The Paradox of State-building as a Path to Statehood Under Occupation:

The Relevance of the Palestinian Case

Submitted by Labiba Shayeb Hilal (Lily Habash) to the University of Exeter
as a thesis for the degree of
Doctor of Philosophy in Politics
In July 2019

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Lily

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ABSTRACT

The overall purpose of this study is to assess the extent to which the Palestinian approach to state-building (under occupation), as envisaged by the Palestinian Authority in general and the Fayyad Plan in particular, contributed to achieving Palestinian statehood. The thesis uses the Westphalian-Weberian model of the state as its primary theoretical framework to point to the challenges that state-building faces in the absence of territorial sovereignty. It provides a historical re-analysis of the context within which the trajectory of Palestinian state-building was formed and implemented. During the past two years, 70 semi-structured interviews were conducted with primary actors who played a crucial role in the negotiation of the Oslo Agreements including veteran Palestinian and Israeli politicians, Palestinian Authority officials, foreign diplomats, international development actors as well as Palestinian social scientists and political activists. Secondary data used draws on an extensive review of literature on statehood and theories of post-conflict state-building, historical documents and historical accounts of the Palestinian-Israeli conflict, Palestinian Authority national development plans and analytical studies and articles published in Palestinian, Israeli and international journals, newspapers and by think tanks. An analysis of the Palestinian case argues that post-conflict state-building theories are insufficient to understand the particularities of the case and points to the need for a new theoretical framework that can better explain the nature of the Palestinian Self-Governing Authority. Not only does the analysis conclude that the assumption of state-building under occupation is flawed, since both concepts are inherently antithetical, but also that the presumed state-building endeavour was based on a flawed assumption: namely, that a *de facto* Palestinian state would emerge from within the Oslo Agreements and UNSC Resolution 242, none of which promises an independent Palestinian state. Therefore, the question emerges for the reason for Palestinian state-building in the first place.

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LIST OF ABBREVIATIONS

ACCO	Area C Coordination Office—Prime Minister's Office/ State of Palestine
AHLC	Ad Hoc Liaison Committee
Al Muqtafi	Palestinian Legal and Judicial System—Birzeit University, Institute of Law
ARIJ	Applied Research Institute Jerusalem
BATNA	The Best Alternative to a Negotiated Agreement
B'tselem	The Israeli Information Center for Human Rights in the Occupied Territories
CAC	The Israeli Palestinian Civil Coordination Committee
COGAT	Coordination Office of Government Activities in the Territories
DoP	Declaration of Principles on the Interim Self Governing Authority
EC	European Commission
ECF	Economic Cooperation Foundation
ESCWA	Economic and Social Commission for West Asia
EU	European Union
JDECO	Jerusalem District Electricity Company
JLC	Israeli Palestinian Joint Liaison Committee
ICBS	Israeli Central Bureau of Statistics
ICJ	International Court of Justice
ICG	International Crisis Group
IHL	International Humanitarian Law
ILO	International Labor Organization
IPCC	The International Peace and Cooperation Centre
IPCRI	Israel Palestine Centre for Research Information
LACS	Local Aid Coordination Secretariat
MDLF	The Municipal Development and Lending Fund
MEMO	Middle East Monitor
MFA	Israeli Ministry of Foreign Affairs
MOLG	Ministry of Local Government

MOPIC	Ministry of Planning and International Cooperation
MSR	Multi-Sector Review
NAD	Negotiations Affairs Department of the PLO
NDP	National Development Plan
NPA	National Policy Agenda
OCHA	The United Nations Office for the Coordination of Humanitarian Affairs
OECD	Organization for Economic Cooperation and Development
PA	Palestinian Authority
PASSIA	The Palestinian Academic Society for the Study of International Affairs
PCPSR	Palestinian Center for Policy and Survey Research
PECDAR	Palestinian Economic Council for Development and Reconstruction
PHC	Palestinian Housing Council
PIC	Palestine Investment Conference
PIF	Palestinian Investment Fund
PLA	Palestinian Land Authority
PLWSC	Palestinian Land and Water Settlement Commission
PMA	Palestine Monetary Authority
PMO	Prime Minister's Office
PNA	Palestinian National Authority
PNC	Palestinian National Council
PLO	Palestine Liberation Organization
PRDP	Palestinian Reform and Development Plan
PSGA	Palestinian Self-Governing Authority
SSDPJ	Strategic Sectoral Development Plan for Jerusalem
SIDA	Swedish International Development Authority
SMD	Strategic Multi-Sector Development Plan
SSR	Security Sector Reform
UN	United Nations

UNCCP	United Nations Conciliation Commission for Palestine
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNESCO	United Nations Educational Scientific and Cultural Organization
UNGA	United Nations General Assembly
UN-HABITAT	United Nations Human Settlements Programme
UNHRC	United Nations Human Rights Council
UNISPAL	United Nations Information System on the Question of Palestine
UNPD	United Nations Development Programme
UNRWA	United Nations Relief and Works Agency
UNSC	United Nations Security Council
UNSCO	United Nations Special Coordinator Office
UNESCO	United Nations Education, Scientific and Cultural Organization
WAFA	Palestinian News and Information Agency
WB	World Bank
WBGS	West Bank and Gaza Strip
WBPC	West Bank Protection Consortium
WHO	World Health Organization

CHAPTER ONE: INTRODUCTION

1.1. Research aims and questions

The primary research aim of this PhD thesis is to assess the extent to which the Palestinian approach to state-building (under occupation), as envisaged by the Palestinian Authority in general and the Fayyad Plan[1] in particular, contributed to achieving Palestinian statehood.

The establishment of the Palestinian Authority in 1994 was accompanied by considerable euphoria and emphatic optimism about the prospect of building new institutions and a new economy. This institutional experiment provided an excellent opportunity for Western scholars to investigate Palestine as an interesting case. However, unlike most examples of state-building in post-conflict countries, the Palestinian state-building endeavour had to take place before a permanent settlement of the conflict was achieved. The overarching argument for the Palestinian approach to state-building stems from the belief that the interim Oslo Agreements would eventually result in an independent Palestinian state. As a result, this assumption put continuous emphasis on establishing capable institutions of the transitional self-governing authority so that they were ready, once a state had finally emerged and is recognized. The problem has been that what seemed to be a temporary and transitional period supposedly leading to an independent state based on the borders of 1967 has become permanent, before the backdrop of the stalling peace process and the ongoing Israeli territorial policies.

While Israeli policies continue unabated and unchallenged by the international community, the Palestinian Authority continues with its state-building endeavour based on the assumption that, despite its limitations, its establishment is a national achievement that should be maintained, though without a clear notion as to how and

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[1] The Fayyad Statehood Plan is often used to denote the "Palestine: Ending the Occupation, Establishing the State" plan 2009-2011 that was elaborated by Ex-Prime Minister Salam Fayyad and represented the program of the 13th Government of the Palestinian Authority. The plan affirmed a platform for the establishment of the future state of Palestine on the basis of international law and good governance. Its main premise is a third option other than negotiation or violence to prove readiness for Palestinian statehood. From the outset, the Plan was strongly promoted at the national and international level. The Plan sets the vision for the state of Palestine, its foundational principles and national goals in addition to outlining its strategy for institutional development. The plan identifies four key priorities and programmes in the areas of governance, economy, social, and Infrastructure (Palestinian National Authority 2009).

when it would lead to the long-aspired Palestinian state. Consequently, although the Fayyad Plan, announced about 10 years ago, followed this path with reinvigorated emphasis on state-building and the establishment of a Palestinian state, such a state is way off. Twenty-five years after the Palestinian Authority was instituted and almost a decade after the Fayyad Plan 'Ending the Occupation, Establishing the State' (PNA 2009) was announced and despite the recognition of Palestinian institutional readiness for statehood (UNSCO 2011, p. iii), the occupation continues and prevents Palestinians from achieving their national aspiration—a territorial state.

This thesis aims to answer the following overarching research question: To what extent has the Palestinian approach to state-building (under occupation), as envisaged by the Palestinian Authority in general and the Fayyad Plan in particular, contributed to achieving Palestinian statehood. More specifically, the thesis aims to achieve the following three key objectives: 1) to evaluate the outcomes of the Palestinian Authority's state-building policy including the Fayyad Plan for statehood and consecutive government policies (in particular in Area C and Jerusalem) and their implications on statehood; 2) to highlight the challenges of the context within which Palestinian state-building had been taking place, and 3) to highlight the need for reconfiguring priorities for state-building under occupation. To complement this research question, this thesis endeavours to answer the following sub-questions:

- How did the official Palestinian position regarding the state evolve before and after the signing of the Oslo Agreements?
- How does Israel envision the nature and substance of the Palestinian entity as reflected in the Oslo Agreements and its ongoing policies on the ground?
- What was the Palestinian Authority's state-building policy in general and the Fayyad Plan in particular with regard to territorial sovereignty (in Area C of the West Bank and Jerusalem)?
- What are the implications of the lack of territorial sovereignty for the capacity of the Palestinian Authority to act as the central authority?
- What are the intended and unintended consequences of the Palestinian state-building endeavour under occupation?

Following the historical trajectory of the PLO/PA, it is clear that its long held aspiration of establishing the Palestinian state on 22 percent of historical Palestine has not been

successful. Yet, the Palestinian Authority acquired a life of its own and still persists, despite the fact that there does not seem any indication that it will eventually evolve into a territorially independent state. In addition to the stalled negotiations with Israel, the looming annexation of what is supposed to be part of a Palestinian state on the borders of 1967, the ineffective application of international law, and obvious deteriorating conditions of Palestinian democratic governance with the widening of the political divide especially between the two main political parties, Fatah and Hamas, are all factors that diminish the possibility of a feasible solution. One cannot deny that there is an abundance of studies looking into Palestinian state-building as will be shown in Chapter Two; sometimes they take Palestine to be a quasi-state (Khan and Hilal, 2004, p.74), a state in the making, (Brown 2003), etc., however, not many studies focus on the challenges facing what seems to be actual governance in terms of having effective state institutions that guarantee protection from external threats, democracy, responsiveness to citizens' needs, political pluralism, etc. There are obviously fundamental challenges facing the Palestinian Authority's state-building endeavor. Especially since in its current form, it does not enjoy actual territorial jurisdiction in the areas meant to be part of its state-to-be in accordance with the 1967 borders with Jerusalem as its capital. The Palestinian Authority has limited jurisdiction even in areas it oversees (which could provide the first steps toward a state, namely Areas A and B).[2] Yet, it has no actual jurisdiction in Area C, Jerusalem, or the Gaza Strip. In sum, the current status of the Palestinian Authority is unclear: Is it a state or a self-governing authority. As sometimes, it calls itself a "state under occupation" and sometimes a limited Palestinian Authority.

This thesis tries to understand whether state-building as intended by the Palestinian leadership could lead to independent Palestinian statehood. Although the study looks explicitly into the Oslo period, before, during and after the Fayyad Plan for Statehood, it is essential to put the notion of Palestinian state-building in its historical

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[2] The Oslo II Agreements divided the West Bank into three administrative divisions: Area A where the Palestinian Authority enjoyed full administrative control including internal law and order and which comprises almost 18 percent of the West Bank; Area B has a joint Palestinian and Israeli administration and comprises almost 22 percent of the West Bank; and Area C which comprises almost 60 percent of the total area of the West Bank and contains most of the Israeli settlements is administered exclusively by Israel (Article XI.2, Israel Ministry of Foreign Affairs 1995).

context and relate it to the actual possibilities of achieving statehood. The latter takes recourse to a much earlier historical moment than usually acknowledged in the prevailing discourse about the foundations of the two-state solution.

In retrospect, one cannot disregard the impact of contextual factors on such a trajectory. Be they subjective as they relate to the nature of the Palestinian leadership and its own development under the Ottoman rule and the British Mandate up to the establishment of the state of Israel in 1947, or objective as they relate to the external factors influencing the trajectory of Palestinian statehood, i.e., what has been often depicted as lost opportunities for an independent Palestinian state dating back to the proposals of the Peel Commission in 1937 or even the notion of having accepted or rejected the UNGA Resolution 181 (II). This being said, it is important to highlight the nature of the solution presented by the Peel Commission. The recommendations presented three possible solutions; the first being a state with an Arab majority, the second being the two-state solution, and the third being the bi-national state (Peel 1937).[3] Contrary to such possibilities, the UNGA 181 proposed the division of the land and the establishment of two distinct states, an Arab and Jewish state with the city of Jerusalem as a corpus separatum (Latin: 'separate entity') to be governed by a special international regime (UNGA Resolution 181 (II) 1947).

When it comes to the evolution of the Palestinian conceptualization of national identity and right to self-determination, it is fitting to say that when compared to the Zionist project, Palestinian national identity and awareness of political rights evolved in a completely different context. Historians such as Rashid Khalidi and perhaps—to a certain extent—Avi Shlaim addressed this subject and concluded that the Palestinian conceptualization of having a state of their own was not ripe yet in comparison to the Zionist project premised on establishing a Jewish homeland in Palestine. For, when it comes to the Palestinians, it is not only that their identity and the significance of a nation-state was not developed yet, they were rather part of the Ottoman Empire where there was not much emphasis on the ethnic nature of the Arab citizens of the Empire. Still, one cannot deny that the 1936-1939 revolution was an indication of a

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[3] It is important to note that the actual partition plan is based on the Peel Commission's recommendations. What is of most significance is that the Peel Commission's report warned of the difficulty of dividing the country into two states, even though it had suggested that there would be an economic corridor between the West Bank and Gaza (Peel 1937).

growing Palestinian awareness about the imminent loss of their land due to the incoming waves of Jewish migrants since the turn of the century.[4]

As a matter of fact, this historical detail has often been emphasized by Israeli leaders making the claim that "a Palestinian people never really existed" in the sense of a 'people' deserving their own right to self-determination. This being said, scholars often do not press upon the fact that the Palestinians tried to assert themselves as the governors of their own affairs even between 1948 and 1967. Here, one can highlight the All Palestine Government in the Gaza Strip,[5] though short-lived and ill-governed (Shlaim 1990, p. 37), and the Jordanian rule in the West Bank providing the opportunity for the Palestinians to govern issues like education, health, Awqaf, etc. The fact that the Palestinians did not have any direct rule over their country was not beneficial for Palestinian self-determination, even when the Arab League adopted the Palestinian cause up until 1964 with the establishment of the PLO, which sought to distinguish itself as the sole representative of the Palestinian people.

Factually, the establishment of the PLO provided the Palestinians with the opportunity to manage the Palestinian cause politically and to administer the lives of the Palestinians in the diaspora. In this respect, there is abundant literature on the nature of the PLO as a national movement. And though it has been a non-state actor, it looked to find solutions for stateless Palestinians, who opted for the realisation of their own self-determination along with many other independence movements during the second part of the last century. Both Yezid Sayigh and Nathan Brown seem to be in agreement, when they point to the PLO's experience with state formation and state-building long before the establishment of the Palestinian Authority by the Oslo Agreements. Sayigh for his part emphasizes the fact that the Palestinian military groups have primarily served an administrative function, offering Palestinians in the diaspora organizational structures for political expression and state-building (Sayigh

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[4] Often called the Great Revolt, Palestinians led a national uprising against the British Mandate and the influx of Jewish immigration and land purchase.

[5] The All-Palestine Government حكومة عموم فلسطين was established by the Arab League on 22 September 1948 during the 1948 Arab-Israel War. Although it was presumed to have jurisdiction over all of the former Mandatory Palestine, its effective jurisdiction was limited to the Gaza Strip that was still government by Egypt. This government was not recognized by Jordan who later decided to annex the West Bank until it was occupied by Israel in 1967.

1997a, p. 17). Brown on his part insists that Palestinian institution-building whether within the PLO or within the West Bank and the Gaza Strip started long before the establishment of the Palestinian National Authority, whose beginning and erection of several state-like institutions was "an act not of creation but of resumption" (Brown 2003, p. 5).

But such accounts can only reveal the dilemma of succeeding by combining state-making with state-building, especially during the post-Oslo period. In a sense, state-making requires conditions that allow for such a state to emerge, and state-building is based upon the very existence of that very state. The explanation of what seemed to be a "historical necessity" (Participant 31, veteran Fatah member, ex-official at the President's Office) at the time of signing the Oslo Agreements may illuminate the nature of the peace proposals, which are often seen as supporting the two-state solution as a foundation for an end to conflict and a right to self-determination for the Palestinians.

In this respect, it is fitting to point to the interrelatedness of subjective and objective factors that influence the Palestinian trajectory on their quest to achieve statehood. This links the evolution of their self-awareness with the supposedly existing peace proposals—even those dating to the early years of the conflict. With more than a hundred years of conflict and the announcement of the Trump Peace Plan,[6] many Palestinians question the continuous rejection of peace proposals from the Peel Commission's recommendations to the present; they question the prudence of their leadership, and whether it is true that the Palestinian leadership has never really been pro-active in suggesting what could be described as 'creative solutions'–solutions that could preserve their right to the land before it is lost completely.

Reflecting upon this issue, one should point to the difficulty of envisaging how the Palestinian leadership could have behaved in a different manner since the beginning of the conflict. Was there an alternative to their initial fear and continuous rejection of sharing their land with another party. For, the often dominating view that the Palestinians "never lost an opportunity to lose an opportunity" propagated by Abba

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[6] The Trump Peace Plan, often denoted as the Trump Deal of the Century was announced in Washington in a joint press conference by US President Donald Trump and Israeli Prime Minister Binyamin Netanyahu on January 28, 2020 in the absence of Palestinian representatives.

Eban in the 1973 Geneva Conference[7] as well as that the Palestinians or Arabs never really initiated any solution or plan needs examining. Hence, it is suitable to explore this background so as to better appreciate what the thesis is trying to achieve—namely the context within which the Palestinians were trying to achieve their statehood, and whether in reality, they had a specific vision of their own Palestinian state.

When it comes to the reason for the continuous rejection of the aforementioned peace plans, it may be plausible to argue that it is difficult to envision a national acceptance—early on during the past century—-of any form of territorial division of what the Palestinians considered to be their rightful homeland, and which they saw as being gradually expropriated by higher and external forces. Besides, the various options for sharing or dividing territory have been proposed by an external party without much input from the Palestinians themselves, starting with the Peel Commission, the Partition plan and what followed. Hence, the main argument would have later been based on the notion that this proposed territorial division or sharing inherently violates the principles of national self-determination as embedded in the UN Charter. Ultimately, not only most of the later 'peace proposals' have been externally imposed, importantly, most of them have not actually addressed the minimum demands acceptable to the Palestinians, especially when it comes to the right to the land (Participant 16, political analyst, and head of a policy think tank, 2018). This also includes the UNSC Resolution 242 and the 1978 Camp David Accord between Egypt and Israel that included a section on Palestinian self-governance up until the Oslo Agreements, which were held in secret between the PLO and Israel. Perhaps it was the very first time that the Palestinians felt that they could have a direct say in their own destiny and that there was a very first step toward the realization of the two-state solution, even if it this meant the establishment of a state on 22 percent of what they adamantly considered historical Palestine.

As an example, many Palestinians contest the notion that there has ever been a genuine international decision to establish two-states in accordance with the UNSC Resolution 242. Chapter Three challenges this notion, as it is presumed to establish

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[7] This is a famous 1973 quote by Abba Eban during his address to the 1973 Geneva Conference to negotiate a solution to the Arab-Israeli conflict in the aftermath of the 1973 war often called the Yum Kippur War or the October War. This quote has s often been associated with the "Palestinians, that they have never lost an opportunity to lose an opportunity".

the foundations for the Oslo Agreements as well as the fact that the Oslo Agreements set the foundations for the realization of the two-state solution. It also addresses the different peace proposals during the Post-Oslo period including formal and informal negotiations between the Israelis and the Palestinians and concludes that in most cases, the Israeli offer was what is being described as a 'state minus'; a borderless, demilitarized state without Jerusalem, the return of Palestinian refugees or the dismantlement of Israeli settlements in the West Bank including Jerusalem.

Even though the concluding Chapter 7 suggests that it is perhaps most fitting to reconsider a reversal of the Palestinian and international discourse on the two-state solution based on the UNGA Partition Plan of 1947, Walid Khalidi argues that the Partition Plan has had implications to the present day and the general international acceptance of the Zionist version of events (Khalidi, W. 1997, p. 5). More recent scholarly analysis of the UNGA 181 sees that "[i]n many ways, the story of UNGA Resolution 181 encapsulates the weaknesses of the UN, particularly regarding Palestine. The resolution marked an attempt by the supranational organization to forge a workable compromise while operating within significantly restrictive limits". In particular, the resolution's part on Jerusalem "reflects a wider reality for both Jerusalem and Palestine, focusing on the notion of the internationalization of the city that has often been a cover for the colonization and neo-colonization of Palestine" (Irfan 2017, p. 56).

We should note that historically, what has been described as an evolving moderate Palestinian position, namely, the acceptance of the fact that Israel exists and that the Palestinians have to recognize its existence and, hence find a solution to co-exist in the same country, was a reflection of Palestinian realization for the need to be pro-active even outside the limitations of international fora. This being said, in retrospect, one can only say that the evolution of the Palestinian national identity was accompanied by a quest by many Palestinian intellectuals and politicians during the 1970s and 1980s for what could have been seen as 'creative solutions' to Palestinian statelessness. Perhaps, knowing that history was not on their side, the Palestinians started to show "a sense of pragmatism". Depicted as an intellectual Palestinian in an article published in the *Journal of Palestine Studies*, Nabil Shaath, for instance, proposed the establishment of One democratic state for two peoples" (Shaath 1977, p. 12). Such a proposal is often overlooked by scholars. One has to say that not much

literature has really looked into such efforts in a thorough and comprehensive manner. It may be the case that there was never really a holistic programme as to the nitty-gritty of the desired one democratic state. Likewise, Issam Sartawi, who was a member of the PLO, called for co-existence with Israel, though it is believed that he was killed by Palestinians for his supposedly moderate views regarding Israel (Lewis 1982).

Other than the course of events and being subjected to historical factors influencing the focus or the neglect of the Palestine issue, it seems that Palestinian submission to the looming reality with the fear of the loss of their claim to self-determination led them to the Palestinian Declaration of Independence in 1988 in Algeria, thus accepting UNSC Resolution 242, which eventually meant sharing of the same territory between the two peoples. However, unfortunately, what was supposed to be Palestinian moderation led on a path of consecutive concessions (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018), without much recognition from the Israeli side, even when the Palestinian leadership supported the 2002 Arab Peace Initiative,[8] accepted the 2003 Road Map for Peace,[9] and presented the 2014 Abbas Peace Plan to the US Secretary of State John Kerry.[10]

The thesis uses a number of figures, mainly maps, that try to highlight the significance of the Palestinian territorial claim, on the one side, as well as the significance of the de facto situation on the ground, on the other. Obviously, the centre of the Palestine-

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[8] The 2002 Arab Peace Initiative, also known as the 'Saudi Initiative' is a ten-sentence proposal to end the Arab-Israeli conflict. The Initiative was endorsed by the Arab League in 2002 at the Beirut Summit and re-endorsed in the 2007 and 2017 Arab League Summits. The Initiative calls for a full recognition of Israel by the Arab states in exchange for a full Israeli withdrawal from the occupied territories (including East Jerusalem) and a "just settlement" of the Palestinian refugee problem based on UN Resolution 194 (Machleod 2009).

[9] The Road Map for Peace is a performance-based plan presented by President GW Bush in November 2002 for a permanent two-state solution between the Israelis and the Palestinians. It focused on having the Palestinians dismantle "terrorist infrastructure" and restrain attacks against Israel in return for Israel's freezing of settlement activities. The Quartet includes the US, Russia, the EU and the UN (US Department of State. 2003).

[10] The 2014 Abbas Peace Plan is President Abbas presented the US Secretary of State John Kerry a plan that called for nine months of direct negotiations with Israel on the permanent status issues including Jerusalem, refugees, settlements, security and water that would end by establishing a Palestinian state with Jerusalem as Palestine's capital. The plan proposed a three-year plan for Israel to withdraw to the 1967 borders and offered the notion of possible land swaps (Khoury 2014).

Israeli conflict is the contested claim on the ownership of the territory between the River Jordan and the Mediterranean—two overlapping homelands in one territory (Wallach 2011, p. 358). True, the conflict has evolved throughout the past century, and the Palestinian claim settled for the establishment of a territorially sovereign state on 22 percent of what is supposed to be historic Palestine, i.e., this state would be established in the West Bank, Gaza Strip with a capital in Jerusalem.

In this respect, the choice of maps is intended to visualize the relationship between the political claims and the geographical aspect in general and to highlight the receding possibility of having a Palestinian territorial state with defined borders in particular. For, the way in which political maps are designed and presented is of significant importance (Medzini 2012, p. 27). More so, the use of maps here is intended to support the thesis' arguments about the complexity of governing without territorial sovereignty and the perplexity of the two-state solution in a context of fundamental power asymmetries between the occupying state, denoted as a settler-colonial state, and the Palestinian Authority as a state-to-be or a state in the making, though under occupation.

It is important to note that there seems to be a general consensus that the Palestinian Authority has never presented a formal map of how it envisions the territory of the Palestinian state. It has always been the case that maps depicting the conflict or the particular solutions to divide the country between two states have always been imposed by external parties, starting from the Peel Commission and ending with the 1967 borders and the Oslo Agreements. During the actual negotiations of the Oslo Agreements, it was always the Israeli side who presented the maps, mainly denoting the areas that the Israeli army would redeploy. There are two incidents that point to the knowledge of the PLO leadership of the actual territorial risks involved by accepting the division of the West Bank into Areas A, B, and C, and not having a realistic knowledge of the dangers of the Israeli settlement policies (Participant 14, political figure and ex-minister in several Palestinian governments including that of Fayyad; Participant 46, legal expert, ex-legal advisor to the PLO). Another incident relates to the fact that the Palestinians never presented a map of their own. As an example, although the Olmert-Abu Mazen negotiation in 2008 is often referred to as the only time where there was an actual discussion of the territorial aspect of the Palestinian entity, the territorial issue was not actually discussed, especially with regards to

Jerusalem and the Jordan Valley. All what Olmert was concerned with is to keep the large settlements in the West Bank intact. The anecdotal reference to that meeting was that Olmert only showed a map to Abu Mazen and did not want to share it with him. Then Abu-Mazen drew the map on a piece of napkin which is referred to as "the napkin map" that the Negotiation Support Unit of the PLO (NSU) then drew out based on the notes of the meeting provided by Saeb Erekat (Al Jazeera n.d.).

In this instance, one cannot disregard the possibility of bias in map selection as it is intended to represent a specific perspective that supports the main arguments of the thesis. Many of the maps are taken from international sources such as UN agencies, some from Israeli and Palestinian government institutions and non-government institutions. The nature of the maps is historical/geographic, covering the Balfour Declaration (Encyclopædia Britanica (n.d.), the Peel Commission (Peel 1937), the 1947 Partition Plan (UNGA, 1947. Resolution 181 (II)), the Armistices Lines, or the Green Line,[11] the 1967[12] borders and the current status. In addition, throughout the chapters, primarily in Chapter 5 on Area C[13] and Chapter 6 on Jerusalem, figures and maps are used to show the actual context with regards to the future of the Palestinian territorial claim.

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[11] The Armistice Line often called the Green Line or (pre-)1967 border is the demarcation line set out in the 1949 Armistice Agreements between Israel and its neighbours (Egypt, Jordan, Lebanon and Syria) and that served as the *de facto* border of the State of Israel from 1949 until the Six-Day War in 1967. See map no 3. United Nations, 1955. Palestine map showing Armistice Agreements between Israel & Lebanon, Syria, Jordan & Egypt 1949.
[12] The 1967 borders resulted from the *de facto* Israel occupation of the West Bank, Jerusalem, the Gaza Strip and the Golan Heights as a result of the second Israeli-Arab war. In this war, Israel defeated Jordan, Egypt and Syria.
[13] Area C is the geographic area in the West Bank outside Areas A and B.

Map 1: Provisional frontiers of the Palestine partition according to the Palestine Royal Commission (Peel Report (Peel 1937)).

Annex A
Annexe A

PALESTINE
PLAN OF PARTITION
WITH ECONOMIC UNION
PROPOSED BY THE AD HOC COMMITTEE
ON THE PALESTINIAN QUESTION
PLAN DE PARTAGE
AVEC UNION ECONOMIQUE
PROPOSE PAR LA COMMISSION AD HOC
CHARGEE DE LA QUESTION PALESTINIENNE

Arab State — Etat arabe
Jewish State — Etat juif
City of Jerusalem — Ville de Jérusalem

Boundary
proposed
by UNSCOP

International Boundaries
Frontières internationales
District Boundaries
Limites de districts
Sub-District Boundaries
Limites de sous-districts
Roads — FIRST   SECOND   OTHER
Routes — PRINCIPALES   SECONDAIRES   AUTRES
Railways
Voies Ferrées

MAP NO. 103.1 (b)
FEBRUARY 1956

UNITED NATIONS

Kilometres 10 0 10 20 30 40 Kilometres
Miles 5 0 5 10 15 20 25 Miles

BASE MAP: Survey of Palestine, April 1946.
Modified.

PALESTINE
MAP SHOWING ARMISTICE AGREEMENTS
BETWEEN ISRAEL &
LEBANON, SYRIA, JORDAN & EGYPT
1949

LEGEND

International boundaries
Boundaries of Former Palestine Mandate
Armistice Demarcation lines
Demilitarized Zones
Map Reference points   MR 208.7 260.0
Principal roads (selected)
Railways
Arab States
Israel State

SCALE 1:500,000

MILES
KILOMETRES

INSET

MEDITERRANEAN

SEA

LEBANON

SYRIA

JORDAN

DEMILITARIZED ZONE

HULA Simraft

LAKE
TIBERIAS

Metulla
Banyas
Khalsa
Rosh Pinna
Safad
Tiberias
Samakh
Ma'ad

Ras en Naqura
Tarshiha
Nahariya
Acre
HAIFA
Shafa Amr
Saffuriya
NAZARETH
Yavneel
Kefar Tavor
Naharayim
Beisan

Tibnin
Bent Jbail
Rama
Majd el Kurum
Maghar

Hadera
Arraba
Jenin
Qalqiliya
NABLUS
Tulkarm
Azzun
Qalqiliya

Natanya
Kfar Sava
Petah Tiqva
TEL AVIV
JAFFA
Rishon le Ziyon
Ramle
Lydda
Rehovot
Yibna

Ramallah
Jericho
Shunat Nimrin
Salt

El Qouseima

Latrun
Qastel
El Qubeiba
Qaryet el Inab
JERUSALEM
Government House
Sur Bahir
Mar Elyas
BETHLEHEM
Palestine Potash Co.

Hedud
Qastina
Julis
Huleiqat
Bureir
GAZA
Deir el Balah
Khan Yunis
Rafah

Ibdis
Joseir
Zeita
Fuluja
Khasim al
Dawayima
Qubeiba
Beit Jibrin
Beit Aula
Dura
Turquumiya
HEBRON

Beersheba

ISRAEL

Asluj
Kurnub
Ras ez Zuweira

Karak

Palestine Potash Co.
Safi

DEAD SEA

Tafila

El Auja

El Qouseima

NEGEV

WADI ARABA

JORDAN

Ein Hash

Shaubak

EGYPT

Kuntilla

Wadi Musa

Ma'an

Quweira

Ras en Naqb

Umm Reshresh
AQABA
Aqaba
Tala

Map 2: Partition Plan – (UNGA. 1947. *Resolution* 181 (II)).

Map 3: Armistice Line 1949 – 1955 / United Nations map showing Armistice Agreements.

Palestinian Loss of Land 1947 to Present

Jewish Settlements / Palestinian Land (1947)	Israeli Land / Palestinian Land (Partition Plan, 1947)	Israeli Land / Palestinian Land (1949-1967)	Israeli & Occupied Land / Palestinian Land (Present)
PALESTINE	ISRAEL	ISRAEL	ISRAEL

Map 4: Palestinian Loss of Land from the UN treaty 1947 to Present. Available at: https://i.redd.it/repp7r2srn501.png.

The thesis' rationale is to emphasize the unique nature of the Palestine case from the perspective of state-building theories. This idiosyncrasy stems from the fact that the process of state-building takes place under persistent occupation of a colonial nature (Abdo & Yyval Davis 1995; Dugard 2014; Jamal 2011; Khalidi Rashid 1974; Llyod 2012; Makdisi 2010; Pappe 2008; Penslar 2001; Rodinson 1973; Tilley 2010a, b, 2012) that denies a Palestinian right to statehood or even the right of the Palestinians to exist in the territory for that matter. In this respect, the Palestinian case provides a meaningful and somewhat challenging case, for which contemporary state-building theories and models of post-conflict state-building might only apply to a limited extent.

