environmental quality are matched by the strengthening of social coherence and solidarity, so that the most vulnerable areas and groups in society continue to be supported and the culture, national identity and heritage of the Palestinian people are reinforced
Intermediate objectives represent significant intermediate milestones in progress towards delivering the primary objectives. For example, the creation of an enabling environment for private sector development, leading to an increase in employment opportunities, is presented as an essential precondition for economic growth, rather than as a primary objective in its own right.

Table 3.3 Intermediate objectives

| • Develop human and physical capital through the provision of basic services in education, health and housing, and facilitate the growth of private sector enterprise as a source of sustainable employment, in order to establish the conditions for economic growth |
| • Develop the social capital of the nation, and preserve its culture and heritage, in order to reinforce social coherence |
| • Strengthen local government, as a major contributor to improvements in governance |
| • Slim down the PNA, leading to a reduction in costs and especially in the wage bill, as an essential prerequisite for the achievement of fiscal stability |

3.3.4 Policy areas

Policy areas are specific topic areas in which the need for high-priority action is needed in order to support the achievement of objectives and national goals. They do not necessarily coincide with the boundaries of particular organisations or established programs. Some may represent only one part of a ministry or agency’s responsibilities; some may require cross-cutting action by a number of bodies. However, ministries and agencies must be able to specify which of the policy areas their planned activities fit into and demonstrate their contribution to national goals and objectives.

It is at this level of the PNPA framework that detailed policy formulation is located. A policy is not simply an objective, but a statement both of what is to be achieved and how. The quality of policy making depends crucially on careful and realistic thinking at the ministry and agency level, based on the best evidence available, about what interventions are most likely to deliver the specified objective and about the risks of undesirable unintended consequences.

3.3 Linkage between the PNPA and the PRDP
The PNPA was used as the starting point for policy-making, planning and budgeting by all ministries and agencies. Ministries and agencies, through their Planning & Budgeting (P&B) submissions, provided the detailed information about the specific objectives being pursued, and the activities and projects being undertaken, in each policy area. Ministries and agencies were required to demonstrate how their own specific objectives and activities contribute towards the achievement of the national priorities, and to identify the level of resources dedicated to each activity. This enabled an assessment of the extent to which activities and resource allocations are aligned with national policy priorities. The information produced by ministries and agencies also covered all different types of expenditure (recurrent, capital and development) so that the full costs of undertaking different activities can be evaluated.

The P&B submissions from ministries and agencies were analysed and reviewed to ensure that directions being pursued by ministries are fully aligned with the national goals and objectives; that important activities that would contribute significantly to those objectives in the medium term are not omitted or unfunded; and, that objectives are clearly formulated. The review process also ensured that cross-cutting linkages, where activities contribute to objectives that are principally the responsibility of other bodies, were fully recognised and exploited.

Application of the PNPA in developing the PRDP was, in effect, an important first step on the path to reforming policy-making, planning and budgeting processes. In future years it is expected that there will be a more extended timetable for planning and budgeting, which will allow (as is normal practice) the process to begin with a stage of policy review. This will enable a thorough review of the existing government policies, consideration to be given to the impact, prioritisation and the continuing appropriateness of policies before attention is turned to the allocation of financial resources. In the future, continued application of the PNPA framework will drive the realignment of public sector activities and resources with national goals and objectives, and it will provide a much stronger basis for reviewing the performance of ministries and agencies in achieving their objectives and targets.
Appendix III

The following maps illustrate the number of states that recognize Palestine and Kosovo as independent. Also included is a map of states that do not currently recognize Israel:

States that recognize upgraded status of Palestine, November 2012

States that formally recognize Kosovo independence, 2013
Map of states that do not recognize the State of Israel, 2012
Summary

State 194: Assessing the Institutional Capacity of the Palestinian Authority as the Foundation for an Independent State

Amanda Claypool

Project Summary

In a May 2011 editorial in the New York Times, Palestinian Authority President Mahmoud Abbas publicly announced that the Palestinian Authority would seek to attain full recognition as an independent and sovereign state during the UN General Assembly’s annual September gathering. While Abbas garnered an overwhelming amount of support from the majority of UN Member States, the decision to make Palestine a state in the UN was left to the Security Council. With the U.S. promising to veto any attempt at statehood, Abbas’s attempt to achieve Palestinian independence floundered in the Security Council.