Given this background, it is fitting to explore the options left for a Palestinian Authority, especially given that state-building has been undertaken in the absence of territorial sovereignty. This trajectory triggered the quest for a differentiated analytic tool that can best address the anomaly of Palestinian state-building under occupation.

For this reason, this thesis employs what I call a Westphalian-Weberian analytic framework geared to understand what it means to undertake state-building in the absence of territorial sovereignty and to examine the implications of such an approach for Palestinian statehood as the desired outcome.

There are multiple reasons for this research to focus on the Fayyad Plan for statehood. First, the Fayyad Plan is considered to be the most prominent plan for achieving statehood since the establishment of the Palestinian Authority. Second, the Fayyad Plan garnered tremendous support from the international community for its presumed novelty in offering a course of action for achieving statehood different from those that had proven ineffective—namely bilateral negotiations with Israel and violent resistance against the occupation. Third, the Fayyad Plan has been the focus of scholarly analysis and critique, which looked into the evolution of Palestinian state-building. The Fayyad Plan triggered abundant research on the prospects of what it could achieve, on the one side, and its limitations, on the other side. For instance, the Plan was analyzed for its political development aspects, internal power dynamics and the interplay between the local and international agency in its implementation (Brown 2009, 2010; Dana 2015; Danin 2011; Haddad 2016; Knutter 2013; Persson 2012; Tartir 2012; Raja Khalidi & Samour 2011; Shweiki 2014 and others). However, the Plan was mostly analyzed from the perspective of neoliberal approaches to state-building (Khalidi & Samour 2011; Persson 2018; Tartir 2015). This approach drew heavy criticism characterizing it "as an attempt to build post-conflict failed states by the international community while drawing heavily on neo-liberal development paradigms that have proven ineffectual in stimulating economic development of post-conflict states thus undermining prospects for state consolidation" (Barbara 2008, p. 307). Therefore, the prominence of the Fayyad Plan, coupled with the international support and enthusiasm it garnered as well as the scholarly attention it received provide a strong justification for using it as a vehicle to investigate Palestinian statehood.

While this thesis takes account of the abundant critique of the Fayyad Plan, it also takes issue with the incommensurability of analytical approaches that stands in the way of a comprehensive assessment of the viability of statehood as exemplified in the Plan. This ultimately points to the need for integrating facets from a multitude of approaches. Perhaps the view that approximates the perspective of this thesis most

is that of Persson (2011) who argues that the Fayyad Plan for statehood follows "a classical state-building strategy by focusing on security sector reform, the rule of law and good governance" (Persson 2011, p. 2). In this sense, this thesis stresses the need for assessing a policy that has been governing the Palestinian political vocabulary and approach for the past twenty-five years, though without much prospect of achieving a territorially sovereign state but also without much of an alternative. Consequently, this thesis prompts the need to think about the real purpose of continued investment in strengthening the capacity of the institutions of the Palestinian Authority, if they are not meant to evolve into an independent and sovereign state. Following this line of argument, it becomes significant to understand the underlying assumption of such an approach given the context within which Palestinian state-building has been undertaken. For this reason, the thesis highlights the need to dissect the context of Palestinian state-building; after all, it is the primary determinant of Palestinian statehood.

1.2. Situating the research in the field

Palestinian institution-building or state-building was never entirely a home-grown initiative and has been strongly influenced by external intervention. The euphoria around the Oslo peace process and the expectations regarding an end to the conflict set the foundations upon which the Palestinian Authority was established. Consequently, the influx of international aid at the time the Palestinian Authority was established exemplifies the importance external influence had on shaping the main characteristics of the Palestinian Authority along with its expected role vis-à-vis Israel, on the one side, and the Palestinian population in the West Bank and Gaza, on the other.

The Palestinian experience attracted scholarly attention as a case of a post-conflict country and has been gaining traction within state-building theories of Western scholars, interested in the critical analysis of external intervention in countries torn by civil war and into fragile states (e.g., Barakat & Chard 2002; Chesterman 2004; Christian 2010; Fukuyama 2004c, 2005; Hehir & Robinson 2007; Lemay-Hebert 2009; Migdal 1998; Paris 2002, 2004). In this respect, it is important to point to the trajectory of the discipline dominated by two theoretical approaches to state-building, which in turn shaped the study of the Palestinian state-building phenomenon. First, there is the approach of International Relations, which revolves around key concepts like

statehood, sovereignty and intervention in the international system (e.g., Caplan 2007; Chandler 2015; Chesterman 2007; Krasner 1999; Paris & Sisk 2007). And second, there is the approach of political science that looks at issues pertaining to democratization, liberalization, institutionalization, good governance and development (Collier 2003; Fukuyama 2004a, 2017; Menocal 2011; Lemay-Hebert 2009).

Both approaches have guided critical analyses of the Palestinian case over the past three decades. Perhaps an explanation of the Palestinian state-building experience needs to take recourse to Fukuyama's definition of state-building as "the creation of new governmental institutions and the strengthening of existing ones" (Fukuyama 2004a, p. ix). Presenting the literature review and the theoretical framework, chapter two offers a historical analogy and unpacks how the literature on Palestinian state-building was shaped by two key factors: the changing global trend in state-building, on the one side, and the political transformations of the conflict itself during the past twenty-five years, on the other.

Not much different from other post-conflict state-building, the fact that state-building in Palestine has been externally led made it subject to the very dilemmas of external intervention, namely the linking of state-building to peacebuilding, security, economics and conditionality set by external actors (Wyeth & Sisk 2009, p. 16); this constellation is often juxtaposed with state formation known as an internal process of developing a centralized government structure in a situation where one did not exist previously (Haas 1982, p. 1; Richmond & Poggoda 2016, p. 6). Hence, the Palestinian experience did not escape the controversy about what needed to be achieved first: peace, state-building, economic development or security before national liberation. As a matter of fact, the Palestinian state-building experiment needed to face all the challenges of externally led intervention. Despite a shift in the analysis of the Palestinian phenomenon calling for its enhanced contextualization in order to accentuate the real reasons preventing Palestinian statehood, such changes in discourse did not influence decision-makers and external state-builders. Their intervention continued unaltered even when it had been shown to be inadequate and diverting attention from the real issues at stake (Khan 2010).

The main problem was that the Palestinian state-building process took place in a situation that does not promise the realization of a Palestinian territorial state. The in-depth analysis of the phenomenon of state-building under occupation necessitated

an understanding of the anomalous nature of Palestinian self-rule that does not fit within normative post-conflict state-building scenarios, where territorial sovereignty may be limited but not necessarily prohibited. In the case of the Palestinian Authority, its existence is characterized by limited and functional self-rule, restricted so as to not evolve into a territorially sovereign state.

For, although most research on Palestinian state-building has pointed to the occupation as the main impediment to Palestinian statehood, the problem was that the starting point for the analysis of Palestinian state-building was very much shaped by the Weberian approach and that assumes sovereignty irrespective of its degree as a result of the conflict. Having said this, I contend with Lemay-Hebert that although "the Weberian approach to statehood has arguably attained the status of orthodoxy in the mainstream literature of state-building" (Lemay-Hebert 2009, p. 162), understanding the state and state-building by dint of a Weberian lens does not do justice to cases such as that of Palestine, when it privileges the institutional aspect of the state. To put things into perspective, past research found that there is a need to re-establish the foundational criteria for state functions within a territorial jurisdiction as well as within a particular social environment (Axtman 2004; Jessop 2007b, p. 5). This understanding provides the justification for the need to have the Westphalian state as a pre-condition for statehood denoting both sovereignty and recognition. In this respect, the Westphalian-Weberian theoretical framework informs current research and helps to determine the specificity and unique nature of Palestinian state-building by pointing at what the state ought to be, and how it corresponds to the theory of the state in contemporary terms (Ayubi 1996, p. xi).

Based on this, I contend that it is not possible to apply such analytic tools to the phenomenon of Palestinian state-building under occupation without linking them directly to a critical caveat—the absence of territorial sovereignty. I argue that it is essential to analyze the case by accounting for the overall context that impacts on the performance of the Palestinian Authority. This needs to be achieved by an enhanced emphasis on the case's all-encompassing social reality. Taking the context within which Palestinian state-building is being undertaken and juxtaposing it with what a state ought to be, can best reveal the limitations of such an undertaking under continued occupation.

This thesis establishes its primary analytic framework by extrapolating the key assumptions of the Westphalian-Weberian model of the state in an effort to highlight what it means to build state institutions in the absence of territorial sovereignty. In doing so, this thesis unpacks what the absence of territorial sovereignty implies for the meaning of a central authority, for its monopoly on the legitimate use of force, its legitimacy and, hence, its ability to act as a national unifying force for all Palestinians. Employing a Westphalian-Weberian analytic framework is inspired by two shifts in the discipline; the first is the contemporary attempt to base a state-building theory on a renewed Westphalian-Weberian foundation (Jessop 2004, 2005, 2016; Ruzza, Jakobi & Geisler 2015; Solomon 2013) that aims to enhance understanding of state-making. The return to traditional interpretations and meanings of the determinants and nature of the '*state*' is apposite in our context. After all, it helps to highlight the significance of the principles and practice of statehood in post-conflict countries, states-to-be, newly established states as well as failed states. The current thesis sees its contribution to this debate in developing a new perspective of post-conflict state-building that entails the adoption of '*a rights-based approach*'. Past studies have focused on the principle of self-determination and a more thorough dissection of external strategies for state-building in post-conflict and fragile states (Balthasar 2015; Chandler 2010, 2015; Chesterman, Ignatieff & Thakur 2005; Risse 2013; Debiel, Held & Schnechkener 2016; Eckert 2002). In adopting this perspective, the current thesis develops an analytical lens apposite for state-building processes taking place in uncommon settings such as that of Palestine, where state-building takes place in the absence of any form of recognition of territorial sovereignty.

The other relevant analytical framework aims to offer a thorough contextualization of both the settler-colonial project that hinders the viability of Palestinian statehood and nation-building (Tilly 2015, p. 425) as well as the historical dimension of the essential factors behind the failing peace process (Pappe 2013, p. 13). In this sense, this thesis emphasizes the context within which the Palestinian state-building endeavour has been undertaken. It also stresses the need to bring to the fore a historical analysis of the factors preventing the emergence of a Palestinian territorially independent state. The current thesis aims to reveal and understand the underlying assumptions of state-making and the salience of state-building efforts of both internal and external state-builders under the current circumstances. The thesis

highlights the critical role the occupation plays in not allowing a viable Palestinian state to emerge in the sense that is universally known, namely as a territorially sovereign state. The thesis draws on the Westphalian-Weberian model of the state as its theoretical framework, as the latter takes territorial sovereignty to be a fundamental element of statehood. Pointing to a lack of sovereignty helps uncover what is most telling about the paradox of the state-building endeavour under occupation and, hence, about its primary purpose and *raison d'être* in a context that does not seem to allow a positive trajectory for Palestinian statehood.

1.3. The research contribution to knowledge

"ἓν οἶδα ὅτι οὐδὲν οἶδα". Σωκράτης

"The only truth that I know is that I know nothing". Socrates

This thesis aims to introduce a new perspective by examining the viability of Palestinian statehood under occupation and using the Palestinian case as the primary focus. To begin with, this thesis elucidates the factors that influence state-building within the context of a particular form of occupation characterized by an apparently permanent nature (Ben-Naftali, Cross & Michaeli 2005) due to Israeli settler-colonial policies (Le Favre 2015; Wolfe 2006).

This thesis is inspired by the need to ask why the state-building discourse and approach of the Fayyad Plan, which intended to establish a state within two years of its publication, has actually not ended the occupation thus far and to understand the assumptions underlying the Fayyad Plan given the context within which it had been conceived and implemented. In this way, unpacking the conception of the Palestinian state-building endeavour is intended as an analysis that has been long overdue, especially since the prospect of a viable territorial and independent state seems unattainable at least in the near future.

To solve the complexity of the "contentious politics" (Keränen 2017) of state-building in the case of Palestine, this research employs a novel analytic framework to understand the implications of the context in which state-building is undertaken. By redirecting the discussion to the core of the matter, namely the absence of territorial sovereignty, the application of a Westphalian-Weberian model served as a conceptual

tool for the thesis's empirical part. By conducting a comparative analysis between *what a state ought to be* according to the Westphalian-Weberian model, and *what is the case in the absence of territorial sovereignty*, the research allows for a more in-depth explanation of those factors influencing successful state-building endeavours under occupation and, hence, provides a vehicle to revisit interpretations of the fundamental constituents of the modern state.

In conclusion, this research has a dual aspect—one that contributes to the theoretical/ conceptual debate and one that contributes to the policy debate. The theoretical/ conceptual aspect intends to "disrupt certain truths of premises that have been taken for granted" (Bacchi 2012, p. 21) by existing research in analyzing the feasibility of state-building in Palestine. The discussion of policy intends to question the validity of assumptions behind an approach that has dominated Palestinian politics for the past twenty-five years, including the Fayyad Plan and subsequent government plans. Teasing out the policy implications for Palestinian statehood then prompts the quest for an alternative policy discourse. This thesis investigates Palestinian state institutions, asks how and if the latter match the requirements for constituent elements of a state, establishes in which contexts they worked, and what internal and external factors influenced their success and failure.

1.4. The significance of the research

The significance of this research stems from the fact that it is timely given the political impasse the Palestinian Authority currently faces twenty-five years after its inception and in a context in which Israel seems to have squared the circle for preventing Palestinian statehood, especially from a territorial perspective as shown in map 4 Thus, my findings are of value to all parties in the conflict. They will be beneficial to the Palestinian society at large considering the existential entrapment that the Palestinian Authority is going through in the midst of deepening national division, the consolidation of Israeli occupation and the unwillingness of the international community to enforce a solution based on international law. The study can provide insight as to how to frame the problem, how to become vocal about the limitations of

the current situation and therefore urge the Palestinian intelligentsia to search for realistic alternative strategies for resilience and national liberation.

Moreover, in the absence of a post-policy evaluation and having conducted this retrospective study, the research highlights the need for evaluating the implications of a policy that has dominated political action, development trajectory and international support for the Palestinian Authority since the beginning of the Oslo peace process until this very day. On the one side, it will help the Palestinian Authority examining whether the combination of building state institutions and negotiating statehood has been the best approach to fulfil Palestinian aspirations for an independent and sovereign state in the given context. On the other side, the study will support international actors to understand better the limitations of liberal peacebuilding and neo-liberal state-building approaches, which have been without alternative for the past twenty-five years and have seen little questioning of their due diligence.

Furthermore, this research can be directly applied at a practical level. It comes at a crucial historical moment of Palestinian state-building, with rising calls for a "redefinition of the relationship with the occupation" on one side,[14] and the Israeli tendency to unilaterally reconfigure the functional role of the Palestinian Authority on the other. As a matter of fact, exploratory research during the initial phase of the study indicated a lack of post-policy evaluation by the Palestinian political and executive institutions. Palestinian interviewees appreciated the nature of the research and were keen to follow its direction and projected conclusions, especially with regards to alternative discourses and scenarios in order to deal with the unfolding events in Palestine and the region.

1.5. The research strategy, methodology, ethical considerations and positionality

This study is a study situated within the discipline of political science; it adopts a qualitative research design based on a (single) case study methodology. A qualitative research method is known to have three key characteristics: descriptive, interpretive and process-oriented (Denzin & Lincoln 1994). All these characteristics are necessary to understand the investigated phenomenon. A qualitative research method provides

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[14] This statement has been used by the newly appointed Palestinian Prime Minister, Mohammed Shtayyeh at many occasions.

the opportunity to conduct a thorough inquiry into the context within which the phenomenon under question is situated (Yin, 2009) and, hence, it offers tools for gaining an in-depth insight and understanding of the various complex factors that influence the phenomenon under investigation (Strauss & Corbin, 1994).

The use of a single case study methodology allows for a more in-depth account of the unique nature of Palestinian state-building under occupation. Eckstein (1975, p. 32) suggests that "single-country studies are the equivalent of clinical studies from medicine where the effects of certain treatments are examined intensively". Todd argues that single-country studies provide a contextual description, develop new classifications, generate hypotheses, confirm and refute theories and explain deviant cases also via cross-national comparison (Todd 2003, p. 34). Other researchers stress that the "intensive study of a single unit offers the opportunity of understanding a phenomenon observed at a single point in time or over some delimited period of time" (Gerring 2004, p. 342; Baxter & Jack 2008).

The many attributes of a single case study allow for an in-depth understanding of the phenomenon of state-building in Palestine. Firstly, using this approach, the conducted research enables an intensive stock-taking of the Palestinian state-building endeavour even before the Fayyad Statehood Plan and helps to understand how it actually relates to the Palestinian Authority's experience. Secondly, the approach allowed to meticulously describe the context within which Palestinian state-building has been taking place, and especially to tease out that it has been a crucial determinant in shaping the prospects of state-building as a path to statehood. Thirdly, the argument of the Westphalian-Weberian framework provides justification for why it may be the best approach to capture the unique nature of Palestinian state-building, undertaken in a situation that does not permit the Palestinian Authority to evolve into a territorially sovereign state. Fourthly, the evolving nature of the conflict and the sense of urgency it creates makes the Palestine case an ever pertinent phenomenon that requires constant updating. In this sense, a single case-study approach allows a holistic and in-depth focus on the unique nature of Palestinian state-building and, hence, its underlying assumptions as well as factors influencing it. In this respect, by looking at the Fayyad Plan from a policy perspective, the case study method revealed the many inconsistencies inherent in the mainstream post-conflict theoretical state-building framework applied to the case of Palestine.

Although the single case-study provided many benefits to this research, I acknowledge that it also suffers from limitations and potential pitfalls, such as the risk of biased case selection and undue generalizations. To overcome these limitations and ensure reliability and validity, I have reverted to methodological safeguards against investigator-induced bias, such as careful congruence, triangulation as well as process-tracing (Altricher et al. 2008; Cohen, Manion & Morrison 2002; Eisner 1991; O'Donoghue & Punch 2003).

Certainly, state-building in Palestine is reminiscent of state-building in other countries, such as Cyprus and Kurdistan Iraq. For example, there are possible similarities between Palestine and Cyprus in the sense that both involve conflicts characterized as 'protracted conflicts' leading to a situation of continuous conflict-management rather than conflict resolution (Kelman 1999; Schneindlin 2016). There might also be some resemblance between the colonial aspect that influenced the permissibility of Palestinian statehood with the 'Arabization' effort in Iraq, involving the seizure of land and population transfer from Baghdad to Kurdistan Iraq from the 1960s until 2000 (Savelsberg, Hajo & Dulz 2010). Additionally, from a contemporary perspective, an analogy can be drawn with Kurdistan Iraq's state-building experience, despite the fact that it lacks international recognition in contrast to Palestine whose state-building endeavour rests on the assumption that international legitimacy guarantees its right to statehood.

While the cases like those of Cyprus and Kurdistan Iraq are essential to guide this research, the intention of this research is to provide a holistic analysis of a policy approach that dominated Palestinian reality for almost twenty-five years and eventually to find answers to the central research question, namely the validity of undertaking state-building under occupation. Above and beyond, the choice of the single case study stems from the fact that state-building in the case of Palestine is of a contested nature—from an ontological, epistemological and methodological point of view. In this regard, the single case study method was employed to provide an in-depth empirical enquiry about a contemporary phenomenon, set within its real-world context – especially when the boundaries between phenomenon and context are not clearly evident (Yin 2009, p. 18) and a "thick description" of the context of state-building under occupation is required in order to achieve higher conceptual validity (Stake 2008, pp. 443-45).

To uncover meanings, develop understanding and discover insights relevant to the research problematique, the current study used a combination of data collection methods leading to a mix of data sources, including primary sources like archival materials and semi-structured interviews as well as secondary sources. Semi-structured interviews emerged as a key source of data for the study and allowed to generate data and inquire into interpretations that helped to give the study a broad empirical foundation. The majority of semi-structured interviews were conducted in the West Bank and Jerusalem, while some were conducted in Israel. In most cases, interviews were conducted face-to-face, except for a few that were conducted by Skype due to movement limitations within the West Bank, Gaza and Israel.

Participants were selected following the criterion of 'purposeful sampling' since it privileges interviewees known to be the most knowledgeable and capable of providing insight to a research project. The selection of interviewees included the key players involved in the establishment of the Palestinian Authority and the Palestinian state-building endeavour. In this respect, interviewees included veteran officials and political leaders who negotiated the Oslo Agreements with Israel and were responsible for establishing the Palestinian Authority in the mid-1990s and others who were responsible for the design and implementation of the Fayyad plan in the relevant ministries. Interviews were also held with Palestinian politicians, political party members, current officials and members of civil society including academics, especially political scientists and experts in public administration as well as non-academic policy experts working in research institutions. To ensure equity and inclusive representativeness, I have endeavoured to balance interviewees from the West Bank and Jerusalem. Additionally, interviewees included diplomatic representatives to the Palestinian Authority, international development experts working in international development agencies operating in the West Bank and Gaza, as well as some Israeli politicians and policy experts involved in the formulation of the Oslo Agreements. Overall, 70 interviews were conducted in the period of 2017 to 2019.[15]

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[15] See Appendix 1: Interview guidelines, Appendix 2: Interview Consent Form and Data Protection Notice, and Appendix 3: Interview questions.

Secondary data include academic literature on the concepts of the state and statehood, on state-building in general and state-building in Palestine in particular. In my research, I used printed as well as electronic (computer-based and internet-transmitted) material. Having spent a year at the University of Exeter, I was able to access a wide range of academic material, such as books and academic journals. Besides, having been an ex-government official facilitated my interaction with most of the Palestinian Authority's institutions and, hence, allowed access to a wide range of official documents, such as government plans, official Palestinian and Israeli documents. I have also drawn on a wide range of reports from official and non-official Palestinian and international organizations, and from the United Nations General Assembly and the United Nations Security Council. In addition, I have worked closely with researchers to produce background material required to gather evidence and to support my conclusions, especially with regards to the financial aspect of Palestinian budgetary allocations to Area C and Jerusalem.

To ensure the reliability of data collected from primary and secondary sources, multi-source triangulation of data sources was used to ensure a comprehensive assessment of information and counter threats of trustworthiness such as reactivity, researcher bias and respondent bias (Denzin 2006).[16] Whenever possible, I tried to include at least three sources to prove a certain point; sometimes I used two or three interviewees to substantiate a point; elsewhere, when this was not possible, I tried to match interviewee views with academic research and analysis. However, having conducted a large number of interviews—more extensive than what I have initially planned—enriched the research findings and enabled better conclusions of the research outcomes. In this respect, to minimize bias as a subjective interpreter of data contained in documents, a rigorous and transparent process of data analysis was followed. Careful consideration was applied that combined documentary analysis with interview data to ensure credibility and the accuracy of data and its interpretation (Bowen 2009, p. 38). In addition, convergence and corroboration through the use of different sources of data sets and methods were followed, in order to reduce the impact

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[16] Norman Denzin (1978) identified four basic types of triangulation as follows: (1) *Data triangulation:* involves time, space and persons; (2) *Investigator triangulation:* involves multiple researchers in an investigation; (3) *Theory triangulation:* involves using more than one theoretical scheme in the interpretation of the phenomenon; and (4) *Methodological triangulation:* involves using more than one method to gather data, such as interviews, observations, questionnaires and documents.

of potential bias that can exist in a single case study (Eisner 1991, p. 110; Patton 1990; Yin 1994).

Nonetheless, the research suffered from some limitations when it comes to document access. There was difficulty to maintain Internet-based references, as some have either been deliberately blocked or withdrawn. However, one of the limitations that I have encountered throughout the study is the insufficient amount of detail given that can answer the research question. As such, it has not been easy to generate sufficient data as well as insights from the interviewees about the impact the lack of territorial sovereignty had on the role of the central authority, its monopoly on the legitimate use of force, its legitimacy and capacity to ensure national unity in Area C, Jerusalem and the Gaza Strip. Although I have tried to explain these concepts, some were not familiar with their significance, as a large number of interviewees have experienced state-building within Area A and to a specific extent Area B, but not Area C or Jerusalem. Equally, it was not easy to find academic research on those concepts, as most scholarly interests focused on the Palestinian Authority's performance in Area A in the West Bank.

In this respect, there is a dire need for more research and more empirical assessments of the challenges facing the Palestinian Authority in those areas, especially when it comes to its ability to protect its claim to territorial sovereignty and, hence, its attempt to gain legitimacy. In this sense, there is a need to revisit the nature of the Palestinian Authority in the current context, especially from an institutional perspective, and to re-assess the limitations of what it can or cannot do. In other words, there is a need for more research on the nature of the self-governing authority, and whether it can evolve into a territorially independent state, on the one side, as well as a need for devising analytic tools that can do justice to the anomalous nature of the Palestinian Authority—in contrast to what has been used traditionally.

Ethical considerations and positionality

In qualitative studies, researchers are often required to clarify their role in the research process as issues of positionality and reflexivity are inescapable throughout the research process (Fink 2000, p. 1). Indeed, Sultana (2007) pointed to the significance of paying attention to "positionality, reflexivity, knowledge and the power relations inherent in the research process" (Sultana 2007, p. 380). Likewise, Denzin (1986)

convincingly stressed the significance of a researcher's background in producing scientific research by pointing to the fact that "[i]nterpretive research begins and ends with the biography and self of the researcher" (Denzin 1986, p. 12). Undeniably, "[p]ositionality is thus determined by where one stands in relation to 'the other'" (Merriam, Johnson-Bailey, Lee, Lee, Ntseane & Muhamad 2001, p. 411). It is therefore essential that the researcher reflects on his/ her positionality in order to point to potential effects on the research process as well as on the participants (Bourke 2014).

In this respect, in order to mitigate the risks of my own positionality, I have meticulously followed ethical protocol, guidelines and codes with respect to qualitative studies including those in line with the University's codes of ethical research. Nonetheless, on the practical side, I am aware of my strength as a scholar-practitioner who is expected to have an insider's ontological and epistemological view of the world. Having been highly involved in the permanent status negotiations and in establishing several institutions in the Palestinian Authority, including the Negotiations Affairs Unit and the Prime Minister's Office, as well as having direct access to several decision-makers and stakeholders in Palestinian politics can be seen as a plus, since I bring immediate practical and political experience to the academic debate. On another note, mainly because I am a scholar-practitioner, this research has been an attempt to acquire knowledge and validate (or invalidate) my own preconceptions, beliefs and biases. Indeed, my engagement in this research taught me how to conduct a robust and cumulative investigation and helped me to have a deeper understanding of a concept that is at the centre of my daily existence, and that has been pre-occupying national and international politics for decades.

1.6. The research structure

The study was initially intended to have eight chapters; an introductory chapter, literature review and theoretical chapter, two background chapters, three empirical chapters on Area C in the West Bank, Jerusalem and the Gaza Strip and a concluding chapter. Although it was not possible to complete the third empirical chapter on Gaza, I recognize that the Gaza Strip is an integral part of the discussion on territorial sovereignty. Besides, examining the Palestinian Authority's state-building involvement in the Gaza Strip shows many aspects that are worthy of a separate study, including security issues, which if investigated would, in turn, explain the constraints on the ability of a researcher to travel and gather data. As a result, an analysis of the Gaza

Strip remains beyond the scope of this study. The following offers a short summary of the chapters, including their central arguments and insights.

Chapter One is the introductory chapter. It briefly unpacks the context of the study, its focus, significance and relevance to the field of political science and to state-building theories. It elaborates the arguments for selecting the Westphalian-Weberian theoretical model as the basis for the analysis. The Westphalian-Weberian theoretical model serves as a vehicle to highlight the limitations of state-building theories in addressing the complexity of state-building in the absence of territorial sovereignty. The chapter also refers to the significance of transforming the territorial aspect of the conflict, namely the receding possibility of the two-state solution. It provides reference to maps that date from the UNGA Resolution 181 of 1947 to the present. Additionally, the chapter provides an overview of the historical and contextual context of Palestinian state-building in the Oslo period, both 'before' and 'after', and, hence, paves the way for Chapter Three that looks into the contradictions of the two-state solution. The chapter also provides a brief justification of the chosen research methodology, including the choice of a single-case study, data collection and interpretation methods. It also introduces the ethical considerations underlying the research.

Chapter Two presents the literature review and theoretical framework of the study. It introduces the conceptual background of the research question, which is driven by the unease about the applicability of the traditional state-building theories to the case of Palestine. The chapter traces the concepts of the state and statehood and provides a backdrop for the introduction of the thesis' theoretical framework, the Westphalian-Weberian model of the state. The aim of this chapter is to unpack the core assumptions in the literature on state-building and liberal peacebuilding. It reviews the way in which state-building theory interprets the Palestine case in general, analyzes the implications of the Fayyad Plan's state-building approach as well as its limitations in the context of occupation and the restricting nature of the Oslo Agreements.

Chapters Three and Four provide the backdrop to and context of Palestinian statehood. In particular, Chapter Three: Contradictions of the two-state solution: Two diverging logics, contextualizes Palestinian statehood and reviews the validity of the assumption of a two-state solution, the controversies around it and its recent

manifestation in the form of the Oslo Agreements. The central argument of the chapter is that a historical account is essential for an understanding of both sides' positions on the two-state solution and, hence, for the reasons behind the delay in achieving Palestinian statehood. The chapter concludes that the Palestinian state-building endeavour is based on a series of mistaken assumptions starting with the paradigm of the two-state solution and ending with the constraining nature of the Oslo Agreements. It, therefore, questions the soundness of the Palestinian approach to state-building policy within a context that does not allow for the prospect of having a territorially sovereign state or entity for that matter.

Chapter Four 'The Fayyad Plan: Ending the occupation, establishing the state' highlights the Fayyad Plan and how it fits within the trajectory of Palestinian state-building. It mainly examines the underlying assumptions of state-building under occupation and substantiates its claims by pointing to the limitations of institutional and neo-liberal approaches in providing an all-encompassing agenda for national liberation and resilience. The chapter concludes that the Fayyad approach to state-building did not bring anything new and that it only represented an enhanced version of the same restricted self-governing authority under an unrestricted dual conditionality set by the international community and Israel. Hence, the chapter questions the validity of the Plan's institutional and good governance approach to bolster Palestinian statehood beyond the consolidation of security sector institutions and neo-liberal policies in the absence of territorial sovereignty. In this respect, the chapter points to the need for investigating how sound the Plan is in terms of the political discourse it draws upon, which centres around the establishment of the state on the borders of 1967 in the West Bank, Jerusalem and Gaza. Based on this analysis, the chapter elaborates the rationale behind the subjects of inquiry chosen for the empirical chapters, which represent research topics mostly neglected by scholars examining the development of Palestinian state-building.

The empirical chapters play a crucial role in providing answers to the research statement and the aim and objectives of this thesis. By linking theory and empirical data, the chapters examine the extent to which the state-building approach contributed to Palestinian statehood in a context of forbidden territorial sovereignty. In particular, they examine the extent to which such an approach helped in retaining territorial sovereignty in Area C and in retaining the claim to Jerusalem as the capital of a future Palestinian state. In this respect, Chapter Five 'Area C' unpacks the underlying

assumptions behind the Palestinian Authority's state-building policy regarding Area C, tracks its evolution, conceptual framing and implementation. The chapter concludes that it has been difficult for the Palestinian Authority to transcend its functional role as per the Oslo Agreements and finds that the modified version of the Palestinian Authority's policy of resilience and steadfastness has had counterproductive effects. Moreover, it unintentionally rendered service to the occupation rather than to advance statehood. The Palestinian Authority being denied any territorial sovereignty in Area C or even functional capacity for that matter has triggered scepticism of its role as a central authority and, hence, its capacity to protect its people and its legitimacy in a context of limited self-rule.

The central argument of Chapter Six 'Jerusalem' is that there is a need for a more in-depth analysis of the context within which the Palestinian Authority has been working in Jerusalem; the chapter argues that there has been a gap between the mainstream political discourse on having Jerusalem as the capital city of the Palestinian state-to-be and the actual policies on the ground. The chapter presents empirical facts substantiated by scholarly analysis of the implications Israeli policies have on the future of the city and argues that it has been left out of the state-building policy discourse and government plans as a result of deferring an agreement about the city. Consequently, official Palestinian policy based on enhancing resilience and steadfastness of the population has been circumstantial and reactionary rather than strategic. The chapter concludes that the forced absence of the Palestinian Authority's institutional structures, as well as the geographic separation of the West Bank and Jerusalem, have led to scepticism. Thus questioning its real intentions and actual capacities to transform the levers of powers to the benefit of the Palestinian people and their aspiration to have East Jerusalem as the capital of their future state.

Chapter Seven comprises a 'Summary and Conclusion', which concludes that the assumptions underlying state-building under occupation are inherently flawed and contradictory, hence the contestation of state-building theories in the discussion of the analytic framework. However, the advantage of the two shifts in the analysis of post-conflict state-building, namely the turn towards an increased contextualization of the local aspect in state-building and a greater focus on Westphalian sovereignty, helped draw the attention to the need for further studies of the nature of the self-rule and the nature of asymmetric institutional relationships under occupation. It also highlighted

the demand for developing enhanced scenarios that look at the prospects of limited functional self-rule to evolve into a sovereign state.

CHAPTER TWO: LITERATURE REVIEW AND THEORETICAL OVERVIEW

Introduction

The purpose of this literature review is to present the epistemological background and key concepts that underlie the argument of this thesis entitled: The Paradox of State-building as a Path to Statehood Under Occupation: The Relevance of the Palestinian Case. It intends to unpack the key concepts of the debates about statehood and state-building, as they are highly interrelated and have been dealt with as two concepts that in practical terms stand in a cause-and-effect type of relationship. In this respect, this chapter intends to highlight the origins of these concepts, their strengths and weaknesses; it also points to their relevance for the thesis statement, its general objective and argument given the key interest of the thesis in state-building in a context of internal and external adverse conditions. Moreover, the chapter reviews definitions and relevant scholarly accounts, existing theories and perspectives in the contemporary debate of statehood, the Westphalian-Weberian state, post-conflict state-building and state-building in Palestine. In this respect, the structure of the chapter stems from the multi-dimensional nature of the thesis and its main aim, which requires the review of the concept of statehood, from a philosophical, political and legal perspective as a backdrop to the complexity of state-building as a path to statehood under occupation. The discussion looks at the respective theoretical foundations and debates, which have recently culminated in revisionist state-building theories advocating an analytical turn toward sovereignty in its internal and external dimensions. This turn substantiates the central claim of this thesis, namely that it is difficult to understand the Palestine case only from the perspective of state-building theories because what is primarily lacking is the state as a concept and a reality. In order to understand the intricacies of Palestinian statehood and state-building under occupation, it was essential to revisit the roots of the concept of the state, to understand its background and then see how the conceptual debate can illuminate Palestinian statehood in its current form.

The chapter is divided into three sections. The first section reviews the classical conceptual debate about the state and statehood, including the meaning and limitations of the Westphalian-Weberian (WW) model of the state. It also highlights the contemporary debate about the relevance of the WW model to the modern theory of

the state. The aim is to provide a sound conceptual foundation in order to help analyzing the literature on state-building and liberal peacebuilding, its interpretation in the Palestine case in general and in the Fayyad Plan in particular. The second section reviews state-building theories of the past two decades and identifies the main concepts and debates relevant for post-conflict countries in general and in the Palestine case in particular. It also reviews the debate around the Fayyad Plan from the perspective of state-building theories. Finally, the third section provides a summary of the argument and highlights gaps in the literature with regard to the case of Palestine.

2.1. Statehood in theory and practice

The historical development of theories of statehood revolves around one core question: What turns a state into a state? As an example, the term statehood is interpreted as "the property of being a state or the condition of being a state or a territory seeking statehood".[17] In this sense, the condition of being a state presupposes a state apparatus with a delineated territory and population (Nelson 2006, p. 73). Consequently, arguments about the meaning and feasibility of the state vary with the respective historical political and legal interpretations of the state. Despite political philosophy strongly influencing current interpretations of the state and statehood, contemporary political scientists still debate the most suitable definition of the state. While some scholars contend that there is no academic consensus on the most appropriate definition (Cudworth, Hall and McGovern 2007, p. 1; Jessop 2006, p. 72), others argue that the term 'state' refers to a set of different but interrelated political phenomena captured by overlapping theories (Barrow 1993; Dorgus and Orvis 2013; Nelson 2006, p. 9; Lapidoth 1997, p. 42). For instance, the state is seen as: "the actuality of the ethical idea" (Hegel 2015, p. 194),[18] "the highest political organization" (Buchanan 2000, p. 4), an immaterial and conceptual abstraction (Dunleavy and O'Leary 1987, p. 1; Robinson 2013, p. 556) or a "political imaginary that defines its nature and purposes, invoking higher goal(s) than self-preservation and self-interest" (Jessop 2007a, p. 73). Thus, the utility of the concept of the state cannot and should not be taken for granted, since it does not have a self-evident material object of

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[17] Webster Dictionary. Statehood. Available at: http://www.definitions.net/definition/statehood. [Accessed 1 January 2017].

[18] Hegel wrote *The Philosophy of Right* in 1821, however, the quote above is from a recent English translation.

reference. The utility of the meaning of the state must be demonstrated; to demonstrate that utility, we must first be clear about what we are referring to, when we talk about the state (Colin and Lister 2006, p. 4).

The state has to have meaning in theory and practice. Hence, it is essential to devise a definition that can guide our understanding of the state analytically. In this sense, a basic definition of the state is suggested as: 'a political entity organizing a community within a territorial boundary that is sovereign'. There are four major components of this definition that reflect what we have come to know as the modern states. In fact, most Western modern states whose essential elements are "sovereignty and territoriality" also have a central government, and they organize a community whose collective attachment to the state is defined as nationhood (Nelson 2006, p. 60). The modern state is then the nation-state, also known as the Westphalian-Weberian state and has become the standard against which statehood is being measured (Eriksen 2005, p. 235; Milliken & Krause 2002, p. 753).

A Westphalian-Weberian state is equipped with central authority over a demarcated territory, over which it can exercise its internal and external sovereignty. The Westphalian concept remains a definitive reference point in understanding the significance of territorial sovereignty and territorial integrity in domestic authority structures (Gaus & Kukathas 2004: 200; Krasner 1990: 20; Evans 1990; Morgenthau,1985: 294). Moreover, the Weberian state remains a key reference point when it comes to the capacity of the state to govern and control a given territory (Held 2013: 1). A state cannot exist without territory, and a central government cannot exist or be effective without state sovereignty. State sovereignty is supposed to be primary in the sense that as long as a state has established its claim on sovereignty—both in principle and in practice—then it has the capacity to effective government as well as internal and external legitimacy. The Westphalian-Weberian model is essential for understanding the interplay of the constituents of the state and, *vice versa*, therefore for understanding how the absence of sovereignty impacts on the capacity of the state to assume its functions as a full-fledged state. Without territorial sovereignty, the central authority's capacity will be impaired. Its domestic sovereignty is not complete. Therefore, its policies will not be strategic, and its legitimacy will be in question.

Moreover, from an operational perspective, statehood has two dimensions: a legal dimension entailed in international law and a political dimension embedded in the dynamics of contemporary state formation. This standard model gained prominence during the 20th century in the post World War I and II periods in Europe, during post-colonialization, the post-Cold War world, 9/11 and recently the era post-Arab Spring.

From a legal perspective, the Westphalian-Weberian statehood criteria cannot be understood without resorting to the criteria established by the Montevideo Convention of the Rights and Duties of States of 1933 (Grant 1998, p. 403). In fact, the Montevideo Convention has codified the legal criteria for statehood as having four main elements or characteristics: a defined territory, a permanent population, a government and a capacity to enter into relations with other states. This latter criterion is subject of debate between proponents of declaratory and constitutive theories of statehood. Whereas the declaratory theory of the state argues that an entity's statehood is independent of its recognition by other states, the constitutive theory holds that a state is "a person of international law, if it is recognized as sovereign by other states". It is the act of recognition that constitutes the 'state' as such; still, the most significant aspect of codification is the territorial element (Kukathas 2014, p. 361). There can be no state without territory and what sovereignty entails in terms of its internal and external dimensions, thus signifying independence from external authority and hence translating the right to self-determination in international law (Crawford 2006).

In this regard, the differentiation between the declaratory and constitutive aspect of statehood is the most contentious part of the debate and directly relates to sovereignty (Cohen 1961, p. 1129). The main arguments on statehood, revolve around the difference between the *de facto* and the *de jure* state and have preoccupied political science and International Relations theorists, while international law theories argue about the political and legal criteria for recognition. An example of the essence of this debate and its impact on international recognition is the "United Nations political package deal" when it comes to recognizing states (Cohen 1961, p. 1129). According to this political package, statehood is often determined on the basis of a combination of legal and political considerations by the member states. However, proponents of the *de facto*-theory maintain that the formation of new states is a matter of fact and not

law. The most crucial aspect of this view is that the state can, in reality, exercize '*sovereignty*'. Henceforth, the criteria for statehood becomes more about the *effectiveness of the state* and not its *legitimacy* as the external recognition of the state in question would indicate (Crawford 2006, p. 4). The following summary of Palestinian statehood highlights the complexity of merging the political and legal dimensions, on the one side, and the process leading to the realization of statehood, on the other.

2.2.   Palestinian statehood

"*A Palestinian state could become 'a firm reality'" by the end of next year or within two years at the most".*

Salam Fayyad, June 2009[19]

Returning to the core of the matter, the criteria for Palestinian statehood have been vigorously debated within the framework of declaratory and constitutive theories of statehood. Those proponents who argue that Palestine fulfils the Montevideo criteria for statehood base their justification on the 1947 United Nations Partition Plan for Palestine, the UNGA recognition of the Palestinian right to self-determination (UNGA 1974), and the 1988 Palestinian Declaration of Independence (Quigley 2013).[20] As a result of this Declaration, the Palestine Liberation Organization (PLO) was perceived as showing features of a "provisional government in exile" Boyle 1990, pp. 301-7; Dugard 2009; Quigley 2010; Segal 1997). Based on this, Boyle (1999) maintained that Palestine was eligible for statehood and had already been recognized in 1947 and 1988 (Boyle 1999, p. 301). Crawford (2006), however, contested Boyle's argument and upheld that it was "weak and unconvincing" claiming that "a real Palestinian state" was not yet assured and can only be justified on the premise "*nasciturus pro iam natus habetur*".[21] He further endorsed the position that the Montevideo Convention treats

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[19] The Prime Minister appointed by Palestinian Authority (PA) leader Mahmoud Abbas was quoted as saying on 22 June in a speech at Al-Quds University in Abu Dis, a village outside Jerusalem.

[20] United Nations GA/SC. 1988. A/43/827, S/20278-18 November 1989. Agenda Item 37. Annexe III. Available at: https://unispal.un.org/DPA/DPR/unispal.nsf/0/6EB54A389E2DA6C6852560DE0070E392. [Accessed 10 June 2017].

[21] "*Nasciturus pro iam nato habetur, quotiens de commodis eius agitur* is a Latin legal maxim that refers to a law that grants or protects the right of a foetus to inherit property. The maxim translates to: The unborn is deemed to have been born to the extent that his own benefits are concerned. 'Nasciturus' literally translates to 'one who is to be born' and refers to a conceived foetus, i.e., a living child who has not yet been born. Pursuant to this legal principle, the foetus is presumed to have been born for the purposes of inheritance. The principle was reified in Roman law and continues to be implemented today in most European nations, in the Americas (where the foetus is sometimes legally considered to be a person) and in South Africa, when considered a legal

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statehood essentially as a current state of affairs and as a matter of fact as much as a matter of law (Crawford 2006, p. 435).

If one turns to the matter of fact, uncertainty intensifies with regards to the nature of the current Palestinian statehood and whether Palestine is as a state already in existence (*a de facto state*) or whether it is a nascent state (*in status nascendi).* Furthermore, it is not clear whether the contention of the process lies in the "current battle to have the state's border recognized assuming that the Palestinian state is already a fact and recognized as per the UN recognition for Palestine's observer status". This problematic situation establishes the basis for a closer investigation of the nature of the state and the nature of Palestine's statehood (Segal 1989, p. 14) rather than its degree of statehood given the context within which its statehood is being practiced (Panganiban 2016). What follows is a discussion of the question whether the Fayyad *de facto*-concept of the state–a state in reality–based on the success of building strong state institutions, will make Palestine a territorially sovereign entity that is sufficiently effective, self-governing, legitimate and recognized (Jackson 1990a, p. 310), and puts an end to its current contested and uncertain condition of statehood (Falk 2017). To establish an understanding of the state as a fully recognized actor in the international community, the following section will highlight the classical concept of the state, the legacy of the Westphalian model in modern international politics and what it entails for the meaning of statehood and its limitations. The following section is intended to illuminate our understanding of the significance of state sovereignty and, hence, provides the background for understanding the challenges of achieving statehood under an occupation that does not promise territorial sovereignty at the end of the state-building process.

2.3. The Westphalian state

The Westphalian state has four aspects: territory, population, authority and recognition. This model of state foundations is an institutional framework that is based on the principle of territorial sovereignty, a population, territorial integrity and non-intervention in the affairs of other states; it is violated when external actors influence or determine domestic authority structures (Caus & Kukathas 2004, p. 200; Krasner

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exception, it is thought to apply exclusively for the purposes of inheritance and that conditions must be satisfied for it to be valid, primarily that the foetus has to be born" (Novkirskka-Stoyanova 2017, pp. 18-49).

1990, p. 20; Evans 1990, Morgenthau 1985, p. 294). The principle of sovereignty lies at the heart of what is recognized as the Westphalian nation-state, hence its significance in framing the model of the international system of states. There is widespread agreement that the origins of the principle of territorial sovereignty date back to the 1648 Peace of Westphalia.[22] The Westphalian system or the Westphalian state is founded on the basis that there is no authority above the state, and states adhere to the principle of territorial integrity of the nation-state and respect intra-state relations. In this sense, the Westphalian state has become the anchor for understanding the state's legitimacy and recognition and has become the basis of the 19th-century state and modern International Relations theory (Osiander 2001, p. 251; Jackson & Owens 2005, p. 53).

Broadly speaking, while Westphalian sovereignty is all about the nation-state and its territorial integrity, in political theory, sovereignty has a deeper meaning of the supremacy of the state as the primary agent, not only in its relations with other states but within its territory. Sovereignty thus becomes a substantive term designating supreme authority over some polity,[23] which has to have absolute and exclusive powers. Thus, historically, the notion of sovereignty has evolved and mainly took shape with Enlightenment philosophy, such as Rousseau's *Social Contract*, Hobbes' *Leviathan*'s absolute and indivisible sovereignty and Bodin's perpetual power of the *Republic* (*Les Six Livres de la Republique*) (Andrew 2011, p. 77; Bodin 1986).[24] All these philosophers were mainly concerned with the notion of absolute sovereignty as a substantial characteristic of the state.

However, beyond traditional interpretations of the notion of absolute sovereignty, there are two dimensions: an internal dimension denoting a state's capacity to make laws, decisions, policies, and exercise control within its territory ('*de facto capacity*') and an external dimension denoting recognition and non-intervention

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[22] The Peace of Westphalia was a series of peace treaties signed in Westphalian cities of Osnabruck and Munster between May and October 1648, effectively ending the European wars of religion. These treaties ended the Thirty Years' War (1618-1648) in the Holy Roman Empire, and the Eighty Years' War (between Space and the Dutch Republic, with Spain formally recognizing the independence of the Dutch Republic (Croxton 1999, p. 569).
[23] *Encyclopædia Britannica. Sovereignty*- Politics. Available at: https://www.britannica.com/topic/sovereignty. [Accessed 1 May 2017].
[24] Bodin's classical definition of sovereignty is: "la puissance absolue et perpetuelle d'une Republique" (the absolute and perpetual power of a Republic). His main concept of sovereignty can be found in chapter VIII and X of Book I, including his statement "the sovereign Prince is only accountable to God".

'*de jure'* (Jackson 1990b; Ottaway 2003, p. 1003). As an example, Krasner's interpretation of sovereignty and its application to the real world is one of the most perceptive contemporary framings of the concept. He highlights four dimensions of sovereignty: (1) a legal sovereignty denoting states recognizing one another as independent territories; (2) interdependence sovereignty including explanations about globalization and its impact on state sovereignty; (3) domestic sovereignty refers to state authority structures and their effective control within states; and (4) Westphalian sovereignty meaning that states have the right to determine their domestic authority independently. In this respect, Krasner (1999) maintains that these aspects often appear together, but there are cases in history where states are sovereign in one aspect and non-sovereign in another. He sees that "both international legal and Westphalian sovereignty are best conceptualized as examples of 'organized hypocrisy'" given the absence of authoritative institutions and power asymmetries, hence the violation of principles of internal sovereignty and recognition (Krasner 1999, p. 40). Skocpol (1999), on the other hand, develops the so-called "autonomy theory" underlining the idea that state bureaucracies have the potential for autonomous operations, and that this potential was ignored by scientists in society-centric studies.

Nonetheless, while sovereignty is understood in political and legal terms, Steinberg (2004) adds two additional dimensions to the aspect of legal sovereignty of the state : The first is the need for a behavioural perspective in which states are evaluated according to their actual exercize of sovereign authority, while the second is a simplified perspective to understand the impact that non-state actors, international organizations and the global social, as well as political environment, can have on weakening the system of sovereign states (Steinberg 2004, p. 239). The most recent interpretations of sovereignty follow a functionalist approach that has been applied in state-building theory and focuses on the complexities of the relationship between a sovereign state and a non-sovereign state that undergoes a state-building process (Chandler 2010). The following section reviews contemporary interpretations of the Westphalian model of the state in an attempt to further highlight the significance of territorial sovereignty for statehood.

2.3.1. Contemporary interpretations of the Westphalian state

There are different views about the relevance and validity of the Westphalian model of the state that question the Westphalian system of nation-states, and that have

gained traction during the past two decades. State-centric proponents view the state as the primary institutional agent. They are labelled isolationists and anti-globalists, because they defend the nation-state that is usually taken to be the territorial state (Buchanan 2002, 2006). Sceptics, on the other hand, believe that the Westphalian model is outdated and is highly inapplicable in a strongly interconnected and transnational world with an increasing influence of non-state actors. On the one side, they refer to the impact of globalization on the independence of the state and its ability to make policy, control its domestic affairs, decisions and economy; they also examine the notion of voluntarily shared sovereignty, such as in the case of the European Union, on the other. As such, globalists and neo-realists believe in the state's right to preserve itself and, hence, support external and military intervention if justified by security issues. Thus external intervention is legitimized as a way to counter threats arising from the sovereignty gap that characterize failed states, such as Somalia and Afghanistan, resulting from terrorism and intervention of non-state actors (Ghani 2005; Kissinger 2014; Williams 2008). In fact, realists and constructivists observe that Westphalian sovereignty as well as the unitary nation-state world system are eroding and cannot be seen as axiomatic, absolute or exclusive. They maintain that sovereignty will continue to be violated as long as there will be cases of military and humanitarian interventions such as in Cambodia, the former Yugoslavia, Afghanistan, Iraq, Libya, Sudan and Crimea (Camilleri & Falk 1992; Krasner 1999).

Irrespective of what proponents and opponents of the relevance of Westphalian sovereignty believe, the dynamics of international politics and geopolitics coupled with the interrelatedness of the various dimensions of transnationalism necessitate a more realistic framing of state sovereignty and a deeper understanding of its internal dimensions and inherent practices (Wallerstein 2004; Weber C. 1995, p. 3). The debate about sovereignty and respective contemporary practices within the world system, however, does not mean that the concept itself is obsolete. On the contrary, it stays relevant and continues to adapt to a transforming international relations system and international security environment. The state as a sovereign entity will remain central to most of the thinking about international relations and particularly international law (Jackson 1993, pp. 1, 94; Krasner 1999).

Nonetheless, the state cannot be understood as a static object, only because it functions in an ever-changing world, and because it continues to be influenced by a

variety of factors that affect its capacity to have full sovereignty within and outside of its borders. This fact about the state is what makes the principle of sovereignty a permanent and controversial topic for debate within the fields of political science and international law. In this respect, social scientists have agreed that statehood as a standard or guiding idea is not something absolute and that there are wide variations of sovereignty that should be analyzed empirically, even in the cases of uncontested and recognized statehood. Based on this consensus, sovereignty can be interpreted as a relative concept depending on the respective particularities and the extent to which countries meet the criteria of statehood (Aufricht 1944, p. 318; Clapham 1998; Rotberg 2002; Eriksen 2005, p. 234; Beoge, Anne Brown, and Clements 2009, p. 13; Risse and Lehmkuhl 2012; Krasner and Risse 2014, p. 545). However, the territorial state will remain at the centre of the debate reflecting its significance as the 'homeland' and 'nation-state' to the people.

In fact, the debate over the paradox of territorial sovereignty has shifted toward a rethinking of the state (Vidmar 2013a, p. 241; Chandler 2010, p. 43; Skocpol 1999). This view challenges conventional interpretations of the state as an object in itself as well as an actor in the international world system (Wallerstein 2004). Nonetheless, there is a gap in the literature regarding its emphasis on having territory and defined boundaries as pre-requisites for state sovereignty. Sovereignty and statehood are mostly assessed in cases where a state is recognized internationally, irrespective of its degree of statehood or lacking sovereignty (Jackson 1999a; Ghani 2005). In fact, not much research has been conducted on the nature of the sovereignty of a state-to-be, the impact of existing devolved powers on an 'interim authority' or shared sovereignty on its future. There is a need for more research that unpacks the significance of territoriality on the decisions that a country tries to make, especially in the absence of territorial sovereignty that entails a lack of control over borders, resources and people eventually influencing any authority irrespective of the nature of its autonomy (M.S. 2011).

In this respect, the thesis discusses the negative impact that a lack of territorial sovereignty has on the capacity of any political or organizational entity, which operates with spatial jurisdiction to formulate and control the outcome of its policies (Anderson 2013, introduction). For example, in the case of the Palestinian Authority, its limited and apportioned jurisdiction in areas A, B, and C unintentionally creates development

disparities and disturbs social cohesion. What is meant by internal sovereignty is the capacity of a country to devise its national policies in a way that reflects the best interest of the people or the nation within the parameters of a 'best alternative' available option. However, the fact that the Palestinian Authority does not have full access and control over area C jeopardizes its ability to have competent authority to implement its policies, even if they follow the best alternative option. For example, the lack of territorial jurisdiction of the Palestinian Authority in area C affects the outcome of its economic and development plans and, hence, risks its legitimacy vis-à-vis the population residing in such areas. Additionally, restrictions on the defined territorial sovereignty of the Palestinian Authority also curbs its objective to achieve economic sufficiency and to end its reliance on external, politically driven development aid. In this respect, the uncertainty around the future of limited self-authority and the potential to evolve into a full-fledged state or even widen its jurisdiction in Palestinian territories impinges on its capacity to perform as a government for all the people even under conditions of limited statehood and limited governance (Risse 2013, p. 4).

The interplay between occupation and the limited self-rule, entity, or *Kayan* (Sayegh 1997) as well as the *de facto* relationship between the occupier and the occupied have rendered the notion of statehood, even in its supposedly formative stages, void of content. This controversial situation of governance without a state requires an examination of the *raison d'être de l'état tel quel* in Wallerstein's words— the *state in reality* (Wallerstein 2004). For, in Hegelian terms, the occupation is strictly the mere antithesis of statehood. But to understand the 'standard of statehood' (Erikson 2005, p. 235), it is imperative to engage in a deeper understanding of the interplay between the Westphalian and Weberian state. The following section explains what is meant by the Weberian state. It also looks into its application and criticism it received about its significance in the contemporary theory of the state and state-building theories.

2.4.   The Weberian State

Weber's (1919) definition of the state as "a human community that successfully claims the monopoly of the legitimate use of physical force within the territory" is one of the most essential and immensely debated definitions of the state in political science. Weber's concept provides an institutional character of the political and of the order of the state. According to Weber, the state becomes a "compulsory political organization

that maintains a monopoly on the legitimate use of force within a territory" (Weber 1919, p. 78). This characterization provides an anchor point for several aspects of Weber's conception of the state and its purpose, including the state bureaucratic apparatus that undertakes its various administrative, juridical, coercive and extractive functions (Anter 2014, p. 3; Dubreuil 2010, p. 189; Neep 2016, p. 64).

Although it is challenging to have a comprehensive account of Weber's theory of the state (Dusza 1989, p. 71), most of what has been written about it has been interpreted and reconstructed from his famous lecture "Politics as a Vocation" (Anter 2014; Weber 1965). Anter (2014) explains Weber's significance to contemporary theories by highlighting the main themes that evolved from his thought, including the state and sociology, legitimacy and bureaucracy. However, what may be of direct relevance to this thesis is the reference to the state at the end of chapter one of *Economy and Society* (Weber 1968, p. 56). In *Economy and Society*, Weber identified the characteristics of the modern state so as to comprise: (1) monopoly of the legitimate use of physical force within a given territory; (2) centralized government; (3) distribution of power (constitution) and (4) administrative and legal orders and administrative staff; legislation and elections (Dsuza 1989, pp. 75-6). This mirrors more or less the attributes associated with the universal modern nation-state. In this respect, Morris (2002) argues that Weber's characteristics of the state are interrelated features with functions that entail a system of government authority that extends overall inhabitants of a defined geographical area, and that maintains the collective identity of its people and has the capacity to make decisions and select preferences autonomously. Such features include: a state's continuity in time and space beyond the lifecycle of governments; transcendence of the unitary nature of the state and impersonal civil servants; separation of powers between the executive, legislative and judiciary; sovereignty as the ultimate source of political authority and legitimacy within the state's territory; and allegiance to the state (Morris 2002, p. 199). However, in modern state-building theories, the one most basic notion that unintentionally overshadows all others is the element of territorial sovereignty as the most fundamental source of political authority and legitimacy within a state's territory. This might be due to this element being taken for granted, irrespective of the degree of territorial sovereignty in a specific territorial jurisdiction.

In this respect, it can be said that Weber's recognition of the possible variations influencing a state's ultimate control over its territorial jurisdiction and every aspect within that jurisdiction is essential for our understanding that there can never be complete and perfect state's sovereignty. However, the fact that Weber understood that the state as subject to change does not preclude the need for it to have the primary characteristics of the modern state in the first place, as Weber has aptly elaborated:

"Since the concept of the state has only in modern times reached its full development, it is best to define it in terms appropriate to the modern type of state, but at the same time, in terms which abstract from the values of the present day, since they are particularly subject to change. The primary formal characteristics of the modern state are as follows: It possesses an administrative and legal order subject to change by legislation, to which the organized corporate activity of the administrative staff, which is also regulated by legislation, is oriented. This system of order claims binding authority, not only over the members of the state, the citizens but also to a considerable extent, overall actions are taking place in the area of its jurisdiction. It is thus a compulsory association with territorial basis. Furthermore, today, the use of force is regarded as legitimate only so far as it is either permitted by the state or prescribed by it" (Weber 1947, p. 156).

2.4.1. Contemporary interpretations of the Weberian state

This thesis argues that there is a need to highlight the state in its Westphalian-Weberian framework; the respective argument draws on the debate about Weber's theory of the modern state during the past two decades with a particular focus on its adequacy and relevance for political reality. For example, sceptics question the adequacy of Weber's modern state and the difficulty of interpreting his notion of territorial sovereignty as a constitutive element of the state as opposed to others who stress that a situation of shared sovereignty between internal and external actors is possible (Allan 2005, pp. 150-1; Dsuza 1989, p. 71; Jackson 1999a; Krasner 2005; Rotberg 2004). Cases in which it is difficult to have absolute sovereignty challenge the heuristic nature of Weber's state and maintain that this renders flawed notions such as the monopoly use of violence and legitimacy (Beetham 1991, p. 34; Migdal 2001, pp. 14-5). On a similar note, new theories of government and governance juxtapose Weber's notion of central authority with the transition from state-centric government to

society-centric governance. They postulate that the concept of central authority that Weber's theory posited does not apply to modern governance, which takes account of the influence of globalization, decentralization, accountability and legitimacy and the function of government as the provider of public goods and services, etc. (Bell & Hindmoor 2009, p. xiii).

Proponents of Weber's theory of the state, however, believe that Weber's characterization of the state continues to be relevant to modern state theory and remains significant and essential for our understanding of issues such as politics, bureaucracy and social stratification (Boix & Stokes 2009; Boix and Drechesler 2010, p. 94; Dubreuil 2010, p. 189; Olsen 2006, p. 1; Waters & Waters 2015, pp. 1-18). Others who reconstruct Weber's theory of the modern state, such as Anter (2014), show that "Weber's understanding of the state was more vibrant and somewhat more sophisticated than his famous and (short) definition might imply" (Neep 2016, p. 64; Anter 2014). In this respect, it is essential to note that Weber's theory of the state has been widely analyzed and debated. It has also found entrance into the discussion of many new issue areas, especially in the form of theories of government and bureaucracy, institutionalism and neo-institutionalism.

Although it is not the intention of this research to point to competing theoretical perspectives of the state other than that of Max Weber, it is essential to highlight the most significant amongst them. As an example, Marxian perspectives of the state differ with regard to the meaning attributed to the 'ruling class'; in Weber's account, it is supposed to be neutral and loyal only to the ideal of the state. In contrast, Marxist state theorists maintain that "the ruling class uses the state as its instrument to dominate society by the interpersonal ties between state officials and economic elites; the bourgeoisie" (Miliband 1983). Of key interest to the contemporary understanding of the state is the Foucauldian concept of the 'state' as an abstraction that has become a vehicle of criticism of the modern political theory. Foucault, known as one of the most controversial philosophers of the post-World War II period, was concerned with the need to understand government, the way it thinks and acts—the *'governmentality'* of the state rather than the abstract attributes of the state (Foucault 1991). Scokpol is known for her new theoretical focus on *state autonomy* or what has become known as *new institutionalist* accounts of the state, which maintain that "the state is an entity that is impervious to external social and economic influence and has interests of its own"

(Sklair 2004, pp. 139-40). Most prominent thinkers in the neo-institutionalist tradition, such as Paul DiMaggio and Walter Powell, examined the influence of economics, sociology and political behaviour on institutions and their influence on ideas, society and government in a post-Durkheimian sociological interpretation (DiMaggio & Walter 1991, p. 1). On another note, neo-Weberianism has gained traction in the 1970s with the rise of 'new-public-management' and its focus on a private sector-oriented public sector (Lynn 2008, p. 17).

Notwithstanding, perhaps the new and more progressive interpretations of the state prove Weber's point about the limitations in a situation of an ideal state. His understanding of the limitations of human nature and the complexity of governance within a dynamic, historically ever-evolving world of changing interests and different cultural experiences indicate the need to appreciate the imperfect nature of the state. In this respect, and based on Weber's realization of what the *state cannot be*, this thesis builds its claim about the complexity of governance or state-building in the absence of one of the main constitutive elements of the state—namely, a defined and sovereign territory. In this sense, it can be said that the Westphalian-Weberian concept of the state can help to point at what is most lacking in a proper understanding of the nature of the current Palestinian entity. For, it can be assumed that a Westphalian-Weberian state can be looked at in a holistic manner by closely linking the notion of territorial sovereignty with state functions and state capacity; given this, it is best suited to reflect on the challenges facing governance without territorial sovereignty. Putting the aspect of territorial sovereignty at the forefront of the analysis of the state and what it is, in reality, is crucial in order to understand the extent to which its central government can effectively ensure the monopoly on the use of violence, acquire legitimacy and also have the capacity to nurture a collective sense of nationhood.

This thesis claims that looking at some aspects of the state or constituents of the state in a separate manner does not constitute a realistic understanding of what the state is in reality and what an ideal state ought to be. For instance, it is difficult to capture the impact of a state's legitimacy without linking it firmly to the nature of the state's territorial sovereignty within a defined geographic area. For, it is difficult to evaluate the extent to which a state can be legitimate in the eyes of its citizens if it does not have the absolute territorial sovereignty over the geographic area where its citizens are. In this sense, it can be said that a state's legitimacy is directly linked to

what the state can or cannot do. This being said, the fact that both the Westphalian and Weberian states can be understood in a combined or separate manner indicates that the conceptualization of the state remains a challenge in contemporary thinking of the state and therefore remains at the centre of analysis in the contemporary theorizations of the state. For example, despite the preoccupation of the modern theory of the state with an account of why the "Western liberal model of the state is not working in new or post-conflict countries, there is a turn toward a new conceptualization of the state in the sense that there is a need to know more about what we are talking about. This new conceptualization becomes more of a necessity, especially to stateless societies and people aspiring for independence, identity, and equal representation in the international community" (Morris 2002, p. 195).