Last fall, Abbas returned to the UN, this time seeking an upgrade to non-member observer status, which only required a vote in the General Assembly. With 138 of the 193 recognized UN Member States voting in favor of the Palestinian Authority, it became apparent that the international community supports an independent Palestine.

As this process was taking place, several important questions became apparent despite the political immediacy of Abbas’s gambit in relation to the “Middle East peace process.” In today’s international system, who decides who becomes a state? Of those entities seeking status as states, what are the criteria they need to possess to become a state? These questions created the framework for this research on the Palestinian Authority.

This particular study hypothesized that a state could become a state depending on the degree of its institutional capacity to govern and administer its citizens. Institutional capacity, in this regard, is defined as the presence of strong governmental institutions that can efficiently and effectively carry out the administrative and bureaucratic needs of the state. Measuring the institutional capacity of the Palestinian Authority became a good variable to use in this study because it effectively eliminated the political realities that skew perceptions on the Israeli-Palestinian conflict and Palestine’s ability to operate as an independent state. This was determined after an internship experience at a Palestinian advocacy firm in Washington, D.C. where I became familiar with Palestinian Prime Minister Salam Fayyad and his policy of institution building.

In the four years leading up to Abbas’s first attempt in the UN, the Palestinian Authority had actively worked to build government institutions that would demonstrate to the international community that Palestine was ready to become a
state of its own. Receiving public accolades from state leaders and recognition from notable international organizations, like the World Bank and the IMF, Fayyad’s institution building program was regarded as a great success. Even with international support, however, Fayyad’s reforms have been insufficient in producing a sovereign Palestinian state. Again, this raises the question: who decides who becomes a state and by what standards it decided?

To answer this question and determine whether or not Palestine has the capability to be an independent state, this study used a qualitative analysis by looking at classical and contemporary theories on what makes a state a state, comparing historical examples of states that emerged in similar conditions as the Palestinian Authority faces now, and personal interviews with individuals who experienced the state-building program in the West Bank. The first section of the study looked at the theoretical basis for statehood. The classical theory component considered works by Marx, Durkheim, Weber, and Tocqueville to understand what were some of the first understandings of statehood from a period of time when independence was a new concept. Likewise, the contemporary theory section looked at international norms and current scholarship to understand how statehood was understood during this period when decolonization and the collapse of the Soviet Union produced the largest amount of new states in a single point in time. This section concluded that there are certain criteria a state needs to possess, such as sovereignty and a territory with defined borders; however, these criteria are based in international norms and tradition and are not fixed standards.

The second section of the paper utilized a case study analysis to understand how states emerging from conflict zones became independent. This study chose to look at Yishuv Israel and Kosovo as two cases of study because of they represented conditions similar to that of Palestine. In Yishuv Israel, a national ideology led the Jews in Mandatory Palestine to begin to cultivate a unique society there. The Jews, under the aegis of British authority, began to build institutions that would support an independent Jewish state in Mandatory Palestine once the British ceded its authority. After decades of building Jewish institutions and conflict with the local Arab population, David Ben-Gurion declared the State of Israel independent in the section of territory allocated to the Jews in the 1947 UN partition plan. This is applicable to the Palestinian case because Palestinians share a guiding belief of self-determination and the realization of a Palestinian. As previously mentioned, the Palestinian Authority is working to build institutions to prepare for statehood, just as the Jews of Yishuv Israel did. Finally, the Palestinians declared their own independence, albeit in exile, in 1988, and have again sought to declare their sovereignty by petitioning the UN for the recognition of statehood in 2011. The question then arises then, if the Jews of Yishuv Israel could declare themselves the State of Israel, why can’t the Palestinian Authority declare itself the State of Palestine?