In fact, Morris' insistence on the foundational understanding of the meaning of the state from a philosophical and historical perspective is very much in line with the aim of this research. The Palestinian phenomenon of state-building as a path to statehood entails a situation where the Palestinian Authority is in the process of transition from a condition of statelessness to a condition of being a state, in this sense, to statehood. The most critical aspect of the Palestinian state-building process would be the identification of its purpose in the first place. For this, it is difficult to assume that statehood can be achieved only by focusing on one aspect of the state and not based on the foundation of the state as a whole—namely territorial sovereignty as the pre-requisite of the state allowing the central government to establish rules over its population. As an example, when looking at the notion of Palestinian statehood, it is difficult to assume that a Palestinian state will come into being based only on one of the constituents of the state, such as government institutions. A state in the Westphalian-Weberian sense cannot only be based on its institutions and, hence, be taken to be a state, if it does not possess all constituents of a state—namely full sovereignty over a defined territorial area.

A Hegelian perspective of the state stresses that latter as being the actualization of an ideal. In this sense, it may be assumed that building upon a historical interpretation of statehood the 'ideal' would be a state that is sovereign and whose *raison d'être* is to serve and protect its people no matter who and where they are, and under all circumstances. However, establishing a 'professed state' under occupation is a concept that may be inherently self-contradicting. Hence, the intention

of this research is to search for a deeper meaning of the underlying assumptions behind the relationship of the 'idea' of the Palestinian state and the reality on the ground. To realize this objective, there is a need to examine the Palestinian statehood experience in totality, while taking back the argument to the original standard model of the state—the Westphalian-Weberian model of the state—making a comparison between what a sovereign and independent state is in ideal terms, and where Palestine's state-building project is today. In this sense, there is a need to return to the philosophical, political and legal framing of statehood so that a broader account of the dichotomy between the ideal state and the process of state-building under occupation can be established. In this respect, the new turn of contemporary state-building theories toward the Westphalian-Weberian model of the modern state is quite encouraging for an analysis of the Palestine case and its relevance to state-building theories.

To put things in perspective, it is essential to point to three developments in the discipline that can enhance our understanding of the complexity of state-building in the absence of territorial sovereignty. Firstly, the overwhelming part of the literature that has emerged during the past two decades about peacebuilding, state-building, liberal and neoliberal peacebuilding demonstrates the centrality of the state in political and international relations theory. Morris (2002) pointed out that a historical and philosophical understanding of the modern state "will help put things into perspective and guide the normative conceptualization of the state as *'it is'* in comparison with the state as *'it should be'*" (Morris 2002, p. 3). This point substantiates the need to understand the contextual variations between the Western European modern state and non-European and post-conflict states undergoing a different historical and political experience of state formation. Indeed, this sets the stage for the need to build a deeper understanding of the influence and impact the local context has on the success or failure of contemporary state-building processes. In this respect, it is apt to point to the growing debate over the fitness of state-building models and their feasibility, especially in post-conflict countries.

Secondly, the renewed interest in the notion of sovereignty, especially when it comes to analyzing contemporary state-building experiences, is helpful in understanding the Palestine case. For example, in his article "Rethinking the state", David Chandler traces the argument of sovereignty to its original foundations

(Chandler 2010, p. 43). He tries to move the paradigm of international state-building vis-à-vis the contemporary non-rights-based framing of the postcolonial state to a broader, more classical conceptualization of the 'notion of sovereignty'. He maintains, that "whereas sovereignty is understood in technical and functionalist terms of managing equilibrium of shared responsibilities between domestic and international state-builders, it becomes the product of international intervention rather than a pre-existing right of autonomy or formal statehood" (Chandler 2010, p. 64). The fact that Chandler revives the focus on sovereignty as a pre-existing right of autonomy or formal statehood is encouraging in the sense that it highlights the notion of what formal statehood can be.

And thirdly, revisiting the synergy between the Weberian elements of the state and those aspects state-building theory and practice focuses on shows the extent to which concepts have evolved over the past century, but are still valid and validated given what can and cannot be achieved. Lemay-Hebert, Onuf & Rakic (2013) have successfully juxtaposed concepts of the Weberian modern state with current state-building theory and practice, especially in countries undergoing a process of state-building. They compared ideal concepts of 'states' "strong states" and "weak states", (Midgdal 1988, p. 10), state and violence with securitization, legitimacy and territoriality with the erosion of sovereignty and state modernity with the Western export model of governance. The following section reviews how the main concepts and features of state-building theory evolved and looks at its application in the Palestine case in general and the Fayyad Plan in particular.

2.5. State-building theories

Undoubtedly, state-building theories have become a significant field of study in the social sciences during the last three decades. In particular, the interest into state-building theories was fashioned within the circles of Western scholars (Barakat & Chard 2002; Chesterman 2004; Christian 2010; Fukuyama 2004a, b, c, 2005; Hehir, Adian & Robinson 2007; Lemay-Hebert 2009; Migdal 1998; Paris 2002, 2004; and others), who saw a need for a critical analysis of external intervention in post-Cold war countries and fragile states. It can be said that similar to competing interpretations and the difficulty of having widely agreed-upon definitions of the modern state, the concept and definition of state-building also suffer from the same abundant theorization. However, there are two predominant theoretical approaches to state-building: the international relations approach that focused on the debate over statehood,

sovereignty and intervention in the international system led by Krasner (1999), Caplan (2007), Chandler (2015), Chesterman (2007), Paris & Sisk (2007) and the political science approach that triggered debate about issues including democratization, liberalization, institutionalization, good governance and development (Collier 2003; Fukuyama 2004a, 2017; Menocal 2011; Lemay-Hebert 2009). To elaborate on the political science approach to state-building, the following section provides some definitions as a backdrop for explaining the phenomenon of Palestinian state-building in the context of the occupation.

2.5.1. Definitions

There are three main areas of state-building that have a direct relationship to the Palestinian experience in this respect: state-building, state formation and nation-building. Reviewing them is essential to put the Palestinian state-building phenomenon in perspective, especially when one looks at the controversies about the implications of external intervention modalities. When it comes to the definition of state-building, many suggest that Fukuyama's definition gets as close as possible to an all-encompassing meaning of state-building as "the creation of new governmental institutions and the strengthening of existing ones" (Fukuyama 2004a, p. ix). In this sense, Fukuyama offered a framework for understanding the multiple dimensions of states where the functions, capabilities, and grounds for the legitimacy of governments in developing countries and countries are considered weak (Ibid., p. xi). The problem, however, is that the approach to state-building, especially in post-conflict countries, entails an externally-led process which has been extensively linked to peacebuilding, security, economics and conditionality of external parties involved (Wyeth & Sisk 2009, p. 16). In comparison, state formation is an internal process that develops a centralized government structure where one did not exist before (Haas 1982, p. 1; Richmond & Poggoda 2016, p. 6). In this sense, theories of modern state formation can help contextualize the literature on state-building and therefore help understand the assumptions underlying state-building theories —albeit, state formation can have a variety of meanings. Tilly's predatory theory of the state significantly influenced the mainstream literature on state-building and state formation and put the spotlight of research on the relationship between the territorial state and violence, on one side, and on the factors enabling peacebuilding and state-building efforts in post-conflict countries on the other (Richmond 2013a; Tilly 1975, 1985). On another note, whereas

state-building denotes an external act, nation-building is defined as an internal act and focuses on strengthening the collective identity of a national population, including its sense of national distinctiveness and unity (Paris & Sisk 2009; Berger 2006). The concept of nation-building gained its significance in the post-colonial period and had become even more relevant with the universalization of the nation-state system.

2.5.2. The conceptual debate of state-building

From a conceptual point of view, state-building as an externally-led process has been subject to a mounting debate since the early 1990s. The two mainstream theoretical approaches to state-building (international vs developmental) agree on the need to understand the underlying principles of state-building. For example, some believe that supporting state-building requires the fostering of legitimate and sustainable state institutions (Andersen 2012; Gilley 2006; Mcloughlin 2015), while others believe that the maintenance of extraterritorial peace and stability is required, especially in situations of a state that fails to provide public services and security and is unable to interact with other states as a full member of the international community (Chauvet & Collier 2007; Collier 2008, 2002; Nay 2013; Rice & Patrick 2008, p. 3; Rotberg 2010). In such cases, the state suffers from a sovereignty gap that necessitates external intervention (Ghani & Lockhart 2009; Fukuyama 2005; Krasner 2004; Rice & Patrick 2008, p. 3) which can also take the form of shared sovereignty or trusteeship to help remedy a country's lacking capacity to fulfil its functions (Caplan 2007, p. 13; Krasner 2004, pp. 85-120). However, while many accept that strategies for state-building intervention have not yet been fully developed, the conceptualization of international intervention varies depending on the context, timing and an amalgam of internal and external facts. The following section highlights some of the controversies that face externally-led state-building interventions in post-conflict and in-conflict countries.

Perhaps the most significant controversy in external state-building is the notion of *one model fits all* approach. Conceivably, no one can dispute the fact that the Western European model of the state-dominated contemporary state-building projects. Institutionalizing ready-made templates of Western liberal democracies has become the task of state-builders in post-conflict countries, who have shown unable to envisage an alternative model (Meyer et al. 1997, p. 144; Leguil-Bayart 1996, p. 3; Wimmer & Feinstein 2010, p. 764). Chandler (2010) maintained that "exporting frameworks of good governance as a set of international policy prescriptions is a type

of a '*silver bullet*' capacity to assist States in coping with problems" (Chandler 2010, p. 1). This template has become the model of intervention turned to by the United Nations and many other bilateral development agencies based on the triadic formula of modernization, democratization and liberalization.

Understandably, the *one fits all model* faces a lot of scepticism and criticism. Since the end of the Cold War, fears were expressed of "grafting the liberal model" with "unrealistic standards" meant to transform institutions in countries that are not necessarily suited to such sudden change and do not have the respective institutional frameworks to accommodate sudden and comprehensive state-building programmes (Fukyama 2004, p. 4; Migdal 1998; Suhrke 2006, p. 1). Thus, such an operational approach becomes a fool's errand in countries that do not have a history of functioning governance (Brownlee 2007, p. 315). The problem with the *one fits all model* (or what can be said to be an export model) is that it provides a template-like solution for all states irrespective of their internal situation and the ensuing outcome of the state-building intervention, hence, the difficulty to generalize about different state experiences (Call 2011a).

Another significant controversy facing state-building is the sequencing dilemma. Miller (2013) maintains that the design of those programmes and policies meant to rebuild failed states and based on the template of liberalization first, institutionalization and stabilization have both strengths and drawbacks. However, it is intuitive for people to first see the negative side of a particular policy because of the impact that it can have on society. As an example, Khalidi (2011) and Haddad (2016) believe that economic liberalization, when implemented in an unprepared context such as that of Palestine, may threaten established social structures. On the other hand, Fukuyama (2004a) believes that even institutionalization is not enough as long as it does not involve norms and culture, especially when external state-builders follow the 'security first' approach. For, when security is paramount, this eventually weakens or delays democracy and thereby becomes counterproductive (Carothers 2007).

As an alternative to the sequencing theory, Carothers (2007) suggests that state-building and democratization are implemented gradually and simultaneously, and Fukuyama (2004a) suggests that this is done in a flexible manner. However, there is a consensus that this will not eliminate the risk that authoritarianism could be

enhanced or new elites could be empowered, which state-builders usually invest in as they provide an interface with society and can claim legitimacy. This controversy is at the heart of double-edged principles and hypocritical practices of donors and external state-builders in post-conflict countries. In fact, state-builders lose their credibility when their own beliefs in democratic and good governance, accountability and transparency are compromized when applied in countries other than theirs, hence, jeopardising the sustainability of their professed '*mission civiliatrice*' (Paris 2002, p. 637). The case of the European position in the post-2006 Palestinian national elections and the sanctions imposed against Hamas, despite the fact that it won the 2006 elections, is quite proof of this. Some of the criticism pointed at the hypocrisy of the state-builders when it comes to democratic values in practice.

On another note, this literature review found that external state-building consolidates dependency rather than self-sufficiency in countries in which they intervene. It also strengthens the authoritarianism of local elites and rentierism rather than to institutionalize democracy and a strong economy. Above all, the most crucial dilemma facing post-conflict peacebuilding and state-building is the fact that external intervention can lead to conflict management rather than conflict resolution. Moreover, substantial investment to re-establish state institutions that can function without the support of external state builders does not guarantee stability. In fact, parts of unintended consequences are down to the complexity of the socio-economic, political and cultural environment in which state-building occurs (Schneckener 2010; Thakur, Chiyuki and Cedric De Coning 2007). In this sense, it may be fair to ask, whether there is an imaginable alternative of a more contextualized and locally-driven state-building representing a real internal process without the need to resort to external state-builders and their preordained modes of intervention.

In fact, some scholars still believe that international support can result in "successful state-building and development and that it must be based on international norms. However, it can neither be neutral nor value-free" (Lotz, 2010, p. 231). In this sense, scholars focused on examining the concept of unintended consequences, especially the policy implications of international state-building and the statist experiments of aid programmes and securitized development on local legitimacy, stability and social construction (Schneckener 2010; Fukuyama 2017; Skocopol 1999). A revision of the concept of unintended consequences would entail, more or

less, changing or modifying the intervention modalities of external state-builders. As the Palestine case will show, it has been challenging to have a modified and more inward-looking intervention that takes into account the internal variables and their interaction with the external mode of intervention. It might be that the most significant challenge resulting from this problem is the willingness and capacity of both the Palestinian Authority and external state-builders to revisit or undo interventions that have badly influenced the social fabric and resilience of the society under occupation. As a matter of fact, the Palestinian experience or state-building experiment saw all the challenges of externally-led intervention. And although there has been a U-turn in the analysis of the Palestinian phenomenon with further calls for contextualization showing an intellectual maturity in looking at the unusual situation in Palestine, this could not influence decision-makers and external state-builders to modify their intervention. The biggest dilemma in the case of Palestine has been that tools of the state were used in a non-state situation.

One of those revised modes of intervention, which has been highly debated in scholarly research on peacebuilding, is the need for more *local ownership* encompassing the establishment of solid partnership with national stakeholders *a la* Brahimi's light footprint (Chesterman 2004; Mac Ginty & Richmond 2013a). Chesterman (2004) highlighted the contradiction between instituting principles of liberal democracy and the risk of external intervention becoming a means of benevolent autocracy. However, he saw the need to ensure that state-builders work together with local counterparts in countries in which they intervene. Others (e.g., Donis 2009; Richmond 2012) were sceptical about the genuine nature and applicability of the discourse on local ownership used by external state-builders. They claimed that it was just a different form of conditionality and politically-driven rather than an honest attempt at contextualization. Moreover, renewed interest in local ownership triggered a new direction in state-building and peacebuilding theories and has become the enigma of the local turn with a redefinition and re-adaptation of both theory and practice of peacebuilding (MacGinty & Richmond 2016, p. 2013; Randazzo 2016; Schierenbeck 2015).

The newly emerging concept, namely that of liberal peacebuilding, focused on engaging the local level in the design and implementation of intervention modalities. The latter led in some cases to a new form of intervention called hybrid political order

accommodating the local context and bridging the gap with the '*one fits all model'*. Liberal peacebuilding theory and practice have developed after the Cold War, because of the dominance of the Western ideology of democratization (Tziarras 2012, p. 1). It gained prominence in the protracted debate about the theory and practice of peacebuilding (Cooper, Turner & Pugh; Heathershaw 2008; 2013; Richmond 2006; Selby 2013). In most cases, the analytical discussion was fixated on trying to understand the factors that hinder democratization in the country in question—in this sense, being democratic denoted a Western liberal democracy "interwoven in the western political fabric", thus shaping the contemporary model of the state in almost every country in the world, except for some in Eastern Europe, Asia, Africa and Latin America (Zakaria 1997, p. 23).

Discursively, there is a tendency that state-building suffers from "a dogmatic theoretical logic and controversial manifestations" (Richmond 2014). Obviously, state-building has become a vast and indispensable industry amalgamating geopolitics, economics and development, protectionism, international security, soft diplomacy, the lacking capacity of international practitioners and to a certain extent a new form of post-colonialism.

In this respect, there has been abundant criticism of the perils international intervention poses to post-conflict countries. With no alternative on the horizon or the choice of turning the back to a troubled state, the question that begs itself in this case is whether the growing academic criticism of the lacking real impact of state-building has the power to change the dynamics of international intervention (Blieseman de Guevara 2008, 2010; Chesterman 2004; Fukuyama 2004a, 2005; Lemay-Hébert & Mansoob Murshed 2016; Paris 2002; MacGinty & Richmond; Richmond 2014). In this respect, it is no surprise that the Palestine case became a laboratory for external state-building efforts and hence has also suffered from the perils of the *one fits all model*. The following section reviews the literature on state-building in Palestine in general and the Fayyad Plan for statehood in particular. This will shed more light onto the dynamics of state-building in post-conflict and in-conflict countries in the case of Palestine. The analysis highlights the challenges state-building poses as a path to statehood and, hence, looks into the prospects of transforming the dynamics of state-building for conflict management to state-building for statehood.

3. State-building in Palestine

"The Palestinian state will be the only state in the world that will not have sovereignty properly speaking. It will have the autonomy, it will have a municipal government, it will be responsible for the well-being of its citizens, but it won't be able to do what sovereign states normally do, namely control the borders…"
An interview with Edward Said (Katz and Smith 2003)

Since the establishment of the Palestinian Authority, most scholarly analysis has focused on its performance (Bahour 2011; Brown 2009; Jamal 2001; Leech 2014; Milhem & Salem 2010; Milton-Edwards 1988; Rabie 2013; Sayigh et al. 1999; Sayigh 2011). Performance is scrutinized from the perspective of a fully functioning state, leaving aside the actual context of the state-to-be, whether intentionally or unintentionally. And though arguments often referred to the predicament of state-building under occupation, the theoretical benchmark that was used to measure the success or failure of the Palestinian Authority was the standard model of a consolidated state rather than one of a limited authority seeking statehood. Perhaps the only two scholarly accounts that brought up the significance of state-formation as a prerequisite for state-building were those of Richmond & Poggoda (2016) and Turner (2017a, b) despite the fact that both accounts did not refer to the impact of external state-builders, their logic and practices onto the case for Palestinian statehood (Bliesmann De Guevara 2008, p. 348).

> "Before we have constructed a sovereign state, we are having a debate about what the state should be". (Khan 2010, p. 3)

The establishment of the Palestinian Authority in 1994 was accompanied by considerable euphoria and emphatic optimism about the prospect of building new institutions and a new economy. The experiment of establishing Palestinian institutions provided an excellent opportunity for Western scholars to investigate Palestine as an interesting case. This coincided with the growing literature on externally-led state-building efforts, especially in the post-cold war era. In fact, if one looks at the inventory of scholarly engagement in researching Palestine in the post-Oslo period and scrutinize its trajectory since the establishment of the Palestinian Authority, it is easy to infer that the literature has been shaped by the overall trend in the criticism of peacebuilding and state-building in post-conflict countries.

Moreover, it can be said that the state-building literature on Palestine has been shaped by three defining phases the Palestinian Authority has gone through since 1994. The first phase is characterized by peacebuilding and lasted from 1994 to 1999, just before the outbreak of the second uprising in 2000; the second phase is characterized by the notion of earned sovereignty and lasted from 1999 to 2009, while the third phase is characterized by policies of liberal state-building from 2009 to 2013. The peacebuilding phase (1994-1999) was characterized by the influx of international development aid in support of peacebuilding efforts seen as an essential component of the peace process. During this period, scholarly analysis tended to focus on three main areas: democratization, the effectiveness of international aid and the securitization of the newly established Palestinian Authority.

When evaluating the democratic development of the new political leadership, the eye of scholars was on the leadership's legitimacy vis-à-vis local elites and its ability to transform itself from a revolutionary movement into an entity with statesmanlike authority (Shikaki 1996, p. 5; Rubin 2009, p. 269). And though the Palestinian Authority was trying to change the dynamics of legitimacy through the establishment of institutions,[25] development and democratic elections, the outcome of its efforts was not always positively received by critical scholarship. For example, when it came to legitimacy, the new leadership was tagged with neo-patrimonialism (Brynen 1995, p. 26), corruption (Ramahi 2013), and mismanagement (Sayigh et al. 1999).

On another note, there has been abundant research on the impact of international aid on society, development and the peace process. For example, Brynen (1996) examined the aid's timeliness and effectiveness and analysed the complicated relationship between foreign aid and its political impact as a form of interference in local politics. Roy (1995, 1999) concluded that international development aid has led to counterproductive effects leading to de-development and the creation of economic autarky. Roy further maintained that the Palestinians could not even have a sort of economic peace that presumes access to property rights (De Soto 2000), because of

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[25] It is noteworthy to mention that in most international development agency reports, until this date, there is no mention of Palestinian state institutions. Reference is mainly to Palestinian institutions and the Palestinian Authority. I would like to highlight a very interesting topic for future research, which is the use of terminology regarding the nature of the Palestinian Authority and the dynamics between the Palestinian Authority, the international community and Israel. It would be interesting to research the impact of the discourse of each on the nature of the Palestinian entity.

the Israeli policy of land grab and settlement expansion. On securitization, Milton-Edwards (1998) examined the potential tensions associated with the perceived need for stable coercive structures including a police force as part of the state-building effort and the population's desire for increased freedom, pluralism and liberation from the Israeli occupation.

Consequently, as a result of the uncertainty of the peace process during the 1990s, Jamal (2001) and Rubin (2009) concluded that the initial Oslo period was characterized by the inability on the part of all three partners in the peace process the Palestinian Authority, the International Community, and Israel to formulate a clear position regarding the ambiguous nature of the state-building project under occupation. Moreover, the occupation *per se* was not explicitly reflected upon neither in policy circles of the donors and international development agencies nor scholarly analysis in the formative years of the Palestinian Authority. For instance, a review of World Bank reports or the European Union during the 1990s provides insight into the cautious reporting on the context of the occupation and the use of *balanced language* to describe the *state of affairs* in the Palestinian territories.[26] It seems that there was a deliberate intention not to point to the limitations of the Oslo Agreements and the impact of the occupation on issues of security and sovereignty (Shikaki 1996; Milton-Edwards 1998). Moreover, it seems that scholars missed the opportunity to examine the dynamics between the international community and the Palestinian leadership during the establishment of the Palestinian Economic Council for Development and Reconstruction (PECDAR).[27] For, similar to other countries undergoing an externally supported state-building process, Palestine also had to cope with international conditionality and political limitations on the use of aid, during the early years of the Palestinian Authority.

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[26] For a full list of the World Bank's reports on Palestine during the 1990s, see the World Bank website as well World Bank in West Bank and Gaza (2002). For reports of the European Union, see https://eeas.europa.eu/delegations/palestine-occupied-palestinian-territory-west-bank-and-gaza-strip/22708/european-union-delegation-west-bank-and-gaza-strip-looking-office-support-agent-secretary_en.

[27] The Palestinian Economic Council for Development and Reconstruction (PECDAR) was established by the Palestine Liberation Organization (PLO) as an independent institution in 1993 in full cooperation and coordination with the donor community to Palestine. Its mandate covered responsibilities for aid coordination, economic policy, project management, coordination with NGOs and UN specialized agencies as well as technical assistance. It was endorsed by a donors meeting held in Washington DC under the chairmanship of former US Secretary of State Warren Christopher and the World Bank upon the signing of the Declaration of Principles in September 1993. For more insight into the work of PECDAR, see http://www.pecdar.org/.

The second phase is characterized by earned sovereignty. Before linking the notion of earned sovereignty to the Palestine case, it might be apt to introduce it. The concept of 'earned sovereignty' has been comprehensively researched by Williams and Jannotti Pecci and unpacks the general approach of 'conditionality' in sovereignty-based conflicts (Williams & Jannotti Pecci 2012). They present cases of contemporary earned sovereignty, of which some have been successful, and others have not. They identify three main elements of 'earned sovereignty': shared sovereignty, institution building and determination of final status. In the same line of thought, Chandler reminds us of Keohane's position about the functional aspect of state-building theories" which links a state's quest for statehood to its performance in maintaining internal order. This position gives external actors the upper hand in imposing limitless conditionality without any promise to adhere to the "claim of sovereignty being the exclusive right" of states. They maintain that sovereignty is then seized indefinitely to the extent that it excludes the possibility of 'earned sovereignty' for states striving to achieve statehood (Keohane 2003, p. 277; Williams & Jannotti Pecci 2012, pp. 1-5).

In this regard, it can be said that the Rocard Report best reflected this phase (Sayigh et al. 1999).[28] In fact, this Report marks a defining moment in the criticism of institution-building efforts in the Palestinian Authority. The significance of the Report lies in the timing of its publication, a few weeks before the commencement of the Permanent Status Negotiations in December 1999. Clearly, this fact is an interesting case that the Report was about strengthening Palestinian public institutions and was sponsored by an independent task force led by the Council on Foreign Relations.[29] According to Leslie H. Gelb, President of the Council on Foreign Relations, the Report "is the first comprehensive and systematic assessment of the Palestinian Authority, its structure and procedures, its ability to set priorities and to allocate resources, and its transparency and accountability". Ironically, Gelb further maintained that "the report does not address the occupation of Palestinian statehood, but that its goal instead, is a practical one: to assist the Palestinian Authority and organs of the international community to improve the efficiency and credibility of the emerging self-governing

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[28] Though the report was co-authored by two prominent Palestinian Scholars, Yezid Sayigh and Khalil Shikaki, it was called the 'Rocard Report' as its main sponsor was Michel Rocard a prominent French politician and ex-Prime Minister of France (1988-1991}.

[29] Strengthening Palestinian Public Institutions. 1999. Council on Foreign Relations. Available at: https://www.cfr.org/report/strengthening-palestinian-public-institutions. [Accessed 1 March 2017].

institutions" (Sayigh et al. 1999, p. v). There are several worthwhile aspects entailed in Gelb's statement. The first is the performance evaluation of the Palestinian Authority irrespective of the fact that it operated under occupation and, hence, the negation of a link between Palestinian statehood and the occupation. The second aspect is that the Palestinian Authority has to improve its transparency and credibility to ensure continued international support for its state-building efforts. The third aspect is that the assessment is presented to the international community so that it can design its intervention programmes in the Palestinian territories according to the recommendations of the Report. As a result, in addition to an implied argument for more conditionality on aid to the Palestinian Authority, the Report included significant recommendations for political reforms touching upon the essence of the Palestinian leadership at the time and implied a need for a regime change.

As a matter of fact, the Rocard Report marks the beginning of a significant shift in the discourse among external scholars and politicians alike about the ability and readiness of the Palestinian Authority to transform itself into an independent state. In this sense, this shift provided the platform for the logic of earned sovereignty and contingent autonomy and helped set the ideational background for the Road Map for Peace, which is based on a negotiated peace with donors and Israel (Turner 2013, p. 447; Williams & Jannotti Pecci 2012).[30] On another level, the Report was not free from bias. For example, though it claimed that it is a local initiative and responded to internal demand for constitutional and liberal reform of the Palestinian Authority (Brown 2003, ch 1), the fact that it had foreign sponsorship makes its claim for impartiality questionable.

The Rocard Report provides an interesting case for the motives behind the design of its content, and how externally-driven and funded initiatives were used to transform internal politics (Hameri 2007; Krause 2005). For, though the wording and the content of the Report might have enabled an improved performance of Palestinian

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[30] "The Roadmap is a performance-based and goal-driven plan, with clear phases, timelines, target dates, and benchmarks aiming at progress through reciprocal steps by the two parties in the political, security, economic, humanitarian, and institution-building fields, under the auspices of the Quartet that was supposed to lead to a permanent two-state solution to the Israeli-Palestinian conflict". A Performance-Based Road Map to A Permanent Two-State-Solution to The Israeli-Palestinian Conflict. Available at: https://www.un.org/News/dh/mideast/roadmap122002.pdf. [Accessed 1 February 2017].

institutions, if interpreted according to Giddens, Said and Foucault, then the selection of the topic, the timing and the use of words (Giddens 1990; Said 1978, pp. 2-3) have several connotations as to the ulterior motives behind its publication (Foucault 1977, 2007; Kelly 2007, p. 19). In this case, Gellner's idea of reflecting on the discourse comes to mind (Gellner 1993, pp. 3-4). For, assessing the role of external parties in promoting state-building in Palestine requires a reflection on their discourse and political messages regarding the performance of the Palestinian Authority. In this case, it is hard to view the Rocard Report only from an institutional and technical perspective, especially since as a result, Palestinian institution-building or state-building efforts have become highly charged by political motives of external parties starting with Israel and ending with the International community.

Leading up to the announcement of the Road Map for Peace in the Middle East and the 2006 elections, the outbreak of the second uprising (2000-2003) provided further arguments for the notion of the Palestinian Authority as a failed state. In fact, a new terminology emerged in academic discourse about the operational context of the Palestinian Authority and its state-building process. Sayigh (2007), for instance, described the Palestinian Authority as suffering from "controlled state failure" resulting from the Israeli separation barrier and increased settlement activities that had impeded the Palestinian Authority's ability to provide goods and services—including security— to citizens under its control. Sayigh (2007) also used the term "imposed state-failure" to depict a situation of state failure and humanitarian crisis resulting from the de-capacitating of the Palestinian Authority and the destruction of its institutional infrastructure during the early years of 2000. However, although Sayigh linked the use of the term 'state failure' to the Palestinian context, he did not explicitly refer to the impact the inherent nature of the Oslo Agreements and the nature of the sovereignty limitations has on limited self-rule in comparison to a full-fledged state. In reality, the use of the term 'failed state' in this instance can be misleading, and it might have been more informative had Sayegh pondered a conceptual alternative to the term failed state (Call 2011b, p. 303). Perhaps a more perceptive analysis would have provided a better illustration of the broader context of the occupation and the inability of the international community to play a proactive role in supporting an end to the occupation and emergence of a Palestinian state.

Moreover, during and after the outbreak of the second uprising 2000-2003, a new scholarly discourse emerged and stressed the "disillusionment of peace" (Roy 2001, 2002, 2004, 2007). Fjeldstad & Zagha (2002) and Le More (2005, p. 981) predicted the demise of the Palestinian state formation given the outbreak of violence and widespread opposition against negotiations. The authors further pointed at the failure of the international community to use the crisis of Hamas elections as an opportunity to fundamentally reassess their failed 'aid for peace' strategy. For, instead of external state-building efforts bringing emancipation, high rates of international aid were seen as funding the demise of a Palestinian state and as a tool for privatising the occupation (Keating and Le More 2005, 2006; Lagerquist 2003; Tagdishi 2010; Tartir 2011).

The third phase from 2009 to 2013 onward is characterized by liberal state-building policies that were adopted as a response to what was considered a state failure and the weak institutions of the Palestinian Authority. This phase is the culmination of the implementation of the Road Map for Peace by the Palestinian Authority. It brought several reforms, including the introduction of the post of Prime Minister as well as financial and security reforms. Scholarly analyses of the time criticized the new policies of both the donors and the Palestinian Authority. However, there was a shift in academic discourse that took a more specific position regarding state-building in the absence of peace. What used to be an ambiguous nature of the peace process, was expressed in the new terminology of the disillusionment of peace, the failure of the economic approach of liberal peace and liberal state-building (Roy 2009, 2010). More direct criticism of the occupation and explicit reference to the absence of sovereignty emerged and highlighted the inability of the Palestinian Authority to protect human rights, on the one side, and its succumbing to authoritarianism and politicized security, on the other (Roy 2009-2010; Sayegh 2011). Thus, there was a shift towards an emphasis of the continuous dilemma of state-building under occupation, and what it entails for the actual role of the central authority vis-à-vis the Palestinian citizens.

Scholars criticized, in particular, the credibility of liberal peace and the validity of the liberal state-building agenda. Criticism was directed at the donors given their privileging of the democratization process over liberation under the illusion of state-building (Bouris 2014; Haddad 2016; Khalidi & Samour 2011; Tilly 2015, p. 425; Turner

2013, 2006). Additionally, criticism was directed at the state model used compared to the Weberian model of the state, the lack of international recognition and territorial sovereignty as well as a lack of prospects for Jerusalem as a capital city for the Palestinians (Dumper 2010; Ottaway 2003, p. 247; Tilly 2015, p. 425; Turner 2011, pp. 1-3). Furthermore, research in the time highlighted the three key obstacles to state-building: security, economic and political issues—all leading to distortions in the Palestinian socio-economic and political fabric. As such legitimacy was turned into neo-patrimonialism and authoritarianism, development became securitized, while the political process became paralysed.

Moreover, there were calls for a deeper contextualization of the settler-colonial project that impeded the viability of Palestinian statehood and nation-building (Tilly 2015, p. 425) and for a deeper historical understanding of those essential factors responsible for the failing peace process (Pappe 2013, p. 13). Hence, this set the need for reconfiguring priorities in state-building under occupation. In fact, analyses during the past decade have shown that at least in the Palestinian case, the state-building process cannot be a purely technical and apolitical exercise which could succeed under occupation before national liberation and nation-building are achieved (Hanieh 2016, p. 39; Lemay Hebert 2009, p. 11). As a matter of fact, contextualization of the Palestinian case supports the argument of this thesis, namely, the need to understand the underlying assumptions of state-making and the salience of state-building efforts of both internal and external state builders under the current circumstances. Ayubi (1996) pointed to the need for determining the specificity and uniqueness of Palestinian state-building in order to clarify the way in which and if it corresponds to modern state theory (Ayubi 1996, p. xi). In this respect, this would imply the need to understand the underlying assumptions of the Palestinian Authority's state-building discourse including the Fayyad plan to have a better grasp of their implications for Palestinian statehood, given the context within which state-building takes place. Hence, reviewing the criticism of the Fayyad Plan might, in particular, provide better insights into the analytical trends addressing the Palestinian state-building enterprise as well as the dynamics that determine the extent to which it has enabled the establishment of an independent Palestinian state. The following section reviews the literature on the Fayyad Plan for statehood in an effort to understand how it was

perceived from a theoretical point of view. Then the respective gap in the literature is pointed out.

3.1. State-building and the Fayyad Plan

"*Statehood is not something that is going to happen to Israelis, nor something that is going to happen to the Palestinians… It is something that will grow on both sides as a reality… Creating a belief that this was inevitable through the process, a convergence of two paths, the political and the process, from the bottom up and the top-down".* (Friedson & Joffe-Walt 2010)

Twenty-five years after the establishing of the Palestinian Authority and almost a decade after the announcement of the Fayyad Plan "Ending the Occupation, Establishing the State", an analysis of the Palestinian state-building endeavour concluded that the 'occupation' is the main reason behind its failure to achieve its objectives, and that the Palestinians were otherwise ready for a state (Persson 2018; World Bank 2011; Turner 2013). To date, prospects for a viable Palestinian state remain slim, causing even more so given the uncertainty caused by the geopolitical transformation in the region—post-Arab Spring (2011) and post-Gulf Crisis (2017).

Consequently, in search of an explanation of the statehood 'impasse', policy analysts and academic researchers have been calling for a revisionist approach to analyze Palestinian state-building efforts. While some have argued to re-focus on the "national conceptualization of statehood" to identify the primary factor that stands in the way of Palestinian statehood (Khalidi 2012; Panganiban 2016), others contend that re-evaluating the Palestinian national liberation project and putting things into perspective will enable the Palestinians to develop "an alternative strategy and road map" that can transform the dynamics of the conflict and bring change (Hanieh 2016, p. 39; Masarat 2017).

The focus on the Fayyad Plan for statehood is down to the fact that it has been the most visibly articulated attempt to establish a framework for the Palestinian state at a crucial moment in contemporary Palestinian history. The Plan appealed to a large number of scholars interested in post-conflict state-building and liberal peacebuilding theories, ever since it was announced in 2009 (Bröning 2011; Brown 2011a, b, 2010 and 2009; Bouris 2014; Bouris & Reigeluth 2012; Dana 2014; Danin 2011; Haddad 2016; Hanieh 2016; Khalid 2012 and Khalidi & Samour 2011; Knutter 2013; Leech

2012; Persson 2017, 2012 and 2011; Pogodda & Richmond 2016 and 2015; Poggoda 2012; Tartir 2015a; Rabie 2013; Turner 2013; Ziadeh 2010). One reason for this significant interest might be that the case offered an example for a home-grown initiative to establish a state guided by the doctrine of good governance as a determinant for international recognition of statehood. Henceforth, the quest for Palestinian statehood, self-determination and sovereignty becomes entrapped in politics, power asymmetries between the occupier and the occupied and history rather than to serve an emancipatory course of action based on international law and international human rights.

The notion of proving that Palestinians are eligible to govern, henceforth, are deserving of a state is a policy reaction to external conditionality for earned sovereignty. This has also been the case in East Timor, Serbia and Montenegro, Kosovo, Sudan and Western Sahara (Williams & Jannotti Pecci 2012; Williams, Hooper & Scharff 2003; Williams 2001; Elden 2006; Krishner 2006). In fact, the unique nature of Palestine—from the perspective of state-building theories— stems from the fact that it is characterized by a persisting settler-colonial occupation that recognizes the Palestinian right to statehood neither in word nor deed. There is also the unwillingness of external state-builders to commit to final status and to force an end to the illegal Israeli occupation of Palestinian territories. Another reason might be that this policy response coincided with the growing interest of scholars and policymakers alike in the application of state-building and liberal peacebuilding theories to post-conflict countries such as Kosovo, Afghanistan, Iraq and Palestine (Berger 2006; Berger & Weber 2006; Chandler 2010; Chesterman 2004; Doyle and Sambanis 2000; Fukuyama 2005, 2004; Heathershaw 2013; Heir 2007; Held 2013; Huntington 2006; Jabri 2013; Lemay-Hebert 2009; Leonardsson and Rudd 2015; Miller 2013; Paris & Sisk 2009; Turner & Kuhn 2015; Mac Ginty 2016; Mac Ginty and Richmond 2013b; Menocal 2010; Richmond & Franks 2009; Roland 2004, 2002 and 1997; Selby 2013, Skocpol 1999). Thus, there is abundant research on what the Plan could achieve as well as its limitations. Moreover, analysis focused on explaining its political and developmental aspects, internal power dynamics as well as the interplay between the local and international agency in its implementation (Brown 2010, 2009; Dana 2015; Danin 2011; Haddad 2016; Khalidi & Samour 2011; Knutter 2013; Persson 2012; Tartir 2012; Khalidi And Samour 2011 and others). The following section reviews academic

assessments of the Fayyad Plan. It looks at a limited time period following its publication and implementation, and also includes post-implementation evaluations. The focus of attention lies on the impact of the Plan on the Palestinian statehood project.

> **"*A success that led to nowhere"*. Cohen (2013)

When assessing the academic literature on the Fayyad Plan, one can hardly shake the impression that its key research interests followed a global trend at the time that attempted to assess the effects external intervention had on troubled states as well as on established consolidated democracies and/or peace. The Fayyad Plan came at a time of stagnation in the peace process and mounting internal Palestinian divide given the Hamas takeover of the Gaza Strip. As a matter of fact, national division resulted in a lack of popular trust in both Fatah and the Hamas leadership. Internationally, donors became more and more sceptical about the viability of Palestinian institutions to deliver their presumed role as per the Oslo Agreements.[31]

Hence, with the aspiration of offering a 'third way' other than Fatah and Hamas politics (Danin 2011; Prusher 2005), the Fayyad Plan postulated a new institutional approach to resume the state-building process and help make a case for Palestinian statehood. The Plan posited that there is the potential for a new approach to national liberation other than negotiations or violence. It gained traction for its presumed novelty giving rise to a political phenomenon coined as "Fayyadism" by the *New York Times*' Thomas Friedman (Bröning 2011, p. 99; Danin 2011, p. 94; Elgindy 2013; Friedman 2009; Leech 2012; Tartir 2015a, p. 502). The political discourse the Plan drew upon followed the global and political language of state-builders in many post-conflict countries and focused on security, market economy and good governance. In this respect, the most significant part of analysis regarding the Fayyad plan was fixated on the neo-liberal economic policies (Danin 2015; Khalidi & Samour 2011; Khan 2010; Haddad 2016; Hanieh 2016; Shweiki 2014; Tartir 2012) within the framework of the post-Washington Consensus (Williamson 1990).[32] Criticism of the Plan concluded that

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[31] This is reflected in the decreasing donor contributions to the Palestinian budget in 2003 compared to the earlier years during the formation of the Palestinian Authority. For more insight into the donor positions, see, for instance, World Bank (2003).

[32] The Washington consensus is a set of ten economic policy prescriptions considered to constitute the 'standard' reform package promoted for crisis-wracked developing countries by Washington, DC-based institutions, such as the International Monetary Fund, World Bank and the US Treasury Department. See Hurd (n.d.).

in the Palestinian case there was a blatant failure of liberal peacebuilding and liberal state-building policies.

Conversely, criticism of the institutional model and the neoliberal approach to governance and economics adopted by the Fayyad Plan's take on state-building concluded that they were not adequate and moreover that they were diverting attention from the real issues at hand. For example, Khan (2010) maintained that the Fayyad Plan is all about aid efficiency and that even regarding liberal economic theory, it is a mistake to link good performance with good governance reforms meant to achieve market efficiency. He further argued that in fact, "neoliberal governance resides on three arguments: 1) governance; 2) state-building; and 3) national liberation which is absent in the Palestine case" (Khan 2019, p. 7). Following the same gist of thinking, Khalidi & Samour (2011) and Tartir (2015) maintained that the Palestinian statehood programme (the Fayyad Plan) based on neoliberal institution-building led to the securitization of development and authoritarianism. Tartir (2015) further concluded that "the Plan, designed to please the donors, redefines and diverts the Palestinian liberation struggle rather than help put an end to the Israeli military rule". As an alternative to liberal state-building, some local analysts contended that there is a need to return to a developmental approach to state-building and stabilization (Hanieh 2016; Raja Khalidi 2012; Taghdishi 2010; Wilderman & Tartir 2014). Their approach is in line with an emerging Western school of thought that calls for a redirection of state-builders' attention from neoliberal state-building policies toward developmental policies that seek to improve local environments and make them more conducive to people's progress and freedom of choice (Barbara 2008; Mac Ginty & Williams 2016).

On the other spectrum, though one might agree with the criticism of the Plan—its underlying discourse as well as policy approach—it may be said that the Plan was overrated politically and theoretically. This misjudgement may have been the result of the tremendous international support that Fayyad received during what seemed to be a period of a potential transformation of Palestinian politics. Transformation meant moving away from the militant and revolutionary approach to statehood of both Fatah and Hamas toward liberal, good governance and market-oriented approach to state-building. It is no secret that external state-builders with "conditional money" were on the lookout for new local elites who could promote their policies and at the same time, who could deliver on financial and security reforms (Haddad 2016, p. 189). In fact, this

criticism reverberates the conditional nature of the Road Map for Peace, which required a substantial transformation in the Palestinian political and governance system by imposing the need to create the role of Prime Minister to manage Palestinian institutions. The result of the Road Map was to reduce the donors' bill, increase financial accountability and control lawlessness and counterinsurgency triggered by the second uprising. This point is further explored in Chapter 4 on the Fayyad Plan for statehood and explains empirically the direct linkages between the conditions set in the Road Map for Peace and the stated and implied reform policies of the Fayyad Plan.

Given this background, it is noteworthy to point to those isolated voices complimenting the Plan for its institutional achievements (Knutter 2013) compared to others who provided excuses for its lack of prospects (Brown 2013, 2011, 2010). However, it seems that the Fayyad Plan remains "a success that led to nowhere" and that the euphoria around Fayyad's leadership and state-building approach did not end Israeli occupation as it intended. Consequently, the failure of the Fayyad Plan to achieve its stated objectives requires a further inquiry into its political implications as a policy tool and the extent to which it has succeeded in making a case for Palestinian statehood.

Conclusion and gaps in the literature

The basic tenet of the Fayyad Plan is that a proof of governability works as a requisite for Palestinian eligibility to statehood; this does not only divert attention from the real issues at hand but also mistakes the foundation for the Palestinian quest for national liberation and self-determination (Tartir 2015b). Ironically, although the Fayyad Plan referred to the restrictions posed by the occupation, it failed to indicate how a strengthening of the Palestinian Authority's institutions could bolster the Palestinian claim for statehood. In this respect, it is necessary to analyse the extent to which the Plan, which adopted good governance and neoliberal approaches to state-building, helped achieve statehood under continued settler-colonial and military occupation. Defining the parameters of the Plan's successes and failures might illuminate the challenges of state-building in a context of occupation. While taking into consideration the context within which the Plan has been implemented, an analysis of the successes and failures of the Plan as a policy tool will help explain its failure to end the occupation and to establish the Palestinian state by 2011 as announced.

In this respect, although the Plan was extensively analyzed from the perspective of state-building theories, what has been missing is an analysis of the restrictions affecting the Plan, especially in areas where the Palestinian Authority did not have territorial and functional jurisdiction. In this sense, there was not much attention on how it could or would have retained the claim on territorial sovereignty in Area C and Jerusalem, and how the lack of territorial sovereignty impacted the Palestinian Authority's monopoly on the use of force and, hence, its legitimacy. More importantly, there was no assessment of the impact on the Fayyad government's approach to enhancing the resilience of the population in those areas and vice versa no attention to the latter's perception of the Palestinian Authority as the central national authority. In fact, Bröning (2011, p. 99) puts things into perspective. He describes the Plan as a unilateral state-building exercise based on an institutionalist approach and asks whether institution building can be successful before the liberation of one's homeland. In this respect, I contend that the application of state-building and liberal peacebuilding criteria in post-conflict countries do not provide a sufficient theoretical framework for understanding the Palestinian case. For example, instead of continuing to critique state-building policies and their ineffectual approaches in bringing emancipation (Chandler 2010; Richmond 2010; Selby 2013), what needs to be done is to point out the requirements and determinants of statehood and the real impediments imposed by the nature of the conflict. In this respect, I intend to unpack the extent to which the Fayyad Plan helped achieve statehood from a Westphalian-Weberian perspective and compare the limitations on the Palestinian self-rule to act as the central authority in the absence of territorial sovereignty.

I believe that the absence of a critique of the policy approach of the Plan *per se* weakens the debate on its validity or non-validity even from the perspective of state-building theory. For, in today's political science, public administration and public management theories, the formulation, implementation and evaluation of public policies is a significant component of the good governance approach. However, this is often ignored by scholarship and policymakers alike as well as by the external state-builders and donors. What needs to be unpacked when examining the Fayyad model for statehood is the process behind its formulation, implementation and evaluation. This also includes the discussion of alternative options and scenarios—if any—in the case of its failure to achieve its stated objectives.

Though analysts may contend that in this case, one needs to take into account the contextual background of such a Plan, it is essential to understand the underlying assumptions that shaped it and its implementation in the way it did. In this case, the insight of local researchers is crucial to get a feel for the indigenous reaction to the Fayyad Plan as a national policy instrument.[33] In fact, the rise of some young Palestinian researchers—affiliated with well-known Western universities—criticizing the Plan and its neoliberal approach is quite promising. Most prominent are Tariq Dana, Ala Tartir and Tawfiq Haddad. Their research is more ethnographic in nature, allowing a deeper understanding of the implications of the Fayyad state-building approach on the lives of the people, the future of the conflict and the prospects for statehood. Hence, the new indigenous perspective they introduce to the field adds a promising avenue for developing post-conflict state-building theories. For, one insight that formed while I researched for the literature review is that the most significant part of scholarly analysis of state-building theories and practice in post-conflict countries is generally dominated by Western scholars with little contribution from local researchers.

For instance, it is clear that the scholarship of state-building in Palestine has evolved in tandem with the prevailing theories on peacebuilding and state-building in the post-Cold War era. However, it took almost two decades for scholars to come to definite conclusions about the real context of state-building in Palestine. This may have been the result of the often-random application of normative concepts of state-building theories in contexts that are not necessarily well-suited to successfully implement the dominant Western liberal democratic model of the state. However, with the paramount debate on the validity of post-liberal state-building approaches and its call for a deeper contextualization of the particularities of state-building in post-conflict countries (Ayubi 2008; Chesterman 2004; Fukuyama 2004a, b, c; Mac Ginty &

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[33] It is difficult to say that the Fayyad Plan was a national policy, since it was implemented almost only in the West Bank with the exclusion of both the Gaza Strip and Jerusalem. It may be fair to say that the political context and the limitations of the Oslo Agreements did not allow for a nationally inclusive policy. However, I tend to question the validity of the policy formulation process and the actual inclusion of all Palestinians not only in the West Bank and Gaza including Jerusalem, but also in the diaspora. Hence, the labelling of the plan as the Ramallah-based model might be a plausible one to the extent that it was formulated in isolation of consultation with the various segments of Palestinian society as well as without endorsement from the Palestine legislative council.

Richmond 2013b), scholars have started to think outside of the box and beyond the set of off-the-shelf state-building theories.

Hence, what may be required for a better analysis of the Palestinian case for statehood is a theoretical framework that can accommodate the particularities of state-building under occupation. This framework will help to see whether the Plan made a case for statehood from a *de facto* and a *de jure* perspective. Otherwise, we end up with a distorted application and evaluation of a model that is flawed from the outset. Revealing the uniqueness of the Palestine state-building process under occupation could trigger interest in a new theoretical framework that can support a deeper understanding of the underlying assumptions of state-building in war-torn and emerging countries in general. In particular, it may foster further interest in having a more focused analysis of the context shaping Palestinian state-building, and whether this context would allow for an independent state to emerge from within the Oslo Agreements.

CHAPTER THREE: CONTRADICTIONS OF THE TWO-STATE SOLUTION

Introduction

This chapter intends to contextualize Palestinian statehood. I contend that a re-analysis of the historical context is essential to understand both sides' positions on the two-state solution and, hence, the reasons behind the delay in achieving Palestinian statehood. To further illuminate the paradox of the two-state solution, this section's first part traces the inception of the concept and what it meant for both sides, the Palestinian and the Israeli; it then looks into how the diverging interpretations influenced the trajectory of Palestinian state-building thus far. The second part reviews the logic of the Oslo Agreement and its impact on Palestinian aspirations to statehood in view of the continuing Israeli matrix of control.

3.1. Contradictions of the two-state solution

From a historical perspective, there is consensus over the chronology of events that shaped the notion of the two-state solution (see UN 1969; for political aspects, see Hurewitz 1950; Massad 2006; Pappe 2018; Schulze 2013; Sternhell 2009; Smith 2010; Tessler 2009). However, we should recall certain historical milestones that have moulded the outcome of the conflict to date. The partition of Palestine as an idea and as a policy was conceived along with the Balfour Declaration known to have prompted the territorial conflict between the Arabs and the Jews.[34] The Zionist slogan "a land without a people for a people without a land" entailed the expulsion and transfer of the indigenous people (Kamrava 2016, p. 10; Imseis 1994, p. 4; Masalha 1992, p. 210). The intensification of Jewish immigration under the British mandate forced the Palestinians to entertain a dual struggle against both British imperial domination and Zionist colonization (Hilal 2007a, p. 1). Technically, however, the real partition originated from the recommendations of the 1937 Peel Commission (UNISPAL n.d.; Peel 1937) instructed by the British Imperial Cabinet to investigate the causes of

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[34] It might be fitting to point to the comments of the only Jewish minister, Edwin Montagu in the British government who was strongly opposed to Zionism and the Balfour Declaration and who is said to have influenced its final draft. Montagu suggested that the "reconstitution of Palestine as the national home of the Jewish people" implied that Muslims and Christians were to make way for the Jews, who would be put in all positions of preference; that the Muslims would be regarded as foreigners in Palestine, and that Jews would be treated as foreigners in every country except Palestine (Finchman 2015).

unrest in Mandatory Palestine following the 1936 Arab general strike.[35] This is an often ignored historical fact that has found more interest in recent scholarship for its impact on shaping the geopolitical nature of the partition of Palestine and the effect it had to this very day (see, for instance, Sinanoglou 2016; Bartal 2017).[36]

In theory, it is the 1947 UN General Assembly Resolution 181 (UNGA 1947) that forms the basis for the two-state solution, in which the partition of Palestine into an Arab and Jewish state was decided with Jerusalem placed under a special international regime. However, while the Resolution was accepted by the Jewish Agency, which later declared the State of Israel and acquired membership in the United Nations in 1949 (UNGA 1949), it was rejected by the Arab Higher Committee.[37] The Partition Plan led to the outbreak of the 1948 Arab Israeli war and resulted in the defeat of the Arab forces and the creation of the Nakba for the Palestinians, who suffered from the loss of territory and displacement. With Israel's victory in the 1948 war, more territory was annexed by the Jewish state beyond borders assigned in the Partition Plan entailed in UN General Assembly Resolution 181.[38] The Jewish state

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[35] The 1936 six-month Arab general strike that lasted from April to September of the same year was in protest of the British Mandate Authority allowing increasing Jewish immigration to Palestine. The strike led to the establishment of the Arab Higher Committee led by Haj Amin Al-Husseini as well as the Peel Commission instituted by the British Cabinet to investigate the events.

[36] There is also a forthcoming paper by Laila Parsons from the Department of History and Classical Studies— Institute of Islamic Studies, McGill University, titled: "A new source for the history of partition: The secret testimony to the Peel Commission" that looks at the role of the Zionist movement in influencing the recommendations of the Peel Commission, the nature, size and geography of the partition proposed by the Commission and its endorsement by the British Cabinet in 1938. The initial findings of the paper were presented at the Institute of Palestine Studies premises in Ramallah on 22 January 2019. The Peel Commission resulted in a following commission "the Woodhead Commission" (Woodhead Commission 1938) whose mandate was to make recommendations for the British Cabinet. The two main issues that are worthwhile noting in its Report are the fact that the first recommendation is to keep an economic union between both entities due to the small size of the country; the second is to accept the plan by the Zionist leadership at the time and to reject the plan by the Arab leaders, who demanded full cessation of Jewish immigration. Both recommendations are still present in the dynamics of the conflict with the possibility of separation or lack of, as well as the controversies around whether it was prudent for the Palestinians to reject any form of partition until the Palestinian Declaration of Independence in 1988.

[37] The Arab Higher Committee was the central political committee representing the Palestinians in Mandatory Palestine. It was formed after the outbreak of the 1936 strike to protest the influx of Jewish immigrants during the British Mandate. According to the Peel Commission Report (UNISPAL n.d., p. 96), it was formed in all Palestinian towns and cities and comprised of representatives from all of Palestine including the two rival families Nashashibi and Al-Husseini (Norris 2008). The Committee represented the Palestinians at the Peel Commission investigations on the 1936 Strike, and the UN Special Committee on Palestine during 1947 (for more details, see Mattar 2005; Nashif 1977).

[38] The official territorial demarcation separating the Jewish state from the rest of the Palestinian territory took place with the 1949 Armistice Agreements signed between Israel, Egypt, Lebanon, Jordan and Syria marking the end of official hostilities.

included almost 60 percent of the area of the Arab state proposed by the Partition Plan (Gragg 1977, pp. 57, 116).[39]

We should note that there was no Palestinian state at the time, yet, two efforts aimed at establishing a particular form of Palestinian governance. The All Palestine Government in Gaza by the Arab League in September 1948 was a genuine attempt to self-determination, although it was short-lived and ill-starred (Shlaim 1990, pp. 37, 51).[40] Eventually, Jamal Abdel Nasser dissolved it in 1959, after which Egyptian administration was in effect in the Gaza Strip. In the West Bank, the Jericho Conference held on the 1 December called for the unification of Palestine and Transjordan (Benvenisti 1996, p. 27). This attempt, however, was rejected by the Arab League and Syria, on the basis that it would jeopardize Palestinian self-determination. Jordan's effective annexation of the West Bank ended in 1967, though it continued to have administrative responsibilities in the West Bank and East Jerusalem until 31 July 1988 King Hussein's disengagement decision. On the positive side, the decision led to the King's recognition of the PLO as "the sole legitimate representative of the Palestinian people" (Hussein 1988).[41]

The eruption of the Six-Day War in June 1967 ended with further Israeli victory and military occupation of the West Bank and Gaza, still in place to this date. As a result of the war, the UN Security Council Resolution 242 adopted in post-Six Day War has become the internationally endorsed foundation for the Arab Israeli peace process based on its legal interpretation of the "Land for peace" formula (UNSC 1967). It entailed the withdrawal of Israeli forces from territories occupied as a result of the war in return for peace and recognition by the Arab states. Rostow (1980) argues that Resolution 242 provided that following a peace agreement, the Israelis should withdraw to "secure and recognized" boundaries, however, they did not need to be the same as the armistice demarcation lines of 1949 as the "secure and recognized" boundaries were to be reached by agreement (Rostow 1980, p. 165). In reality, the

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[39] See Map 2: Partition plan.

[40] On the 22 September 1948, the All Palestine Government was established by the Arab League during the 1948 war in order to govern the Egyptian-controlled enclave in Gaza, though its effective rule was limited to the Gaza Strip. The All Palestinian Government was the first attempt of Palestinian self-governance, though short-lived due to controversies surrounding its establishment (Shlaim 1990).

[41] Address to the Nation (1988) Available at: http://www.kinghussein.gov.jo/88_july31.html [Accessed 10 January 2019].

Resolution did not directly refer to the fate of the West Bank and Gaza or even the refugee problem (Anziska 2018, p. 9). Moreover, while in principle, the two-state solution is perceived to envisage two states, a Palestinian state and an Israeli state in the boundaries of 4 June 1967, the notion of a Palestinian state *per se* remained obscure until 1974. The recognition of the Palestinian people and their right to self-determination, national independence and sovereignty began when the question of Palestine was re-introduced into the UN General Assembly's agenda with Resolution 3236 (UNGA 1974).

Ensuring global endorsement of the UNSC Resolution 242 provided the international legal reference for the Middle East peace process and provided the basis for the 1991 Madrid conference and the 1993 Oslo Accords, the 2000 Camp David negotiations, the 2001 Taba talks and the 2002 Arab Peace Initiative (Al-bab n.d.). The 2002 Arab Peace Initiative prepared the grounds for UNSC Resolution 1397 (UNSC 2002a.) that reconfirmed support for a two-state solution based on UNSC Resolution 242 (1967) and 338 (1973). This being said and despite the global endorsement for a negotiated settlement of the conflict, the nature of the open-ended recommendation of the Security Council[42] along with the UN veto system known to occasionally undermine policy following widely-held global opinion (Porter 1997, p. 412) led to protracted Palestinian statehood and political constraints on unilateral Palestinian attempts to declare or achieve statehood. Nonetheless, the notion of the two-state solution remains the anchor for any future solution of the Palestine problem. At this point, it is worthwhile to bring to inquire into the evolution of the notion of a two-state solution on both sides, the Palestinian and the Israeli.

As for the Palestinian side, the transformation in the PLO's position started in the mid-1970s calling for a Palestinian state on the borders of 1967 and ensuring that it would not be a threat to the Zionist state (Ayoob 1982, p. 90; Khalidi, W. 1977, p. 702). However, referencing the UN Partition Plan of 1947 and "UN Resolutions since 1947" in general, it is the Palestinian Declaration of Independence of 15 November 1988 (Permanent Representative of Jordan 1988) that is considered the official

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[42] Article 3 of the UN Security Council Resolution 242 states: "*Requests* the Secretary-General to designate a *Special Representative* to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution".

Palestinian position and accepts UNSC Resolutions 242, 194 and 338 (UNSC 1948).[43] This recognition signified the PLO's preparedness to relinquish armed struggle and recognize Israel *de facto,* but not *de jure*, in exchange for the creation of an independent state in the West Bank and the Gaza Strip (Mack 2014, p. 79). However, this declaration neither led to the creation of a Palestinian state nor was it clear what it meant for actual Palestinian statehood (Quigley 2010, p. 4), despite Palestine's attainment of observer status at the UNGA in November 1974 and a global endorsement and reiteration of the Palestinian right to self-determination (Prince 1988, p. 681; UNGA 1974).

In this respect, it may be fitting to highlight the controversial nature of UNSC Resolution 242, which can be interpreted from a legal and political perspective. From a legal perspective, academic debate focused on the issue of 'constructive ambiguity' regarding the nature of the withdrawal of Israeli forces, and whether the resolution called for "a complete Israeli withdrawal, a minor revision of borders, or license for Israel to retain sovereignty over some of the conquered lands" (Lynk 2007, p. 7). While specific interpretations focused on the non-binding nature of the Resolution and described it as a set of principles recommending a peaceful solution of the Arab-Israeli conflict without reference to an eventual independent Palestinian state (Lapidoth 2011, p. 93), other interpretations highlighted the inherent great moral power rather than the Resolution's legal obligations on the parties to the conflict and based their position on a principled legal interpretation of universal rights and the need for a just and durable peace in the Middle East (Lynk 2007, p. 7; Schaeftler 1974, pp. 58-9).

From a political perspective, while the Palestinian understanding was that UNSC Resolution 242 provides the basis for a permanent settlement (Watson 2000, p. 33) and the establishment of an independent Palestinian state in the borders of June 1967, Israel's interpretation was different. Israel's understanding of UNSC Resolution 242 is that it only establishes a guiding principle without much legal obligation (Lapidoth 2011, p. 7). As a matter of fact, contrary to the PLO's belief UNSC Resolutions 242 and 338 can serve as guiding principles to the establishment of a
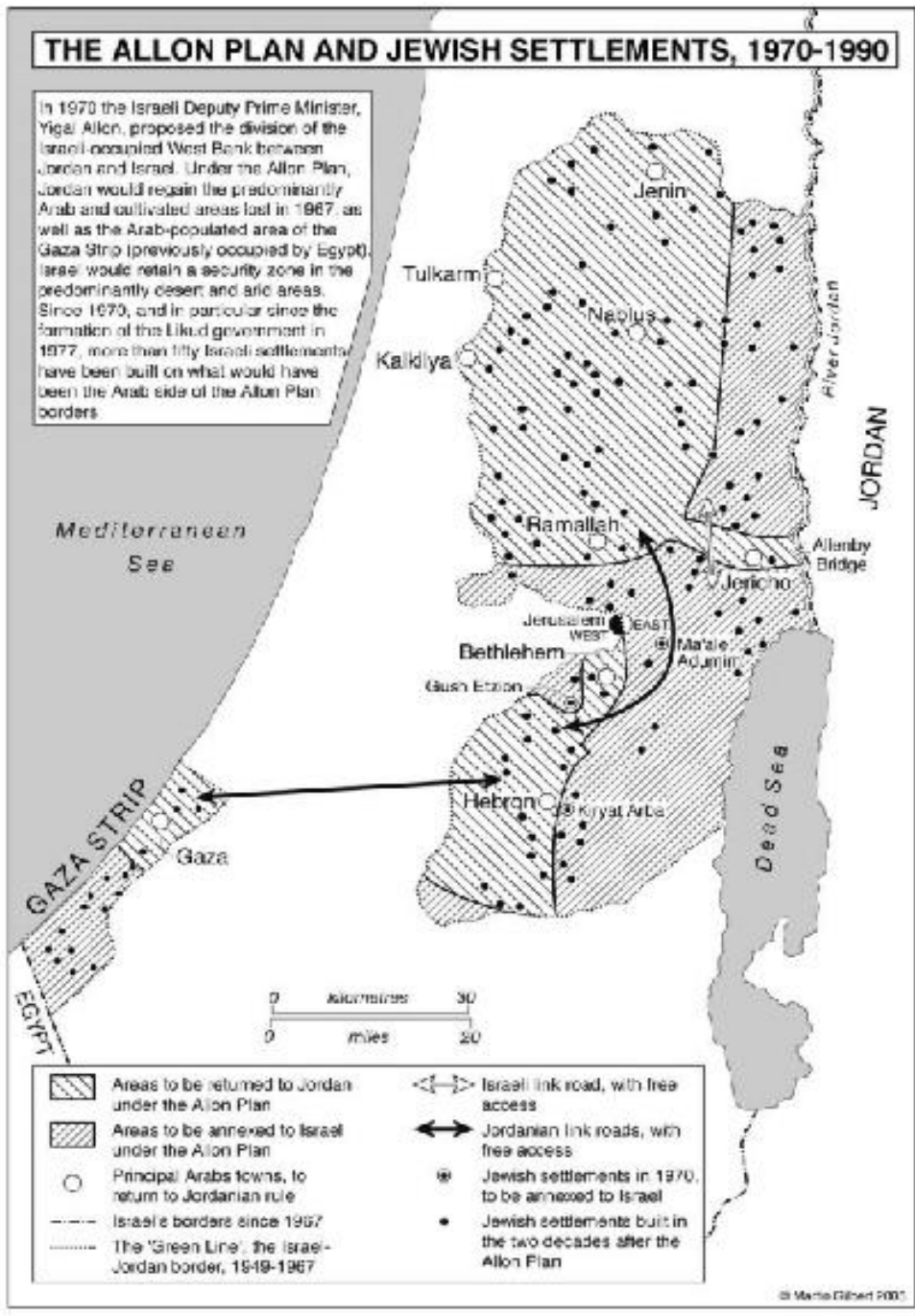
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[43] UNSC Resolution 194 is mainly known for its emphasis on the right of return of Palestinian refugees (see also, UNSC 1973). The UNSC Resolution 338 is mainly known for its request that the parties concerned immediately start the implementation of UNSC Resolution 242 (1967) as well as peace negotiations in the Middle East.