Kosovo was also an important case study to address because it demonstrated the role that international organizations played in a process of guided institution
building after the end of the Kosovo War in 1999. Unlike Yishuv Israel, the process of building institutions in Kosovo was multilateral, with the UN and NATO leading in areas of administration and security. Like Palestine, Kosovo declared its independence in 2008, and while its official recognition as a UN Member State is disputed, 99 Member States have recognized its independence, including the United States. Kosovo is a unique case because it is the first time that the UN Secretariat took on the administrative functions of a state, essentially acting as the regent government of Kosovo while the institution building process was taking place. Kosovo set a precedent for what the UN could do in facilitating the self-determination of populations enduring a foreign occupation.

The third section of the study analyzes the actual process of building the institutional capacity of the Palestinian Authority. This was done by studying the program plans released by the Palestinian Authority. Since 2007, the Palestinian Authority has written four plans extrapolating the specific reforms, strategies, and short- and long-term objectives the Palestinian Authority intends to accomplish. While the government programs are seriously limited by their dependence on external aid and a lack of response from Israel in minimizing its occupation of the West Bank, the programs have been successfully implemented in administrative, monetary, and security sectors. This section was also supplemented by official assessments produced by the Council on Foreign Relations, World Bank, and IMF, to determine how external examinations perceive institution building by the Palestinian Authority. Although dated to 1999, the assessment produced by the Council on Foreign Relations shows where the Palestinian Authority stood at the conclusion of the five-year interim period during the Oslo process. The World Bank and IMF assessments look at how the Palestinian Authority has developed economically, since the beginning of the institution-building program in 2007. Although the current Palestinian Authority could take greater measures to improve its administrative and governing capabilities, it is a post-Arafat entity that is not plagued by the same maladies that afflicted the Oslo era Palestinian Authority, particularly institutionalized nepotism and concentrated authority in the executive. In addition to this, the external assessments also recognize what this study also concludes: Israel’s occupation regime is the greatest barrier to further institution building. As the scope of the Palestinian Authority’s reform plans have become more specialized to focus on tangible short-term goals rather than abstract long-term ambitions, as well as affirmation by external assessments that the Palestinian Authority has the capability to function as other states, it is becoming increasingly difficult to continue to deny Palestinians their right to statehood.

Does the Palestinian Authority have the institutional capacity to constitute a Palestinian state? The short answer is yes, as demonstrated by the creation and implementation of reforms laid out in Prime Minister Fayyad’s state-building program. This conclusion is supplemented by assessments conducted by external international organizations and by votes cast in the United Nations. The long answer recognizes that Israel’s occupation regime, Hamas’s own claim to rule in
Gaza, and the political environment, particularly the absence of elections, could make the case that Palestine is not ready to be state. While these factors are certainly important to recognize, this study looks exclusively at the Palestinian Authority’s institutional capacity, specifically whether or not it has the institutions it needs to be a state. Thus, the issue is not whether or not the institutions function well, but rather, it’s whether the Palestinian Authority has the institutions in the first place. This is where this study distinguishes itself from potential criticism.

Although this study looks exclusively at the Palestinian Authority there are important implications to consider for future study of the topic of statehood. Could failed and failing states be stripped of their recognition as states if their institutions do not function well? What makes Yemen—a state where local tribes have more power than the central administration in Sana’a, and al-Qaeda in the Arabian Peninsula challenges the sovereignty of the state—anymore of a state than the Palestinian Authority? Do states with contested borders, such as North and South Korea, Cyprus, India and Pakistan, and Pakistan and Afghanistan, meet the same criteria for defined borders that the Palestinian Authority is expected to meet? And then there is the question of sovereignty in the face of a foreign occupation. The United States occupied both Japan and Germany after WWII in the interests of national and international security; however, both states eventually attained their independence once they were no longer a security threat to the United States. Eight years since the last suicide bombing and four decades since the last Arab invasion in Israel, can Palestinians, particularly those under the Palestinian Authority’s rule, still be considered existential threats? These questions will arise in the coming years as scholars become skeptical of the current state of the Israel-Palestinian conflict. It is with great hope that this study would contribute to a new conversation on settling the Israeli-Palestinian conflict by looking at the functionality of statehood rather than the politics of the “Middle East peace process.”