Palestinian state on the June 1967 borders, many Palestinian political and legal experts argue that the idea that they would lead to a negotiated settlement for a Palestinian state is a mere illusion, since it is fundamentally mistaken given that the only explicit reference to the two-state solution is UNGA Resolution 181. Not only that, but they also argue that basing Palestinian expectations on a flawed assumption resulted in a series of compromises leading to the current situation, namely the right to self-determination and territorial claim of historic Palestine (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018; Participant 20, European diplomat, 2018; Participant 32, Palestinian legal expert, ex-official at the Palestinian Legislative Council, 2018).

In the same gist, Pappe (2007) argues that the principle's strange formula entails a "quantitative and measurable variable and comprises an abstract term at the end of the equation that is not easily conceptualized or even illustrated" (Pappe 2007, p. 39). Following upon Pappe's analysis, there are two additional problems worth pointing at, which have had an impact on the trajectory of the peace process to this date. The first problem lies in the inherent Israeli contingency regarding acquiring land that it considers its own (Massad 2009, p. 1). As Pappe (2007) argued, it worked in the case of Jordan and Egypt, though produced a 'cold peace', but did not offer a comprehensive solution to the Palestine question (Pappe 2007, p. 39). Consequently, the second problem lies in the principle's presumption of parity in a context of power asymmetry between the occupying force and the occupied; the beholder of the territory dictates the rules of the game, operational concepts and practices that work mostly in his favour (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). This power asymmetry has created a problematic gap between increasingly diverging expectations of the meaning of peace and the two-state solution for both the Palestinians and the Israelis alike.

In trying to contextualize the Israeli position regarding the two-state solution, there is a need to differentiate between what is constant in Israeli policy or ideology and what is circumstantial (Golan 2017, p. 111). The constant fact, in this case, has been the Zionist project that views the territory as the homeland of the Jewish people. Circumstantial is the policies that the State of Israel has adopted throughout the past 70 years. To further support this claim, one can point to the strong corroboration between earlier interpretations of the objectives of the Zionist movement (Sayegh, F.A.

1965, 2012, p., 206) and contemporary findings based on a re-analysis of historical evidence. This diagnosis traces the current reality and Israeli policies to the founders of the Jewish state, whose vision was a settler-colonial movement that marks the current state of affairs (Imseis 1991; Lloyd 2012; Salamanca, Qato, Rabie and Samour 2012 Sayegh, F.A. Veracini 2011, p. 1, 2013; Wolf 2006). As an example, Imseis (1991) concluded that the Zionist movement had three main objectives in order to realize exclusive Jewish sovereignty; the conquest of the land was the single most crucial prerequisite to the creation of the Jewish state; the ingathering of the exiles (i.e., settlement of Jewish immigrants); and the "transfer" or expulsion of the indigenous Arabs from Palestine (Imseis 1991, p. 10). In this respect, two examples might best demonstrate the linkage between circumstantial Israeli policies and the Zionist ideology. The first is the post-UN Partition Plan, Plan Dalet and its impact on the geographical and demographical aspects of the conflict; and the second is the post-1967 Allon Plan that has forged the final Israeli position on the West Bank and, hence, the ultimate vision of the nature and content of the Palestinian entity.

THE ALLON PLAN AND JEWISH SETTLEMENTS, 1970-1990

In 1970 the Israeli Deputy Prime Minister, Yigal Allon, proposed the division of the Israeli-occupied West Bank between Jordan and Israel. Under the Allon Plan, Jordan would regain the predominantly Arab and cultivated areas lost in 1967, as well as the Arab-populated area of the Gaza Strip (previously occupied by Egypt). Israel would retain a security zone in the predominantly desert and arid areas. Since 1970, and in particular since the formation of the Likud government in 1977, more than fifty Israeli settlements have been built on what would have been the Arab side of the Allon Plan borders.

Mediterranean Sea

JORDAN

Jenin

Tulkarm

Nablus

Kalkilya

Ramallah

River Jordan

Allenby Bridge

Jericho

Jerusalem WEST EAST

Ma'ale Adumim

Bethlehem

Glush Etzion

Dead Sea

GAZA STRIP

Gaza

EGYPT

Hebron Kiryat Arba

kilometres 0 — 30
miles 0 — 20

Areas to be returned to Jordan under the Allon Plan

Areas to be annexed to Israel under the Allon Plan

○ Principal Arabs towns, to return to Jordanian rule

Israel's borders since 1967

The 'Green Line': the Israel-Jordan border, 1949-1967

Israeli link road, with free access

Jordanian link roads, with free access

Jewish settlements in 1970, to be annexed to Israel

• Jewish settlements built in the two decades after the Allon Plan

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Map 5: The Allon Plan and Jewish Settlements, 1970-1990

With regards to Plan Dalet, it is the Hebrew name of a plan formulated by the Haganah in Mandatory Palestine in March 1948. The Plan aimed at taking control of Mandatory Palestine, declaring a Jewish state and defending its borders and people,

including the Jewish population outside of the borders. However, the Plan is controversial, because it aimed at expelling the population of conquered villages outside the borders of the Jewish state as set by the UN Partition Plan. Historians much debate the intentions of the Israeli state pursued with the Plan. One side claims that the Plan aimed at expulsion, sometimes called ethnic cleansing, on the grounds that this was an integral part of a planned state strategy (Pappe 2006, p. xii; Khalidi 1988, p. 4). A counter-argument questions this claim and argues that the Plan did not have pre-meditated intentions for 'transfer' (Morris 2004, pp. 5-6, 60). There is abundant historical research that tries to prove or refute the claim and its impact on the current state of affairs, especially on Israeli ambitions in the West Bank. However, it suffices to marshal a couple of historical facts that best characterize Israeli ideology with regards to the territorial aspect of the conflict and the possibility of conceding land for peace. In this respect, two Israeli new-historians analyzed Israel's opposition to relinquishing territory, starting with Begin's opposition to UNSC Resolution 242. Shlaim (2010) argued that Begin rejected the Resolution on the basis that a "re-division of the Land of Israel" and the recognition of the concept of a Palestinian people would imply their right to national sovereignty in the areas where they lived (Shalim 2010, p. 240). Morris (2004) claimed that "mainstream Zionist thought had always regarded a Jewish state from the Mediterranean to the Jordan River as its ultimate goal, and the vision of 'Greater Israel' as Zionism's ultimate objective did not end with the 1948 war" (Morris 2004, pp. 5-6). Israel's acceptance of the Partition Plan at the time was seen as a tactical manoeuvre and was not the real objective of the Zionist movement. Accordingly, Mearsheimer and Walt (2006) maintain that Ben Gurion's ambition to abolish the Partition Plan and expand to the whole of Palestine after the formation of the state and a large army remained unchanged from 1937 since after Israel was founded in 1947-48 (Mearsheimer and Walt 2006, p. 36). There are numerous examples of Israel's position regarding its exclusive right to the land of Israel. Take as an example the Likud's manifesto for the 1997 elections stating that the right of the Jewish people to the land of Israel is eternal, and that it is an integral part of its right to security and peace that Judea and Samaria are not to be

relinquished to foreign rule; between the sea and the Jordan river there will be Jewish sovereignty only (Shlaim 2010, p. 240).[44]

When it comes to the Allon Plan, most historical analysts point to the effects of the Plan on Israel's settlement policy, especially in the West Bank in the aftermath of the June 1967 war. For instance, Shlaim (2001) noted: "On 26 July 1967, shortly after the war, Allon submitted the Plan to the Cabinet which called for incorporating in Israel large areas that it had captured during the war and that lie beyond the Armistice Lines".

Shlaim further elaborates that the Plan was designed to include as few Arabs as possible in the area claimed by Israel and envisaged permanent settlements and army bases in these areas, despite the fact that it called for negotiations with local leaders to turn the remaining parts of the West Bank into an autonomous region that would be economically linked to Israel. Moreover, "though the Cabinet neither adopted nor rejected it" (Shlaim 2001, pp. 80-99), the Plan became the basis of Yitzhak Rabin's first settlement policy that still manifests itself in the current geography and demography of the West Bank (Gush Emunim n.d.). Moreover, Hanieh and Cook (2003) linked the Allon Plan to consecutive plans by the Likud Party in 1977; they rested on the basic concept of controlling the land but not taking direct responsibility for the population and were followed by the Sharon Plan (ECF 1977).[45] The Sharon Plan is a geostrategic document on "A Vision of Israel at Century's End" that called for a new belt of settlements in the West Bank in addition to the construction of major east-west highways across the West Bank to connect the new settlements with those in the Jordan Valley. Both plans established the basis for the Begin Plan adopted by the Israeli Knesset in 1977, which later became the foundation of autonomy agreed upon by Israel and Egypt in the 1978 Camp David Accords (EFC 1977).[46] The Plan

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[44] Judea and Samaria are the biblical names for the West Bank. They indicate the name used by the Israeli government to denote the area of the West Bank excluding Jerusalem (see Glanoor and Blander 2018, p. 184).

[45] According to ECF (1977), "the Sharon Plan was partially based on the Allon Plan and entailed a major extension of Jewish settlement in the West Bank. The plan was made up of four components that included the establishment of urban settlements on the Western reaches of the Samaria Mountains, an extension of Jewish settlement in the Jordan Valley, encircling East Jerusalem with a belt of Jewish settlements and building a network of roads to help secure the settlements".

[46] According to ECF (1977), "the plan laid out the principles for the establishment of Palestinian self-government in the West Bank and Gaza Strip and was formulated in light of the Israeli-Egyptian Peace Initiative for Palestinian Autonomy as it was featured in the 1978 Camp David Accord. The plan included the abolition of Israeli military rule in the WBGS, an elected authority to be based in Bethlehem while security and public order would remain the responsibility of Israel. Residents of these areas would be given a choice to become citizens of either Jordan or Israel, including the right to participate in elections. A joint Israeli-Jordanian Palestinian committee would have the choice to become citizens of either Jordan or Israel, including the right to approve 'reasonable'

intended the creation of an administrative council elected by Palestinians who would take responsibility for internal Palestinian matters, while Israel would retain control over foreign policy, borders and the economy (Hanieh and Cook 2003). In a recent account of the 1978 Camp David Agreements, Anziska (2018) presented further evidence on the organic linkage between the Framework for Peace in the Middle East that dealt with the West Bank and Gaza sections and the nature and content of the interim self-governing authority of the 1993 Oslo Agreements; he points especially to the fact that both do not envisage Palestinian self-determination or sovereign statehood for that matter. Ironically, the underlying assumption of the Palestinian leadership has been that the Oslo Agreements presumably based on UNSC Resolutions 242 and 338, provide the foundations for the establishment of a Palestinian state. To further our understanding of this assumption, the following section reviews the logic of the Oslo Agreements and its consequences for the Palestinian quest for statehood.

3.2. The Oslo Agreements

The Oslo Agreements cannot be understood without pointing to (a) the historical context within which they have been conceived, (b) the nature of the Agreements and (c) their cost-benefit to Palestinian efforts to achieve statehood given the ongoing Israeli policies and expanding matrix of control. With regards to the historical context, there is substantial agreement amongst historians and political analysts about the impact of the historical moment that led to the signing of what was considered "an agreement of necessity" (Participant 44, senior Palestinian official, Ministry of Interior, 2018). Many contend that a confluence of factors accelerated the need to resolve the decades-long conflict. On one side, there is no doubt that the first Palestinian Intifada was a decisive factor in elevating the West Bank and Gaza to the forefront of the Palestinian-Israeli conflict (Beitler 2004, p. xi). On the other side, its success in gaining the support of the international community for its peaceful spontaneity in confronting the Israeli military occupation prompted the PLO to change its strategy toward a peaceful solution (Shlaim 2000, p. 466). In parallel with the PLO's position, there was a shift in the Israeli public and government attitude, realizing that the *status quo* of the Israeli occupation could not be sustained (Golan 1994, p. 63). Albeit, there were two

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resettlement of Palestinian refugees in the West Bank and Gaza Strip, and the question of sovereignty over these territories would remain open, with Israel retaining its claims."

further reasons that induced the PLO to engage in bilateral negotiations with Israel; first, there was the worsening of its political and financial position and the loss of its regional clout in the wake of its support for Saddam's invasion of Iraq; and second, was the PLO's concern of being replaced by local Palestinian interlocutors in the 1991 Madrid peace conference.[47]

With regards to the nature of the Agreements, three dimensions are significant: the political, legal and implementation modalities that when combined, can illustrate the actual meaning of the Agreements and their impact on the current state of affairs. When it comes to the political dimension, two issues are significant for understanding the logic of the Agreements: the reference to UNSC Resolutions 242 and 338, and the notion of mutual recognition. Arguably, despite the explicit reference to UNSC Resolutions 242 and 338 in the DoP and given the wide gap of interpretation of the conflict by both sides, it can be said that the reference was more of a political gesture to guide the negotiations and express good intentions from both sides rather than provide clarity on the modality of implementation. Israel's understanding of this Resolution might have been guided by the classical claim that there is no foundation in international law for the idea of a second Arab Palestinian state in the West Bank and the Gaza Strip, and that it would be political and military folly for the West to force Israel to acquiesce to such a scheme (Rostow 1980, p. 169). Besides, its understanding of the UNSC Resolution 338 does not entail an acknowledgement of the Palestinian right of return as stated in UNGA Resolution 194 but instead accepts its calls for achieving a just settlement of the refugee problem. Israel's position regarding the issue of Palestinian refugees remained unchanged since the Lausanne Conference of 1949. The Lausanne Conference was convened by the United Nations Conciliation Commission for Palestine (UNCCP) with representatives of Israel, Egypt, Jordan, Lebanon, Syria and the Arab Higher Committee to resolve disputes arising from the 1948 Arab-Israeli War, in particular regarding the return of territories in connection with Resolutions 194 and 181 (Mattar 2005, p. 298). The Israeli stance in the conference explains its long-held position to accept the return of not more than

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[47] It is common historical fact that the US and Israel favoured the representation of local Palestinians (or what is called the inside Palestinians) in the multilateral talks in Madrid. Historically, Israel has always attempted to replace the PLO with local leadership in the West Bank and Gaza, especially after the 1967 military occupation. Suffice to look at the example of the Village Leagues during the 1980s to replace the PLO and find solutions for autonomy (Sahliyeh 1986; Hirschfeld 2014).

100,000 Palestinian refugees, which has been chronicled in both official and second track negotiations from 1993 to this date. The Oslo Accords reflect the power asymmetry between both sides, which have therefore influenced each side's expectations of the Agreements. For, while the PLO understood the Oslo Agreements as a step toward state formation, Israel's understanding has been otherwise, giving validation to sceptics of the assumption that UNSC Resolutions 242 and 338 would ultimately lead to the establishment of a Palestinian state.

By the same token, there is a prevailing Palestinian view *that* the PLO leadership forsake the Palestinian right to self-determination only to gain recognition by Israel as the representative of the Palestinian people, and that the fact that it renounced terrorism implied that the Palestinian national liberation struggle was initially a terrorist act rather than an act legitimized by international law (UNGA Resolution 1982).[48] This being said, even though the preamble of the DoP stated that "both parties recognise their mutual legitimate and political rights" it is not explicitly stated what these legitimate rights are. For, whereas the PLO recognised the right of the State of Israel to exist, Israel did not recognise the right of the Palestinians to self-determination or acknowledged the need to commence a process of ending the occupation. However, this view is challenged by negotiators of the Oslo Agreements who maintain that after all Israel's recognition of the PLO as the representative of the Palestinian people implies the existence of a Palestinian people long denied by the Zionist movement (Participant 3, Fatah leader, ex-Prime Minister and a key negotiator of the Oslo Agreements, 2018; Participant 39, veteran politician, PLO-central committee member, 2018).[49] Ironically, as a result, Israel was given legitimacy even before ending its military occupation (Massad 2009, p. 1). Substantiation of this view can be found in the mutual recognition letters signed by Arafat and Rabin as well as that of the Norwegian Foreign Minister (UNISPAL 1993).[50] Those letters summarize

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[48] This Resolution reaffirms the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle".

[49] The Zionist movement has held the famous slogan about Palestine that it is a land without people for a people without land (cf. also Masalha 1997; Finkelstein 2003).

[50] See the exchange of letters between the PLO and Israel on the eve of signing the Declaration of Independence. United Nations. The Question of Palestine. Available at: https://www.un.org/unispal/document/israel-plo-recognition-exchange-of-letters-between-pm-rabin-and-chairman-arafat-arafat-letter-to-norwegian-fm-non-un-documents/ [Accessed 10 August 2018].

the *sine qua non* of the Oslo Agreements and, hence, their ultimate effect on the prospects of Palestinian statehood.

From a legal dimension, it may be apt to highlight some of the shortcomings of the Oslo process present from the very beginning, which had an impact on the trajectory of the Palestinian quest for statehood to this date. Perhaps the most significant shortcomings have been the evident power asymmetry between both sides and two interlinked factors that include the PLO's acceptance to enter into bilateral negotiations with the occupying state outside of the United Nations umbrella and the secretive nature of the negotiations. On one side, "the mere consent to enter into secret bilateral negotiation process over a deeply rooted UN problem has forfeited the application of international law with regards to Palestinian rights deemed universal, while from the other, it has weakened the Palestinian negotiating power. Entering into bilateral negotiation with the occupying state without reference to the imperatives of international law has transformed the position of the PLO from a national liberation movement calling for the end of occupation into a transitional self-governance authority negotiating its rights under the occupation" (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018).

Moreover, instead of agreeing on the withdrawal arrangements of the occupation's military forces, the PLO legitimized the settlements and became a party negotiating for a share of what Israel considers its own, such as water resources, airwaves, a territorial division of the West Bank, etc. On top of that, the Oslo Agreements have been in constant contradiction of international law and its principles, namely "*jus cogens*" or "compelling laws" which are non-negotiable fundamental principles from which no derogation is permitted" (Cornell Law School. n.d.). Hence, the Oslo Agreements are considered to be utterly flawed, because they have been conducted in contradiction with the 1969 Vienna Convention on the Law of Treaties (Vienna Convention 1969), in particular Article 53 that considers that a "treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law" (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018; Participant 32, legal expert, ex-official at the Palestinian Legislative Council, 2018).

To better understand the gravity of the disregard for international legitimacy, not only the bilateral and secretive nature of the Oslo Agreements marginalized international law; the role of the United Nations as its guarantor was eventually neutralized and made the latter a party to the conflict. With the UN participating as a member in the Quartet (UN News 2002), it lost its superior moral and legal position in safeguarding Palestinian national rights and holding the occupying power accountable for its illegal occupation and ensuing policies. To indicate the contradicting role of the UN in the conflict, it suffices to compare between the UN's position welcoming the Oslo Agreements in 1993 with its initial opposition to the Framework Agreement on Autonomy entailed in the 1978 Camp David Accords between Egypt and Israel (UNGA 1979). At the time, not only did the UN reject the agreement based on its non-compliance with the Palestinian Right of Return and sovereignty, but most importantly, it adamantly called for its inclusion in negotiations about the Palestine question along with the PLO, on the basis that the Palestine question belongs to the United Nations (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018).

When it comes to the Agreements and their implementation modalities, it is essential to highlight two issues. The first one is the perception that they would pave the way for the establishment of an independent Palestinian state (McMahon 2010, pp. 5-6) and the second is the time lag between the signing of the Agreements and the unfolding reality to this date. In this respect, a careful reading of the Agreements immediately reveals their inherent limitations. To start with, the title of the Declaration of Principles (DoP) or Oslo I, i.e. "Principles of Palestinian Self-Government", has framed the Israeli expectations of the role of the Palestinian Authority (Oslo Accords 1993). The future role of the self-governing autonomy has been more of a functional one carefully crafted to reflect the autonomy of the 1978 Camp David Accord. There are many similarities between the 1978 Camp David Accords and the 1993 Declaration of Principles (DoP).

Accordingly, in the DoP, "Israel committed itself to only one form of expression: autonomy and this is where the story begins and perhaps ends" (Golan 1994, p. 65). What is worthwhile noting is that most of the official and unofficial track-two negotiations did not amount to the recognition of the Palestinian people's right to self-determination and statehood. The crux of the matter is that the Israeli-desired

Palestinian entity had always been "something that can be called a state, but that is less than a state, borderless, demilitarized and without Jerusalem", as defined by Rabin in his speech to endorse the Oslo Agreements at the Knesset in October 1995 (Israel Ministry of Foreign Affairs 1995). In this respect, the following section highlights some of the conceptual controversies around the framework of the DoP and the ensuing Oslo II Agreement.[51] It relates the aim of the Agreement to the nature of the self-governing authority in comparison to each side's expectations generated by the Oslo peace process, and what this entails for the future of the Palestinian entity. In particular, it spells out the challenges to the assumption that an independent Palestinian state would emerge as a result of the Oslo Process and from within the framework of the Oslo Agreements.

To begin with, the Oslo Agreements are a set of agreements based on the Palestinian-Israeli Declaration of Principles, known to have initiated the secretly held bilateral negotiations between the Palestinians and the Israelis. In general, while the DoP includes very few direct operative obligations, it lays out a set of political goals and general guidelines for further negotiations as well as a reasonably specific time-table (Cassesse 1993, p. 565). In particular, the DoP sets the main outline and the parameters for the aim of the Agreements, defines the permissible functions that the Palestinian 'Council' can undertake during the transition period and includes the promise to deal with sovereignty-related issues in the permanent status negotiations (Oslo Accords 1993).

Manifestly, the actual text is a clear example of the diverging expectation of both sides about the nature and the outcome of the Oslo peace process. In this respect, several points can be inferred. Firstly, the title of the agreement "Declaration of Principles on Interim Self-governing arrangements" is self-evident as to the nature of the resulting Palestinian entity. Besides, the aim of the negotiations was already set

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[51] Reference is strictly to the Oslo Accords, mainly to the Declaration of Principles (DoP) signed in 1993 and Oslo II (Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip), since both characterize the operational framework for the relationship between the occupation and Palestinian self-Governance. The Oslo II Agreement supersedes three earlier agreements; the Gaza-Jericho Agreement or Cairo Agreement of 4 May 1994, the Agreement on Preparatory Transfer of Powers and Responsibilities Between Israel and the PLO of 29 August 1994 and the Protocol on Further Transfer of Powers and Responsibilities of 27 August 1995. All other agreements such as the Protocol Concerning the Redeployment in Hebron (January 1997), Wye River Memorandum (October 1998), Sharm el-Sheikh Memorandum (September 1999) and Agreement on Movement and Access (November 2005) were either follow-ups on the transfer of powers or some territorial expansion between Areas A, B and C.

under Article I of the Declaration, namely "to establish a Palestinian Interim Self-Government Authority, the elected Council (the "Council") for the Palestinian people in the West Bank and the Gaza Strip for a transitional period not exceeding five years leading to a permanent settlement based on Security Council Resolutions 242 and 338. The stated aim entailed a vague and non-committal reference to the Palestinian right to self-determination (Cassese 1993, p. 565). This narrowed the scope of the self-government entity, despite the promise to enter into permanent status negotiations on sovereignty-related issues such as borders, Jerusalem, water resources without indicating the nature of the desired outcome. Moreover, although it can be claimed that the Agreement was transitional and that it was due to the killing of Rabin that the process derailed, the Israeli intention was never to establish a Palestinian state as evident in academic analysis of the initial objectives of the Zionist movement and the policies of the consecutive Israeli governments regarding the nature of the Palestinian entity.

Secondly and with regard to recognition, although both parties "recognize their mutual legitimate and political rights", the DoP does not state what these legitimate and mutual rights are despite the reference in Article III (3). Thirdly, it is not only that the DoP is not an agreement to end the occupation, but it also did not outline the steps for a final withdrawal of the occupation authority or even the release of the 14,000 prisoners for that matter (Said 2012, p. 5). Fourthly, permissible jurisdiction in the West Bank and the Gaza Strip in accordance with Article IV reduced the mandate of the 'Council' to a functional role limited to certain civilian matters such as health, education, social welfare, direct taxation and tourism in a process of devolution of certain powers from the Civil Administration to the Council. And though many Palestinians celebrated the fact that the Council was allowed to establish seemingly sovereignty related authorities, such as a Palestinian Electricity Authority,[52] the fact it had neither territorial jurisdiction inside the West Bank and Gaza Strip nor on the borders meant that all those authorities were subject to Israeli jurisdiction and laws. As an example, the implementation complexities of the Agreements was taken up in the following agreements on the transfer of authorities and the committees established

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[52] According to Article VII (4) of the DoP, the Council is allowed to establish a Palestinian Electricity Authority, a Gaza Port Authority, a Palestinian Development Bank, a Palestinian Export Promotion Board, a Palestinian Environmental Authority, a Palestinian Land Authority, and a Palestinian Water Authority.

to follow-up and handle those issues. Consequently, all issues related to the day-to-day work as well as policies have been subject to Israeli rules and regulations as long as the occupation maintains territorial sovereignty. Besides, the fact that the military Civil Administration was not dismantled with the inauguration of the Council as stipulated by Article VII.5 on the Interim Agreement and, instead, continues to this day is another indication of the initial intentions of the occupation authorities (Oslo Accords 1993, Art. VII).

The complexity of implementation has become more acute after the signing of Oslo II. The latter is a highly detailed agreement to follow-up on the DoP, which was carefully crafted to ensure Israel's control over every aspect of the civilian responsibilities devolved to the Palestinian Authority (Participant 46, legal expert, ex-legal advisor to the PLO, 2018; Israel Ministry of Foreign Affairs 1995).[53] What seemed to have been a straightforward declaration of principles reflecting good intentions unraveled in the nitty-gritty of consequent agreements translating the DoP. As a result, it was evident that the implementation modalities reflected the contradictions in the expectations of those who initiated the Agreements, at least from the Palestinian side. For instance, the notion of withdrawal mentioned in Article XIV DoP was translated into redeployment and security arrangement in Annex I Oslo II Agreement.[54] There is a big difference between a final withdrawal of military forces and redeployment around the city centers, for the latter entails the consolidation of Israeli military control around them. Likewise, while the DoP outlined public security as an internal issue, Israel would maintain external security according to Article IX. The expected role of the 'Council' was clarified in Arafat's letter to Rabin confirming the PLO's renouncing of terrorism and promise to work on internal security.

As a matter of fact, there has been much research on the anomalies of the Palestinian security role under occupation; moreover, its security involvement put the Palestinian Authority at odds with its *raison d'être* as a Palestinian Authority under

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[53] The Oslo II Agreement is best known for the division of the West Bank into Area A, B, and C. It comprises of five chapters and several annexes. It is concerned with details on the Council, redeployment, legal affairs and jurisdiction of the Council and cooperation (including economic cooperation).

[54] Israel Ministry of Foreign Affairs. 1995. The Israeli-Palestinian Interim Agreements, Annex I: Protocol Concerning Redeployment and Security Arrangements. Available at: https://mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/THE%20ISRAELI-PALESTINIAN%20INTERIM%20AGREEMENT%20-%20Annex%20I.aspx. [Accessed 8 March 2018].

occupation. By the same token, although Article IV on jurisdiction states that the two sides view the West Bank and the Gaza Strip as a single territorial unit (Israel Ministry of Foreign Affairs 1993), it is noteworthy to recall that even before the commencement of the Oslo peace process commuting between the West Bank and Gaza had been subject to additional security measures requiring a special permit for travel. Besides, the historical separation between the West Bank and the Gaza Strip since the 1948 war—with Gaza being under Egyptian rule and the West Bank under Jordanian rule— had already broken the country's national cohesion. Most importantly, it is hard to imagine territorial integrity of the West Bank and Gaza, while Israel remains in control of territorial jurisdiction given the fact that all sovereignty issues, in particular, the border issue, were deferred to the permanent status negotiations.[55]

To show the clear intent of the Agreement and the dominant power of the occupation over the structure and functions of the 'Council' and the permitted competences to be transferred from the Israeli Civil Administration, it suffices to point to the content of Article XV on the resolution of conflict. The gradual mechanism set to resolve conflicts of interpretation of the Agreement is limited to a bilateral form, even at third level arbitration. This arrangement contradicts the mere notion of arbitration necessitating the involvement of a third party to which's judgement the conflicting parties would abide.[56]

In this respect, it is interesting to note that when trying to understand the assumptions of the PLO leadership about the nature and content of the Oslo Agreements, my interviewees, mostly veteran leadership members who negotiated the Oslo Agreements, indirectly justified most of the shortcomings identified by many scholars since the early days of the signing of the agreements to this date. On one

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[55] According to Article V of the DOP the transitional period would not exceed five years and would commence over permanent status negotiations in three years Article V(3) leaving all sovereignty relate issues (Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other countries) to the permanent status negotiations.

[56] According to Article XV DoP, conflicts are to be resolved through a joint mechanism via the Joint Liaison Committee; if they cannot be solved, issues would move to a conciliation committee, and though the parties may agree to submit to arbitration (joint arbitration) that does not include referral to a third party (Article XV, 3). In this instance, although arbitration might be disadvantageous in the sense that it might not be binding, however, having a third party involved might help in facilitating differences as well as in monitoring the implementation of the Agreement. Since the Oslo Agreements were bilateral, there was no role for any third party including the United Nations in arbitration. Israel had the upper hand to decide on all matters regarding the implementation of the Agreements.

side, the majority provided justifications for the PLO's pragmatic approach and the complex challenges of implementing the Oslo Agreements. It may be possible to infer that the narrative they gave reflected a sense of remorse and self-justification at best. At worst, however, the failure to have a deep understanding of Israeli mentality represented a sort of mental surrender to the predisposed text of the Oslo Agreements (Participant 1, political scientist – Annajah University, 2017). For instance, when it comes to the unequal nature of mutual recognition and the limited nature of the transitional autonomy, they argued that at least the Oslo Agreements identified parameters to end the conflict—and though they did not achieve everything, they did not forsake anything (Participant 3, Fatah leader, ex-Prime Minister, 2018). On the other side, those who adopt a realistic and pragmatist approach believe that the Oslo Agreements allowed the PLO to resume the struggle on the ground, providing them with the tools of the state and allowed for a Palestinian central authority to be recognized by Israel, hence, rendering issues of sovereignty and statehood irrelevant at the time (Participant 31, veteran Fatah member, ex-official at the President's Office, 2018; Participant 9, academic expert in international law, ex-legal advisor to the PLO, 2018).

Conceivably, it seems that the leadership's thinking at the time, including that of Arafat, considered Oslo as a provisional stage; hence the fight on what was considered as small battles, such as changing the name of the 'Council' to Palestinian National Authority. They claim that Arafat had a bigger vision beyond what most people could understand, and, hence, his insistence on expanding the characteristic features of sovereignty that were denied under Oslo. According to Participant 31 (Participant 31, veteran Fatah member, ex-Palestinian Official at the President's Office, 2018) "Arafat wanted to expand the eye of the needle to allow for the entry of an elephant"; his vision was mainly to localize the Palestinian revolution and integrate the Palestinians on the outside with those on the inside of the occupied territories (Participant 31, 2018). Hence, Arafat's main aim was more of a political nature rather than an institutional one. In this respect, it can be said that from a political perspective, the PLO's approach was to challenge Oslo and create what it considered *facts on the ground*, though not necessarily facts relating to the consolidation of the territorial aspect of the Palestinian Authority but rather an expansion of the permissive powers under the Oslo Agreement. However, when translated into the implementation of the

Agreement, the Palestinian Authority clashed with the Israeli Civil Administration over the meaning and the scope of the transfer of powers and 'spheres of responsibilities' under Oslo II. The Palestinians were expecting the transfer of full civilian responsibilities in the West Bank and Gaza in anticipation of transforming them into state functions upon the end of the transitional period. However, what Israel wanted was to devolve partial responsibilities with continued linkage to the Israeli Civil Administration Authority.[57]

The PLO/PA undertook to inflate the institutional set-up prescribed by the Oslo Agreements. As such, they considered that the transformation of the 'Council' supposedly to include a Palestine Legislative Council, the creation of ministries, the naming of the Palestinian Authority as the Palestine National Authority, having a passport, would ensure the eventuality of Palestinian statehood. In reality, for almost every aspect relating to the functions of the Palestinian Authority under Oslo, the source of authority had been the Israeli Civil Administration. A simple example is the issuance of Palestinian passports for Palestinians residing in the territories under the jurisdiction of the Palestinian Authority. To this day, no Palestinian can travel outside the country or enter without the permission of the Israeli occupation authorities, since they control the population registry in both the West Bank and Gaza. Moreover, the situation has aggravated, since Sharon's Gaza Disengagement Plan and the stagnation of Palestinian democratic institutions following the post-2006 Hamas elections. In this respect, it might be feasible to question the purpose that Palestinian institutions should serve beyond their symbolic nature, hence, what is the meaning of Palestinian statehood under occupation and the priorities of the Palestinian Authority's role beyond the limitations of the Oslo Agreements.[58]

To indicate the intricacies of the rationale behind the Oslo Agreements, a good example is a belief among some Palestinians that they, in fact, defied Oslo's limitations

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[57] Article IV.2 of Annexe IV DoP states that: "The Council's jurisdiction will apply with regard to the agreed powers, responsibilities, spheres and authorities transferred to it".

[58] The Gaza Disengagement Plan was initiated by Sharon in 2003 and approved by the Knesset in 2005. It entailed Israeli military withdrawal from Gaza with the withdrawal of about 8000 settlers living in 21 settlements in Gaza. Sharon's move was seen as a unilateral act against Palestinian terrorism in the post second Intifada. While many Palestinians celebrated the move as a success of Palestinian resistance, especially that of Hamas, in reality, the Disengagement Plan was a military redeployment, a sealing off of the Gaza Strip, since Israel still continued to control all exists of the Strip except for one exit controlled by Egypt. According to the UN, Gaza is still an occupied territory, and the ongoing Israeli wars and siege against Hamas, the *de facto* authority post 2006 Palestinian national elections render it unliveable by 2020 (see, for instance, UN 2017).

(Participant 39, Participant 39, veteran politician, PLO-central committee member, 2018). By thinking of innovative ways to create institutions that "do not pose a direct threat to Israel's sovereignty, i.e., the Ministry of Planning and International Cooperation (MoPIC). The Ministry's mandate was to create institutional structures that would serve the enabling of a good economy, poverty alleviation and opening up relations with the Arab world". In reality, however, the supposedly 'innovative approach' served the Israeli vision of economic peace inspired by Peres neo-liberal thinking, which foresaw foreign direct investment and job creation as a substitute for political independence. Indeed, a reality check of what seems to have been instated as state-institutions from the outset finds little purpose for the ordinary citizen when he or she has to pass through the checkpoints between Palestinian cities or cannot travel to Jerusalem (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018).

3.3. Evaluating the outcome

In order to evaluate the outcome of the Oslo Agreements, there is a need to differentiate between the logic of the Agreements, each side's approach toward their implementation and the reality on the ground. The Oslo Agreements entailed the establishment of a Palestinian functional autonomy contrary to Palestinian expectations of an independent state. In the process, what both sides tried to establish as facts on the ground or as *fait accompli* resulted in entirely different outcomes.[59] Palestinian efforts to create *de facto* state-like institutions resulted in quasi-state institutions without much leverage even on internal policy issues. Moreover, not only functional powers have been subject to Israeli dominance, but also the results of the democratic process and Palestine Legislative Council elections have been influenced by Israeli contingent conditions on the Palestinian Authority[60]—with detrimental

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[59] An interesting analysis of the meaning of *facts on the ground* offers Khalil Hindi in his comparison of the meaning in three languages: Arabic, English and French. Hindi points to the fact that the translation of *fait accompli* is a more accurate meaning than that in Arabic or in English. He contends that it signifies "irreversible facts" (Hindi 2017, p. 94).

[60] Reference here is to the results of the 2006 Palestine Legislative Council elections that ended with Hamas winning the majority of the PLC seats and, hence, becoming part of the Palestinian Authority. Israel and the international Quartet have imposed sanctions on Hamas requesting it to recognize the right of Israel to exist, abide by previous diplomatic agreements (the Oslo Agreements) and renounce violence as a means of achieving goals (see Israeli Ministry of Foreign Affairs 2008).

consequences for Palestinian political polarization between Hamas and Fatah, the two main political parties.

Undoubtedly, the stagnation of the peace process allowed Israel to continue consolidating its occupation and support the settler-colonial project, especially in the West Bank. In many instances, Israel's unilateral actions were undertaken under the pretence of probationary conditions inherent in the Oslo Agreements and the imperative of the Palestinian Authority's performance on the security level. Israeli measures included the construction of the Separation Barrier,[61] the acceleration of the legalization of settlements in the West Bank and Jerusalem—with the number of Israeli settlers reaching almost 800,000 settlers (ARIJ 2017). Besides, there is the near completion of exclusive Israeli sovereignty over Jerusalem as the united and eternal capital of the State of Israel, and most importantly, the declaration of the whole country as the exclusive nation-state of the Jewish people.[62] Above and beyond, Israel's disengagement policy not only consolidated the geographic fragmentation of the West Bank and Gaza but also helped enhance political fragmentation with an increased impact on the Palestinian sense of nationhood. More so, Israel's illegal occupation continues unabated despite continued international condemnation. However, in reality, there does not seem any intention on the part of the international community to interfere to protect the Palestinians—similar to its action against the Iraqi invasion of Kuwait in 1991.[63] Beyond condemnation, there does not seem any urgency for the

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[61] It is noteworthy to point to the fact that while the Palestinians call it 'separation barrier', or 'apartheid wall', the Israelis call it 'Security Fence'. The ICJ Advisory opinion of 2004, called it "a wall". Accordingly, the Court found that "the construction by Israel of a wall in the Occupied Palestinian Territory and its associated regime are contrary to international law; and states the legal consequences arising from that illegality" (cf., for more detail, ICJ 2004). In this respect, it is important to point to two issues regarding the background of the construction of the wall. The first is the fact that though Israel claims it was in reaction to the second Palestinian uprising in 2000, historically, the Israeli idea of constructing a wall dates back to early 1992 and Yitzhaq Rabin with the first barrier constructed in 1994 along the Green Line between Bat Hefer and Tulkarem. The Wall was initially planned during Ehud Barak's government in 2002 and was explicitly launched during Ariel Sharon's government in 2002 (see: Sandy 2006) The second is the fact that the wall violates the Green Line, also known as the 1949 Jordanian-Israel Armistice Agreement, hence, Israel's action contravenes international law by unilaterally defining its borders and more importantly, prejudicing a negotiated agreement with the Palestinians.

[62] The Israeli Nation-State Law is an Israeli Basic Law specifying the nature of the State of Israel and the nation-state of the Jewish people. The law was passed by the Knesset on 19 July and has since instigated multiple controversies, especially among Palestinians living in the State of Israel and other left wing groups (see, for instance, Wootlife 2018).

[63] In 1991, the international community invoked Chapter VII of the UN Charter that gives authority to take action with respect to threats to peace and acts of aggression (See UN n.d.).

international community to interfere to end the Israeli occupation or consider it as direct aggression against the state of Palestine and a threat to world peace and stability.
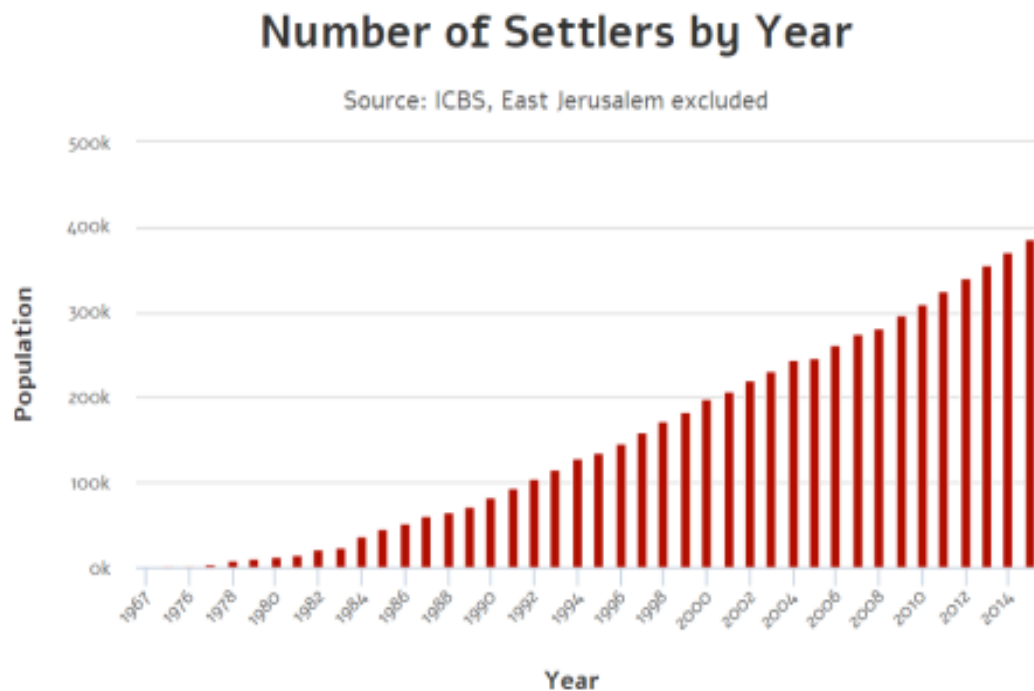
Number of Settlers by Year

Source: ICBS, East Jerusalem excluded

Illustration 1: Number of Settlers by Year—ICBS, East Jerusalem Excluded Israeli Central Bureau of Statistics.

Not only that, besides the deepening occupation, Israel's rising power at the regional and global level enhances its preference to maintain the *status quo*, i.e. dismissing the need for a bilaterally negotiated settlement with the Palestinians and an end to the conflict based on the principle of 'Land for peace'. Israel's initial project of 'Greater Israel' seems to have come to fruition along with the fact that it does not seem willing to revert to the old Peres vision of the New Middle East in the early years of the peace process (Peres and Naor, 1993).[64] At present, Israel does not seem in a

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[64] According to Chossudovsky, the formation of 'Greater Israel' constitutes the cornerstone of powerful Zionist factions within the current Netanyahu government, the Likud party, as well as within the Israeli military and intelligence establishment. He maintains that according to the founding father of Zionism, Theodore Herzl, the area of the Jewish State stretches, "from the Brook of Egypt to the Euphrates". According to Rabbi Fischmann, "the Promised Land extends from the River of Egypt up to the Euphrates, it includes parts of Syria and Lebanon". When viewed in the current context, including the siege on Gaza, the Zionist plan for the Middle East bears an intimate relationship to the 2003 invasion of Iraq, the 2006 war on Lebanon, the 2011 war on Libya, the ongoing wars on Syria, Iraq and Yemen, not to mention the political crisis in Saudi Arabia (see, for more details, Chossudovsky 2018).

hurry to even resume a bilateral negotiation process given the low significance of the Palestine question in Israeli politics, the Netanyahu government's blunt rapprochement with Arab countries, the recent transformation in the Trump Administration's policy in the region and the imminent unveiling of the 'Deal of the Century'.

When it comes to the consequences of the Oslo Agreements on Palestinian statebuilding and its impact on Palestinian statehood, it is essential to note that the institutions established within the framework of the Oslo Agreements were not designed to serve as state institutions but rather as sub-institutions under the sovereignty of the Israeli occupation remaining the source of authority. This makes it difficult to understand the claim of the Oslo Process veterans that the Oslo Agreements provided the Palestinians with the tools of a 'state'. For, although the Palestinian Authority was allowed to establish state-like institutions, such as ministries, a Palestine Legislative Council, banks, their functions remained within the permissible margin of a controlled autonomy, and the actual state functions related to sovereignty or the lack of for that matter, remained the same especially from a territorial perspective.

As a matter of fact, many of the powers devolved to the Palestinian Authority have been withdrawn in the post-second Intifada (Participant 9, academic expert in international law, ex-legal advisor to the PLO, 2018). The second Intifada or uprising erupted in the wake of Sharon's provocative entry into the al-Aqsa Mosque in September 2000, although many believe that it is also the result of the failed 2000 Camp David Accords and the fading prospects of a permanent settlement. The Intifada lasted almost four years until after the 2003 Road Map for Peace. But the outcomes influenced the Palestinian statehood prospects and resulted in the accelerated construction of the Separation Barrier, the destruction of the Palestinian Authority's infrastructure, including the Gaza port and airport, and most of the security institutions. But most importantly, the second uprising led to the Israeli decision that Arafat was no longer a partner for peace; hence, the need to get rid of him. There is a strong belief that once Arafat understood the reality of the self-governance rule, he opposed it; hence, the Israeli decision to get rid of him (Participant 69, veteran political activist, 2018). Consequently, Israel withdrew or stopped from transferring specific responsibilities to the Palestinian Authority, such as matters relating to security issues

in all of the West Bank, civilian matters in Area C, Jerusalem and also the Gaza Strip. The following empirical chapters mainly focus on Area C and Jerusalem to indicate the challenges facing the Palestinian state-building endeavour in a situation of restricted functional capacity of the self-governing authority, whose interim characteristics seem to have become permanent.

Thus, the question about the validity of the PLO's assumption that the Oslo Agreements would be a step towards a state remains crucial. Theoretically speaking, it might be reasonable to think that the shift in the PLO's approach toward pragmatism and gradualism when it comes to instating Palestinian statehood is a valid undertaking. For, if the need for flexibility can be demonstrated in order to accommodate overwhelming realities, it can be shown that the PLO understood what it signed on to. Then, transitional autonomy was the best that could have been attained at the time. Empirically, however, it is hard to accept that the assumption was sound that the Oslo peace process would eventually yield an independent Palestinian state. For, assuming that Rabin's initial intentions or the Labor Party's for that matter were to allow for a Palestinian state in principle, then 'all else being equal' or *ceteris paribus,* it can be inferred that circumstantial variables, in this case, Rabin's assassination and the rise of the Israeli extreme right, derailed the resumption of the Oslo peace process and were the main reason why the process failed.

The persistent question that remains, however, is how it would be possible to make such an assumption based on, what many have argued, a structural problem of the Oslo Agreements and the resulting Israeli policies and practices in preempting the viability of Palestinian statehood. For, as demonstrated in the earlier section, the Israeli vision for the nature and content of the Palestinian entity never exceeded non-sovereign autonomy. Indeed, the unclear Palestinian assumption regarding the expected outcome of the Oslo Agreements may explain the mounting calls by some Palestinians for the need to have access to the secret documents of the Oslo Agreements twenty-five years after the establishment of the Palestinian Authority. People are now questioning the seeming inevitability of the limited self-rule and whether the "Palestinian Authority is a real authority with the power of making decisions or authority that only implements orders stemming from the officer of the Israeli Civil Administration" (Participant 1, political scientist – Annajah University, 2017; Participant 69, veteran political activist, 2018). This indicates that there is a deep

schism between the Palestinian leadership and ordinary Palestinians with regards to the *raison d'être* of the Palestinian Authority, especially given that the occupation is omnipresent in every single aspect of Palestinian life. Albeit, while the Palestinian leadership sought to achieve its aims through bilateral negotiations, it sought to reaffirm its efforts to achieve the long-aspired statehood through other means. The following section explores the efforts of the Palestinian Authority to achieve statehood in parallel with its struggle to preserve itself under the current context and despite the limitations on its expansion into a territorially sovereign state.

3.4.   The Palestinian bid for statehood

Indeed, Palestinians felt that they are at a critical juncture. Given the looming political process, the Palestinian Authority sought other ways than negotiations to circumvent the constraints of Oslo. In trying to further its diplomatic efforts for broader recognition, the Palestinian Authority has twice made an application to the UN to secure a broader recognition of a Palestinian state and an upgraded status at the United Nations in 2011 and 2012. However, some saw this step as a non-changer, since the PLO was already recognized by the UNGA in 1974, which had been reiterated upon the 1988 Algeria Declaration of Independence (Boyle 1990, pp. 301-7; Dugard 2009; Quigley 2010; Segal 1997). Others believe that on the positive side, UN recognition would further legitimize the Palestinian cause and bring additional support from the international community and would actually help to make the case against Israel's continuing occupation and colonization (MacMillan 2019).

Notwithstanding, the justification of the Palestinian Authority at the time of its first application in 2011 has been that Fayyad's state-building project was resumed and Palestinians were commended for their readiness for statehood (Participant 21, ex-senior official, 2019). Primarily, the Palestinian Authority wanted to re-internationalize the Palestine question, after it became clear that the bilateral nature of the Agreement would not result in the aspired Palestinian state. Knowing that the future of the Palestinian Authority was at a juncture, there was a feeling that, though it was a risky endeavour, there was nothing to lose (UNISPAL 2011), especially given the inability of the PA to expand its powers within the Oslo framework or even to dissolve itself for its failure to counter Israeli expanding settlement policies. The PLO's further reason to seek renewed international recognition has been the belief that such a move would reiterate its statehood recognition, even if it were to continue under

occupation. Besides, enhanced membership to the UN would empower its position also with the International Court of Justice (ICJ), hence, add pressure on Israel to end its occupation, despite Israel's threats to retaliate against the PA's move (MacMillan 2019).

Indeed, Israel's position regarding the Palestinian bid for statehood reveals its continuing willingness for control, not only over the territory but also over the actions of the Palestinian Authority. Its claim predicated on the promise of the 'bilaterally negotiated settlement" as stipulated in the Oslo Agreements. Therefore, any Palestinian move toward UN recognition is deemed a unilateral step that prejudices the outcome of the permanent status negotiations. Not only so, one of the claims that Israel has been advocating was that unilateral Palestinian acts would de-legitimize Israel (UNISPAL 2011). A claim that was refuted by President Abbas who asserted that his intentions were not aimed at delegitimising an existing state, i.e. Israel, but rather at asserting the state that must be realized, i.e. Palestine (Voa News 2012). Such a claim collides with Israel's view of the Palestinian Authority as a sub-division under its direct rule and therefore claims to have the discretion to decide over its future.[65] This being said, although Palestinian efforts at the diplomatic level yielded greater recognition and perhaps additional moral support to Palestinian aspirations for statehood, the attained observer status has not altered the reality of the Oslo Agreements for both the Palestinian Authority and the Palestinian people. Israel remains an occupying power according to international law as long as the issue of territorial sovereignty is not resolved pending a bilaterally negotiated settlement.

Consequently, the current political impasse facing the Palestinian Authority, especially after the disappearance of any realistic prospect for a political breakthrough, triggered much internal debate over the future of the Palestinian Authority and its *raison d'être.* Revisionist opinions suggest that the Palestinian approach to the implementation of the Oslo Agreements was wrong and ill-founded. They contend that Arafat had no rational reading of the political scene (Participant 7, Palestinian political scientist, 2018), and should have differentiated between the concept of the transitional Palestinian Authority and the state, making it a mistake to inflate the transitional self-

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[65] See for instance the refutation of the Israeli Ambassador to the United Nations of the Palestinian bid for UN recognition (UNISPAL 2011).

governance institutions before the resumption of the permanent status negotiations. Consequently, the Palestinians too should have considered the establishment of the transitional authority as a probationary period to check Israel's intentions, while keeping open other options, such as returning to the pre-Oslo state in exile or continue the struggle on the ground (Participant 47, activist and head of Palestinian Jerusalem-based NGO, 2018; Participant 31, veteran Fatah member, ex-official at the President's Office 2018; Participant 25, prominent thinker, historian and head of a Jerusalem-based think tank, 2018). It seems that there is a consensus that the Palestinian Authority could have considered such a scenario upon the failure of the 2000 Camp David Accords, but the policy at the time was characterized by the approach of 'escaping forward' rather than take a step back and asses alternatives (Sayegh 2001, p. 49).[66] The eruption of the second Intifada was a reality check for the Israeli intentions regarding the prospects of the two-state solution or Palestinian statehood for that matter.

In this respect, it may be fitting to point to the ongoing debate about the Palestinian political impasse and imminent failure of Palestinian political institutions. It can be said that there are two schools of thought dominating the debate. One school mainly comprises those who have been highly involved in the early days of establishing the Palestinian Authority, at a *realpolitik* stance and submit to the fact that the Oslo Agreements and the existing Palestinian institutions are a *de facto* reality that cannot be altered now. Hence, on one side, their approach is to preserve the self-governing authority and to continue working toward its expansion in parallel with a continued struggle for national liberation (Participant 45, economist, 2018; Participant 60, independent politician, senior official from Gaza, 2018). The other school of thought, however, representing leftist civil society and pre-Oslo political activists deem the Oslo Agreements to be a *mistake* that could be rectified, and that is not *a matter of fate*. This group blames the Palestinian leadership for having started to build state institutions before resuming national liberation. Many of them consider the Boycott Divestment and Sanctions movement (BDS) as a fallback position that can help reset the foundations of the Palestinian struggle for the right to self-determination

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[66] It must be noted that this term, escaping forward or fleeing forward has been used by Yezid Sayegh (2001, p. 49) in describing Arafat's reaction towards the eruption of the second Intifada, and as a demonstration of a lack of strategy. The concept was re-introduced by Hillel Frisch (2010).

(Participant 35, leader of a PLO political party, 2018). The BDS movement is a Palestinian civil society movement established in 2005 and calls for boycott, divestment and sanctions against Israel until it complies with international law and universal principles of human rights. The movement believes that non-violent action can help (a) reinstate international law and urge Israel to end its occupation and colonization of all Arab lands and dismantle the Separation Wall; (b) recognize the fundamental rights of the Arab-Palestinian citizens to full equality, and (c) respect, protect and promote the rights of Palestinian refugees to return to their homes and properties as stipulated in UN Resolution 194 (BDS n.d).

In reality, however, it seems that both schools of thought seem to be trapped in a catch twenty-two situation. For, all suggestions that are being made remain caught in the present scenario of continued occupation. For example, it is difficult to imagine how the Palestinian Authority, which is a product of the Oslo Agreements, can actually challenge the occupation as long as its mere existence is down to the occupation authorities. It seems that it is challenging to combine the preservation of the self-governing institutions and resort to violent means to defy the occupation. The Israeli reaction to the second Intifada is a clear example of the difficulty to combine what can be seen as state making and state-building under occupation. For, whether intentionally or unintentionally, having accepted to enter into an interim agreement without a clear end game regarding the territorial issues, the Palestinian Authority has acquiesced to the limitations on the possibility of its emergence into a territorially sovereign state. On another note, while the BDS has been gaining considerable attention at the international level, it has been proven difficult to implement in the Palestinian territories.

The continued Israeli control over the borders and consequently over the Palestinian economy prevents a forceful extension of the movement's objectives to the local society, which is subject to the occupation's matrix of control. Besides, although the movement calls for a change of the two-state solution discourse, it is hard to imagine how it can align the people and the leadership to accept their argument for a one-state solution. Most significantly, on the one side, it is challenging the leadership's endorsement of the two-state solution (Thrall, 2018), and on the other, it is challenging the mere existence of the Palestinian Authority in its current form. The problem is that the Palestinian Authority does not seem to give up its current status

within the framework of the Oslo Agreement in order to seek an alternative approach to achieve its desired statehood.

In this respect, it has not been easy to gain greater insight into the Palestinian Authority's assumptions about the Oslo Agreements as a step toward the realization of an independent Palestinian state due to the difficulty of finding an adequate analytical framework that could help assess its validity or non-validity for that matter. For, not so many have analysed the case of self-governance and what the Palestinians could do to expand it and transform it into a stepping stone for self-determination. It might be that the problem is difficult to diagnose and, hence, it is difficult to find a prescription to solve it. Knowledge of the origins of the Palestine question as well as the historical background of the Zionist movement, point to the complexity of the required analytical framework. For, the fact that the two-state solution was founded on the principle of 'Land for peace' might have proven the latter's inherent defects, notably because it excluded the principle of self-determination and subjected the notion of statehood presumably designed within the Oslo framework to a revised form of direct and indirect occupation or in its best form an institutionalized occupation (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018).

Arguably, if one takes into consideration that the Oslo framework along with the consensus on the parameters of the two-state solution were to lead to Palestinian statehood, then the result is far removed from what could be considered an independent and sovereign state with independent borders and internal and external sovereignty. For, the consensus seems over an entity that would be called a state; however, such a state would not be more than an improved version of the Oslo self-governance authority. The two-state solution seems to be more in line with Israel's vision for the nature and substance of the Palestinian entity, and, hence, a state that does not fall within the universally accepted Westphalian-Weberian concept of the state. The results of the Oslo peace process indicate the domination of the Israeli vision for Palestinian autonomy and perhaps unrealistic Palestinian expectations about the process, on the one side, and the framework agreement, on the other. Above and beyond, there is no doubt that the position embracing the Palestinian Authority as an irreversible reality has some validity, however, the main question is the content of this Authority and its future role in the West Bank and the Gaza Strip.

It is evident that neither the current Israeli government nor the Israeli public show any urgency to solve the Israeli-Palestinian conflict. The *status quo* seems satisfactory, and little has been done to stop the worsening situation (Djerejian, Muasher and Brown 2018, p. 1). Notwithstanding, official Palestinian policy still focuses on either a negotiated agreement or international legitimacy; two options that have been disregarded in the current mindset of the Israeli government. As a result, it seems that Israel's unilateral actions and tendency to take a single approach to address the conflict stem from its feeling that there is a convergence of events around the world that give it a better standing in its negotiations with the Palestinians (Gross 2018). Nonetheless, despite the decline of support for the two-state option by the majority of both Israelis who are satisfied with the *status quo* and Palestinians who feel that Oslo and the Palestinian national project have failed (Palestinian-Israeli Pulse 2018),[67] the most recent UNGA Resolution A/73/L.32. of 23 November 2018 (UNGA 2018) proves that international consensus regarding the parameters of the two-state solution still holds irrespective of warnings about its imminent withering away.[68]

According to a recent report published by the Carnegie Endowment and the Baker Institute for Public Policy, the parameters for the two-state solution are long-established and do not need to be re-invented. The parameters include: establishing a just and lasting peace in accordance with UNSC Resolutions 242 and 338, which would entail a withdrawal of Israel armed forces from territories occupied in the recent conflict; a termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every state in the area, their right to live in peace and security and recognized boundaries from threats or acts of force, and a just settlement of the refugee problem. The borders would be based on 4 June 1967 with agreed modifications including

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[67] The poll shows that "52 percent—supported the broad notion of a two-state solution, a steady decline from more than 70 percent in 2010 That figure includes Arab Israeli respondents who support two states by 83 percent; among Israeli Jews, just 46 percent supports this solution. If you show respondents the details of the traditional two-state plan developed in the 2000s, support sinks to a minority on both sides".

[68] Though the terms of the text titled "Peaceful settlement of the question of Palestine" (document A/73/L.32)— adopted by a recorded vote of 156 in favour to 8 against (Australia, Canada, Israel, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, United States) with 12 abstentions—the Assembly calls for intensified efforts by the parties, including through negotiations, to conclude a final peace settlement. It also calls upon Israel, the occupying power, to comply strictly with its obligations under international law and stresses the need for an immediate and complete cessation of all acts of violence (see also UNISPAL 2018; Begley 2016 and the EU position paper (Witney 2013)).

Jerusalem with full access to the holy sites and freedom of worship with the Old City to be under a 'special regime'. Security would entail a demilitarized Palestinian state, and the economic development of the Palestinian state with regional relations would be based on the 2002 Arab Peace Initiative.[69] The authors of the report opine that these general parameters should constitute the core of the peace plan and failure to address core issues will not lead to sustainable and lasting peace (Djerejian, Muasher and Brown 2018, pp. 5-7).

Arguably, the complexity might be in the details of these parameters. The language of the most official and non-official agreements reflects a continued superiority of Israeli sovereignty. At best, most of the solutions thus far reflect expanded self-rule in the guise of a Palestinian state (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). This model does not fit with the Weberian-Westphalian model of the state. Hence, there is the receding prospect of an independent Palestinian state to emerge as an outcome of the Oslo Agreements, which stimulated intellectual debate over other possibilities favouring a one-state option (Falah 2005; Inbar 2009; Lustick 2013). In this respect, proponents of the one-state option claim that it has become the *de-facto* option (Hilal 2007b; Faris 2013; Farsakh 2011, p. 55; Lustick 2014; Tilley 2003, p. 8). One straightforward indication of the "inevitability" of the one-state solution is that it is impossible to separate the infrastructure within Palestine-Israel (Participant 19, Israeli-American peace activist, 2018; Participant 27, expert, advisor on Area C at the PMO, 2017; Participant 51, thinker-philosopher -founder of the Technical Committees at the Orient House, 2018). Ironically, others argue that the situation is neither a two-state

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[69] Goldstien and Telhami (2011) consider that a revival of the Arab Peace Initiative and re-focus on international legitimacy is seen as a positive step for Israel and the Palestinians, if there is a revival of UN Resolution 1397 passed in 2002. The Resolution was adopted by the Security Council at its 4489th meeting on 12 March 2002. The significance of the resolution is that it recalls the Security Council's previous relevant Resolutions, in particular Resolutions 242 (1967) and 338 (1973), and affirms a vision of a region where two states, Israel and Palestine, live side by side within secure and recognized borders (see UNSC 2002).

solution nor a one-state or one democratic state solution due to the 'creeping annexation'[70] of the West Bank (Yiftachel 2005, p. 125; Halper 2019).[71]

The debate over the one-state solution often described as the bi-national state or the one democratic state resurfaced in 1999 when prospects for a successfully negotiated independent Palestinian state were withering away with the failure of the 2000 Camp David negotiations.[72] Palestinian proponents of the one-state solution claim that the current situation is a *de facto* one-state or single state. They believe that it is the only way to end the conflict and that it would grant equal rights for both Palestinians and Israelis, and, hence, would not be harmful to Israel by design (Farsakh 2011, p. 1; Participant 51, thinker-philosopher -founder of the Technical Committees at the Orient House, 2018). Contrariwise, many Israelis see the one-state solution as a threat to the Jewish character of the state and demography (Morris 2009), this explains the constant Israeli promotion of the two-state solution based on demographic separation (Participant 56, Israeli economist, key player in the Oslo Accords, 2018; Participant 57, Israeli politician, key player in the Oslo Accords, 2018). However, the one-state solution may be too complicated beyond the fact that a seemingly current apartheid situation may lead to a bi-national state (ESCWA 2017).[73] It is hard to imagine that Palestinians would forgo their national aspiration for a state of their own and would risk this for the undertaking of a bi-national state given the political, institutional and economic superiority of the State of Israel. For instance, Frisch (1998) argues that in order to merge structures there is a need for larger political and functional parity in the sense of capabilities and not only in the sense of having equal rights. He further suggests that post-apartheid institutional structures in South

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[70] Current scholarship especially by Palestinian researchers from Israel has been using this term to describe the depth and danger of Israeli settlement policies and the current tendency to legalize it. According to the Nakba Files.org, this term is mainly used to "show the disapproval at Israel's refusal to respect the Palestinian right to self-determination … or more often in the case as used by Israelis as a warning of the future non-viability of the two-state solution" (Nakba Files 2017). For a more thorough insight into the legal implications of the term and, hence, Israel's *de facto* annexation policy, see Dajani (2017).

[71] See The People's Forum 2019.

[72] It may be fitting to mention that the idea of a one democratic state has not been alien to Palestinian thinking (Milstein and Issacharoff 2019). It was Nabil Shaath a veteran politician and member of the PLO who pioneered the proposal for the establishment of one democratic state where Palestinians and Jews enjoy equal rights and live together in a progressive democratic society (Interview with Nabil Shaath August 2018)

[73] The ESCWA report was the first UN report that explicitly implicate Israel as an apartheid state. The report stirred outrage at the UN on the basis that it was not approved and does not represent the opinion of the UN Secretary General. The US representative to the UN at the time accused the report of being biased against Israel. Internal UN controversies led to the resignation of the ESCWA Secretary General, former Minister of Planning in Jordan.

Africa may be illuminating to understand such complexities and concludes that the biggest challenge for Palestinian statehood remains the territorializing of this statehood upon which options such as a federation or a confederation might be contemplated (Frisch 1998, pp. 1-15).

Notwithstanding, it may be said that the discourse of the two-state solution has been maintained despite all indications of its non-viability. Both sides have been using the discourse as a constant, at least toward the international community and their population.[74] Palestinians have continued to base their statehood claim on a two-state solution, in line with international legitimacy despite the overriding Israel vision of the nature and content of the Palestinian state as a borderless, territorially non-sovereign and de-militarized state under continuing Israeli military occupation. Nevertheless, when it comes to the Israeli side, the adoption of the two-state solution discourse has earned it international legitimacy with further Arab acceptance beyond the requirements of the 2002 Arab Peace Initiative, which necessitated a resolution to the Palestine problem in return for recognition and peace (Participant 57, Israeli politician, key player in the Oslo Accords, 2018).

The Oslo Agreements opened the door for Israel's diplomacy and economic relations with third parties, in addition to its diplomatic out-reach and influence on US policies (Mearsheimer and Walt 2006, p. 39). Indeed, Pappé (2013) claims that keeping the discourse of the two-state solution and the peace process alive was just a cover for the Zionist goals and ideology with there being no difference between left and right Zionism, including Meretz and the Peace Camps. The only difference that he sees is in their public relations that has been convincing to the mainstream media, despite Israel's initial decision not to concede the West Bank and not to provide full rights to the Palestinians, which led to the current situation.[75]

Paradoxically, the "discourse of the two-state solution has been framed in such a way that enabled Israel to deepen its occupation" (Pappé 2013, p. 26). While the

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[74] It is noteworthy to point to the declining Israeli political interest in the Palestine issue as evident in the political agendas of the competing parties to the April 2019 Israeli elections (s ee, for instance, Harkov2019).

[75] Interview with Ilan Pappé: "The Zionist goal from the very beginning was to have as much of Palestine as possible with as few Palestinians in it as possible". International Solidarity Movement – Haifa, 2 July 2013. Available at: https://palsolidarity.org/2013/07/interview-with-ilan-pappe-the-zionist-goal-from-the-very-beginning-was-to-have-as-much-as-palestine-as-possible-with-as-few-palestinians-in-it-as-possible/. [Accessed 24 December 2018].

Palestinians embarked on establishing the institutions of self-rule in anticipation that the permanent status negotiations would lead to eventual territorial concessions, Israel embarked on a systematic process of territorial control that has rendered the prospects of a territorially viable Palestinian state almost impossible. Compared to other cases in history, where the colonizer allowed for a self-governing authority to evolve into a sovereign state, the design of Palestinian self-rule inherently implies that the ultimate decision to establish a Palestinian state, "if it can be contemplated at all, can only be proposed by permission of Israel and its patrons" (Lyoyd 2012, p. 59). The self-governing authority established under the Oslo Agreements entailed the devolution of limited powers and responsibilities, while Israel retained full territorial sovereignty inclusive of the control of the population residing within this territory. In the minds of the Israeli negotiators, the self-governing authority was a solution to political dissent resulting from the first Intifada that necessitated a peaceful solution rather than a transitional arrangement that would lead to decolonization or an end of the occupation (Gordon 2008, p. 170; Shlaim 2000, p. 466; Participant 44, senior official – Ministry of Interior, 2018).

Given the context, it is difficult to understand the PLO's stance regarding the two-state solution or even the hope for a negotiated agreement for that matter. This is an assumption that is hard to address theoretically as well as empirically (Participant 19, Israeli-American peace activist, 2018). The continuation of such a discourse reflects a mindset that is firmly in opposition with the reality of the current colonization of large parts of the West Bank, which renders any two-state solution an improbable vision. Moreover, should there be a miraculous change of mind on Israel's part, any expectation of a more independent entity does not turn the two-state solution into the final act of the conflict (Pappé 2017, p. 141). However, seen from a different angle, even though many Palestinians have come to the conclusion that the failure of the two-state solution does not necessarily entail the promotion of other options (Al-Najjar 2019, Rouhana 2017), the political leadership is convinced that abandoning the political demand for a two-state solution, even if they know it is unrealistic, will give Israel free reign in implementing its policies in the West Bank. Afterall they would give up an idea that is supported by the international community, at least on the declaratory level. Thus, many Palestinians are trapped within the declared support for a two-state solution without much prospects for its success and a contradicting reality on the ground (Rouhana 2017, pp. 40-2).

State and sovereignty are mutually constitutive concepts. States define the meaning of sovereignty through their engagement in practices of mutual recognition; practices that define both themselves and each other. From a territorial perspective, the idealized 'Westphalian' state has distinct boundaries, and its ideal of sovereignty emphasized the right of non-intervention and the inviolability of borders (Biersteker, 2002, p. 246). A state is an independent sovereign government exercising control over a specific spatially defined and bounded area, whose borders are usually clearly defined and internationally recognized by other states. States are tied to territory in a similar way to the Weberian state that is governed by a central authority with a monopoly over its functions within that territory including the use of violence, laws, rules and regulations.

"The nation-state is a type of state that conjoins the political entity of a state to the cultural entity of a nation, from which it aims to derive its political legitimacy from ruling and potentially its status as a sovereign state if one accepts the declarative theory of statehood as opposed to the constitutive theory. A state is specifically a political and geopolitical entity, while a nation is a cultural and ethnic one. The term 'nation-state' implies that the two coincide, in that a state has chosen to adopt and endorse a specific cultural group as associated with it. In this sense, it can be said that the nation-state meets the criteria of the Westphalian state". (Boundless World History n.d.)

The reason for the state within a defined border is to serve its people, the nation; without the people, there is no need for a state, and without a state, the people cannot practice their right to self-determination. Therefore, the nation-state is the idea of a homogenous nation governed by its own sovereign state.[76]

In light of the above, we have established that the state, the Westphalian Weberian state, is not only the territorial state that enjoys international and external sovereignty, but it is also the nation-state, and the nation-state is also premised on the notion of self-determination. The notion of self-determination denotes the right to have a country. A country in this sense means the nation-state that exists in defined geography with a central administration and the capacity to protect the national

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[76] See State, nation and nation-state (n.d.) Geog 128. Geography of International Affairs. Available at: https://www.e-education.psu.edu/geog128/node/534. [Accessed 20 May 2019].

territory and national identity. Territoriality remains crucial to the nation-state; the country and the homeland where all work for the protection of the land and national identity. Whereas the Westphalian state is founded on territoriality, which entails the principle of non-interference and that "nothing should authorize intervention in matters essentially within the domestic jurisdiction of any state", we can understand the linkage between territorial sovereignty and self-determination. The state as a territorial space and geography "is the container of the national state and territoriality is a form of behaviour that uses a bounded space, a territory, as the instrument for a particular outcome" (Taylor 1994, p. 151). It is in this sense that we can also understand the intertwined link between territoriality and the principle of self-determination. Once the state has its territorial sovereignty and boundary, it can then decide the content of this territory, and how it will manage the people within this territory (Ibid).

To better understand the significance of territoriality to sovereignty and self-determination, we ought to be reminded by Krasner's explanation of sovereignty, in which he aptly combined all aspects that a sovereign nation-state requires. Krasner distinguished four aspects of sovereignty : domestic sovereignty denoting the notion that there should be no other sovereignty but the national authority; interdependence sovereignty denoting the notion of the actual control of movement across state's borders, assuming that borders exist; international legal sovereignty denoting formal recognition by other sovereign states; and Westphalian sovereignty denoting the lack of other authority over state other than the domestic authority (Krasner 2001, pp. 6-12). Theoretically, Krasner's classification of the four aspects of sovereignty helps us understand why nations aspire to have their own states. It helps us also to understand the Palestinian quest for statehood. For, statehood is always understood to reflect the ability or the condition of being or becoming a state. In this sense, the principle of sovereignty, inclusive of territorial sovereignty, is linked to internationally recognized statehood, which is a concept that remains at the heart of the international system. For, a state representing a country and a nation also opts to be part of the international system. Geographically, politically and socially, a state exists in a world system comprising the multitude of nation-states, and, therefore, nation-states opt to be recognized by international law, so that their sovereignty, territorial integrity and non-interference in their internal affairs are respected and guaranteed by international law.

When we try to compare this type of understanding of the state, its territoriality, sovereignty and the reason why it exists, to the Palestinian case, we can then understand the anomalous nature of Palestinian statehood. For, while Palestine is recognized by international law, its recognition remains incomplete as long as Israel continues to occupy its territory and as long as the international community is not ready to interfere on the basis of Chapter VII of the United Nations Charter that allows interference for the purpose of maintaining world peace and order (UN n.d.). But what concerns us most in this thesis is not only the fact that Palestine as a state is *de jure* recognized, or that it is trying to exist as a *de facto* state, but rather the circumstances surrounding the Palestinian quest for statehood. For, it may be easy to infer that the moment the PLO accepted to be recognized as the sole representative of the Palestinian people instead of having Israel recognize the right of the Palestinian people for self-determination, the Palestinian right to the nation-state was already forfeited.

The Oslo Agreements as we have seen were designed to fit with a local type of solution with specific civilian responsibilities but without any prospect for territorial sovereignty that could enable the Palestinians to practice their right to self-determination. Whether the PLO was aware of this major shortcoming of the Oslo Agreements or not, does not change the impact on the validity of continuing to claim the Palestinian right to territorial sovereignty based on the 1967 borders. With the fact that the PLO accepted to base the claim to fulfil its national aspiration on the principles of UNSC 242 and UNGA 194, it had already given up the notion of the territorial nation-state. The nation-state that would have been established and would have ensured the claim of the national right of Palestinian refugees as well as the idea that the state would have been for all the Palestinian people, irrespective of where they live. Had the Palestinian leadership accepted UNGA 181 of 1947 and called for the partition of Palestine into Arab and Jewish states with the city of Jerusalem as a *corpus separatum* to be governed by a special international regime, perhaps they would have been able to establish their nation-state. Obviously, this Resolution was the one that clearly delineated the two-state solution and not UNSC 242, which has been used in the discourse at least since the 1991 Madrid Peace Conference. If we accept this explanation, then we can understand the backdrop of the contradictions inherent in the interpretation and the implementation of UNSC 242. The flexible nature of the

Resolution, mostly intentionally designed by the people who actually drafted it, has given Israel the freedom to consolidate its claim as a *force majeure* over the territory and, therefore, given rise to the Palestinian acquiescence to the Israeli vision of the solution.

Additionally, there seem to be two problems regarding the possibility of a just two-state solution based on the principle of sharing the land between two national entities. The first problem is the fact that it seems complicated to contemplate a revision of UN Resolutions and the enforcement of the solution as per UNGA 181. This revision seems impossible as long as current international legality rests on the guiding principles of UNSC 242 and the notion of land for peace that has in a way superseded the original decision on how to divide the territory for two peoples—in which case, the chances of having a territorially viable state has become almost impossible. The second problem is the fact that the PLO does not seem to have a clear vision of the territorial boundaries it is talking about, despite the constant political discourse on establishing the state on the borders of 1967. It is also not clear for the people where the borders of the aspired Palestinian state would be, as long as the PLO has already agreed to the principle of land swaps while retaining the large settlements in the West Bank. By accepting the principle of land swaps, the PLO has already given Israel the permission (which it did not really need) to resume its annexation policy in the West Bank. This notion of land swaps entails the endorsement of Israel's extraterritorial expansion, which has also been implicitly endorsed by many in the international community as evident in the position that a bilaterally negotiated agreement will have to take into consideration the new facts on the ground; namely, Israel's settlement expansion especially in the West Bank and Jerusalem. Indeed, although the UNGA's vote in favour of the two-state solution is quite impressive from a moral point of view, in a complex world system and given the absence of enforcement by international law especially when it comes to the Palestine case, the silence of the international system over the extraterritorial expansion of Israel sends a message that Israel can continue doing whatever it is doing. This type of implicit acceptance of *fait accompli* has given Israel a free hand to systematically, incrementally create its own territorial space and concept of the state in contravention of international law.

The empirical chapters try to illuminate this type of anomaly and especially that the Palestinian Authority, despite all the above contradiction claims to want to establish

a de facto state. The key idea is to try and revert to the main question regarding the *raison d'être* of the Palestinian Authority and its state-building project. Theoretically speaking, there is a need to answer the question whether its state-building project will lead to the aspired state and if not, then there is the need to answer the question about any other purpose of this state-building endeavour.

Conclusion

What is intriguing about the failure of the notion of the two-state solution thus far is that contextual analysis or in better words a historical re-analysis of Israel's initial view of the nature and substance of any future Palestinian entity has been constant and was based on the acquisition of the land with the least people, hence, focused on territorial exclusivity that has been at the heart of the Zionist movement. However, continued focus on the viability or the non-viability of the two-state solution, whether by scholars, politicians, think tanks or activists may have diverted attention from the real issue. It can be said that Israel's intention never was peace nor Palestinian statehood with "the right who are satisfied with the *status quo* and the left who fell in love with an unachievable peace" (Finchman 2015; Participant 4, prominent Israeli journalist, 2018). Evidently, the idea of a two-state solution has never been on the Israeli agenda. In a way, it can be said that the current Israeli discourse on the future of the Palestinians has moved beyond the two-states solution simply because there is no significant political party within the Zionist spectrum in Israel that accepts full Palestinian independence in the West Bank and Gaza (Rouhana 2017, p. 41). On the contrary, it seems that there is a growing position in Israel that favours "the new state solution" that postulates the establishment of a Palestinian state only in Gaza, which also seems aligned with the speculations of Trump's 'Deal of the Century'. However, this state would not enjoy real territorial sovereignty or sovereign borders, since Israel will retain military control over land, sea and air (cf. Peri, Avivi and Anthony 2019; New State Solution n.d.).

Consequently, the Israeli perception of a Palestinian entity has been limited to contained self-rule devoid of any territorial sovereignty, especially in the West Bank. Twenty-five years after the establishment of the PA, the analysis of the outcome of the Oslo Agreements is a mere proof of the victory of the Israeli vision over Palestinian aspirations. More importantly, the current Israeli leadership is looking for ways to

guarantee the continued incorporation of the most significant portions of the West Bank into Israel and to guarantee full and permanent domination of the Palestinians to thwart their ability to challenge its policies (Rouhana 2017, p. 42). In this respect, it might be that the conclusion for this chapter should be rephrased as "now that empirical evidence of continued territorial expansion, continued military occupation and imposition of *fait-accompli*, the discourse of the two-state solution has been unravelled along with the unlikelihood of the possibility of a bi-national state" (Inbar 2009, p. 265). This is why there is a need for a new analytical framework, a transformative, liberating research agenda that best explains the actual conceptual background of the conflict (Salamanca, Rabie, and Samour 2012, p. 12).

In sum, this chapter tried to illuminate specific historical facts and political analysis regarding the inherent contradictions of the two-state solution, presumably the central guiding principle in international law to end the conflict. It has been the basis upon which the Oslo Agreements were signed. In this sense, we are left with two competing interpretations though varying in their impact on the trajectory of Palestinian statehood. For instance, "while Israel's position has been constant in preventing Palestinian statehood, Palestinians want to defy the Israeli position politically and endeavour to continuously, gradually and incrementally challenge it" (Participant 60, independent politician, senior official from Gaza, 2018). The following chapter examines Palestinian efforts to challenge the Israeli position. In particular, it examines the extent to which the Palestinian approach to state-building policy in general and as envisaged by the Fayyad plan in particular advanced Palestinian statehood.

CHAPTER FOUR: THE FAYYAD PLAN "ENDING THE OCCUPATION—ESTABLISHING THE STATE"

Introduction

The previous chapter endeavoured to contextualize Palestinian statehood and reviewed the validity of the assumption of the two-state solution, its controversies and its actualization in the form of the Oslo Agreements. This chapter reviews the context within which the Palestinian approach to state-building policy has been taking place. It mainly focuses on how the Fayyad Plan fits within the Palestinian Authority's state-building efforts since its establishment in 1994. Based on this review, the chapter tries to understand the underlying assumptions of the Plan and whether it offers a different approach to advance Palestinian statehood. Based on a large number of interviews with politicians, government officials and prominent Palestinian economic and social scientists, I argue that although the Plan posited a discourse of state-building, it did not bring anything new but rather was a reflection of the continued approach of the Palestinian Authority's institution-building effort, which focused mainly on security, the economy and service provision and only successfully fulfilled this role post-second Intifada and the Road Map for Peace in the Middle East. I conclude that the Plan presents yet another approach based on the flawed assumption that state-building under occupation eventually bolsters Palestinian statehood.

4.1. Institution-building in the context of the Oslo Agreements

This section reviews the nature of the Palestinian Authority's functions within the framework of the Oslo Agreements and aims to understand the underlying assumptions of the Fayyad state-building approach better. The establishment of the Palestinian 'Council' as per the Declaration of Principles (Oslo Accords 1993, DoP, Art. IV), entailed the creation of an institutional structure almost from scratch. For, unlike the governance experience of post-colonial countries, Palestinians neither inherited the colonial administrative system nor had adequate knowledge of the occupation's administrative system and policies (Participant 14, political figure, ex-minister – served during several governments including the last Fayyad government, 2018). As a result, since 1993, the Palestinian Authority had to coordinate its institutional structures with the Israeli Civil Administration for the transfer of functional powers and responsibilities in the delegated areas of responsibility. Its relationship

with Israel was managed through the Joint Civil Affairs Committee (CAC) (Participant 40, ex-minister in several Palestinian governments, one of the founders of the Technical Committees at the Orient House, 2018). The CAC was established in accordance with Annex III of the Israeli-Palestinian Interim Agreement on the West Bank, and the Gaza Strip and the Protocol Concerning Civil Affairs (Israel Ministry of Foreign Affairs 1995) It operates under the Israeli Civil Administration which is a unit that is part of the Israeli Ministry of Defence charged with the management of Israeli affairs in the occupied territories. The Israeli Civil Administration was initially called the Israeli Military Administration and was only transformed in the early 1980s, despite the fact that this type of administration—namely a military occupation administration with a civilian flavour—is not common in cases of military occupation under international law (Camron 2016). Under the Israeli Civil Administration, the Coordination Office for Government Activities in the Territories (COGAT) has the mandate to coordinate all civilian matters, including the issuance of movement permits and coordination with the Palestinian Authority and international organizations working in the occupied territories/ Palestinian Authority.[77] The COGAT maintains offices in the major cities of the West Bank as well at the Eretz checkpoint in Gaza. Although the Oslo Agreements stipulated the dissolution of the Israeli Civil Administration Authority and the withdrawal of military government upon the inauguration of the 'Council' in two instances, namely, Article VII (5) DoP (Oslo I) and Chapter 1, Article I(5) Oslo II Accords (Oslo Accords 1993, DoP, Art. VII(5); Israel Ministry of Foreign Affairs 1995, Chap. 1, Art. I(5)), it remained part of the COGAT. As a result, the CAC as a joint coordination mechanism remains in place to this date, irrespective of the ups and downs in the political relationship between the Palestinian Authority and Israel.

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[77] See Illustration 2: Structure of the COGAT office and Appendix 8: Structure of the civil branch of the West Bank's military government.
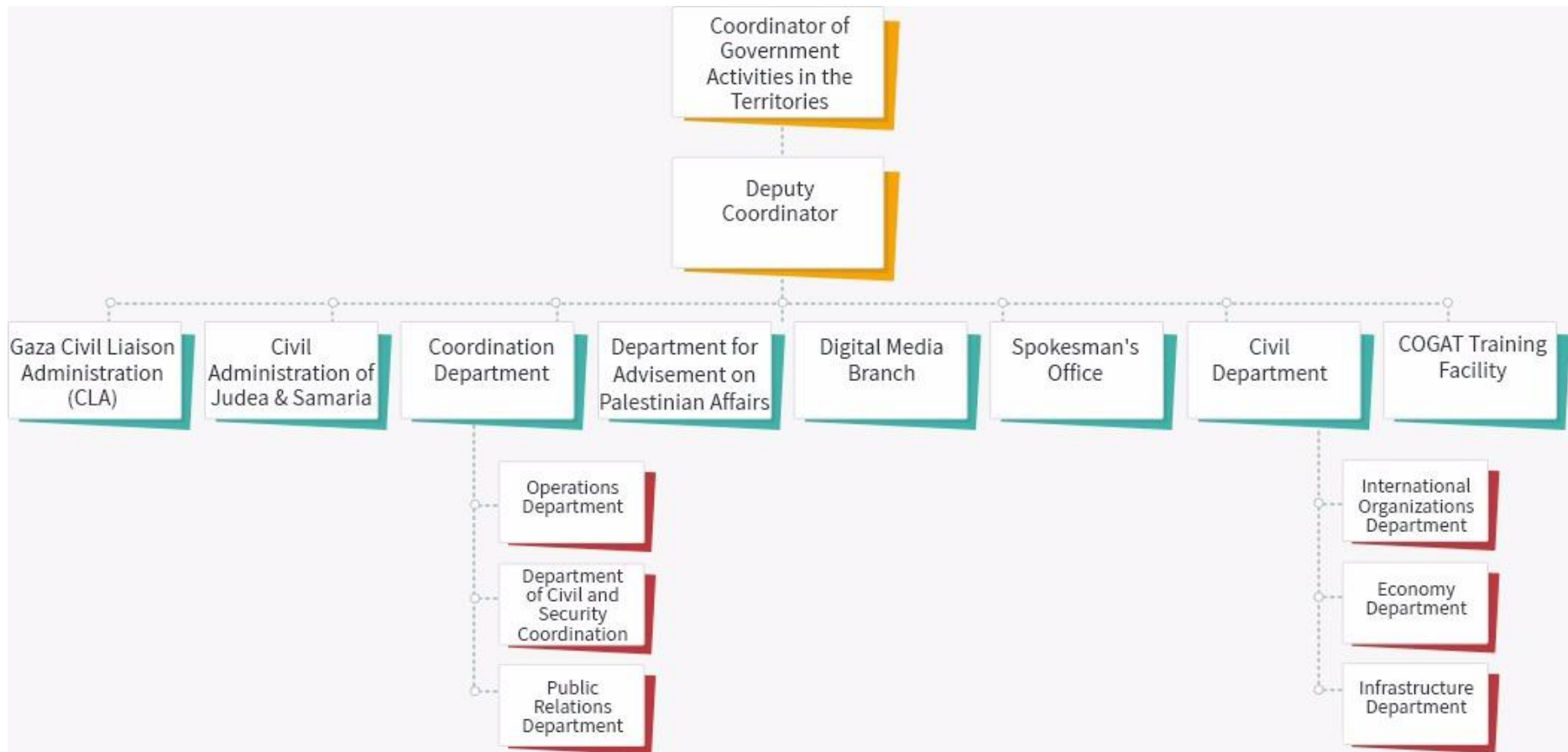
Illustration 2: Structure of the COGAT OFFICE. Available at: http://www.COGAT.mod.gov.il/en/about/Pages/default.aspx [Accessed 2 June 2019].

Area Commander

- Internal Audit
- SO Litigation
- Arab Affairs Advisor
- Foreign Minister Advisor
- Police Liaison Office
- Legal Advisor
- SO for Public Affairs
- Liaison with Authorities

Head, Economic Branch
- Comm. & Industry
  - Quarries
- Customs
  - Insurance
- Treasury
- Water
  - Housing
- Transport
  - Custodian
- Agriculture
  - Fuel
- Employment
  - Tourism
- Labor
  - Statistics

Head, Services Branch
- Personnel
  - Nature Reserves
- Postal Engineer
  - National Parks
- Post, Telephone
  - Antiquities
- Power
  - Prisons
- Education
  - Courts
- Health
  - Welfare
- Interior
  - Religions

Districts:
- Jordan District
- Jenin District
- Tulkarm District
- Nablus District
- Ramallah District
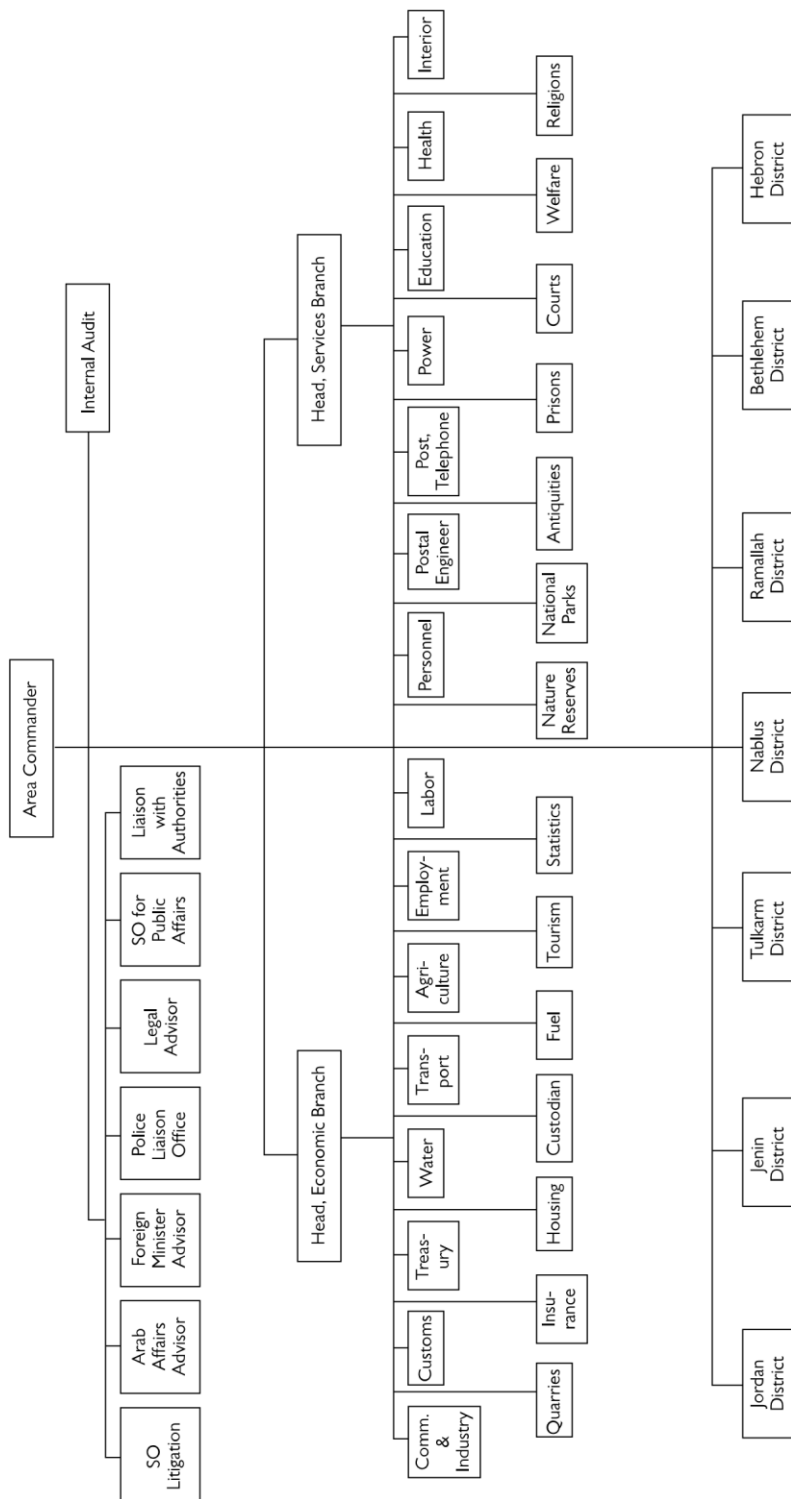- Bethlehem District
- Hebron District

Illustration 3: Structure of the Civil Branch of the West Bank's Military Government (Gordon 2008, p. 227-28).

Through the CAC, Israel has the authority to approve and disapprove matters regarding every aspect of civil, economic and security matters relating to Palestinians residing in the West Bank and Gaza. The CAC was designed to ensure that devolved powers and responsibilities remain in sync with Israeli laws and regulations about the West Bank and Gaza (Participant 55, official at the Ministry of Interior, 2017). Annex III, Article 1(b) states that: "The CAC will function with regard to policy matters under the direction of the Joint Liaison Committee (JLC), with ongoing coordination being provided by the Monitoring and Steering Committee" (Israel Ministry of Foreign Affairs 1995). In this respect, it might be useful to reflect upon the concept of 'coordination' in the Oslo Agreements. Coordination in this sense becomes "an engineered forced process, performed to integrate different activities of organizational or institutional set-up and synchronize them with the overall objective, rules and regulations of the coordinating authority".[78] Consequently, coordination usually favours the party setting up the rules rather than the party abiding by the rules (Participant 55, official at the Ministry of Interior, 2017).

This type of unequal coordination relationship has led to the institutionalization of the occupation's system of control over the Palestinian Authority. It is the result of the initial design of the Oslo Agreements that entailed the enforcement of a sophisticated administrative and legal machinery of the occupation's government regularly and unilaterally updated without any form of consultation with the Palestinian Authority. This condition leads to a continuous institutional asymmetry and a lack of capacity to keep abreast with the institutional dynamics of the occupation's operative system in the occupied territories on the part of the Palestinian Authority. It is essential to point out that this institutional asymmetry has not been fully captured by state-building literature analyzing the Palestine situation; it remains thus far under-theorized despite some indicative studies (Bouillon 2004; Jornen 2017; Selby 2003).[79] There

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[78] Concepts and Features of Coordination. Available at: https://www.toppr.com/guides/business-management-and-entrepreneurship/direction-and-coordination/concept-and-features-of-coordination/. [Accessed 5 March 2018].

[79] Mikko Jornen (2017) writes about the "peculiar logic of Israeli government state apparatuses to control the Palestinian population and colonization of the West Bank". Jan Selby (2003) writes about the Israeli domination on the proceedings of the joint water committee and the asymmetry of power and Israeli blackmail of the

has not been much research on the dynamics of interaction between both sides at the institutional level, especially when it comes to enforcing specific policies onto the Palestinian Authority or how the latter stumbles upon Israeli interpretations of the Oslo Agreements or the evolving military rules applicable in the West Bank and Gaza. For instance, research on state-building in Palestine has concluded that the Palestinian Authority has become a sub-contractor for the occupation (Hilal 2018; Tartir 2015a), though this does not provide much insight into the everyday intricacies of interaction between the occupation authorities and the Palestinian Authorities under the guise of coordination of activities. The following chapter on Area C is intended to illuminate this anomalous relationship between the occupation authority and the Palestinian Authority.

For, although the COGAT was supposed to have an indirect governance role in the West Bank and Gaza, its mandate has become even more permanent during the past twenty-five years. A most telling example about this permanency and superiority has been revealed by a Palestinian staff working in the GOGAT office in Ramallah, which is the *de facto* seat of the Palestinian Authority in the West Bank. He referred to the office of the Israeli Civil Administration as "the State is here in Beit El, … do not think it is in the *Muqata'a*, it is here where all decisions are being made!".[80] In reality, the Israeli Civil Administration is still in charge of the actual administration of the West Bank despite the devolution of certain powers and responsibilities to the Palestinian Authority (Benvenisti 2012). To further accentuate the ostensible permanence of the Israeli presence in the West Bank, the Israeli Cabinet has published its decision taken on 25 March 2018 to extend the military service of the Israeli Government Coordination

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Palestinian Authority to concede to the expansion of settlements in return for some rights of access to water in the West Bank. Markus E. Bouillon (2004) writes about the ramifications of the creation of unequal opportunities through the nurturing of an elite business strata benefiting from the system of privileges to business people. In fact, it would be worthwhile to do a thorough study on the growing type of symbiosis between the occupier and the Palestinian Authority even under the current situation of systematic de-legitimization of the Palestinian Authority by the Israeli government.

[80] The COGAT office in the West Bank is based in a settlement called Beit El, hence, the Palestinians have been using this expression to denote the office. *Muqata'a* is an Arabic word denoting the administrative Centre. It is the premises of the Palestinian Presidency in Ramallah. It was used as an office of the Israeli civil administration before Oslo and has become the official office of the Palestinian Authority since 1995. Note that as Appendix 8 on the structure of the civil branch of the West Bank's military government indicates, there is an Israeli officer directing each department, while almost all the staff and employees were Palestinians, nothing much has changed to this date (Gordon 2008, p. 227).

General, Youave Mordechai, whose tenure was supposed to end in mid-April 2018 under the Agreements' stipulation.

On another note, it is essential to point out that to this date, there has not been any substantial change to the Israeli operative system vis-à-vis in the West Bank and Gaza, mainly because the signing of the Oslo Agreements did not alter their legal status from the perspective of the occupation authorities (Suciu and Yehuda 2011, p. 6). Although international law considers both the West Bank and the Gaza Strip occupied territories, Israel negates this fact with arguments that differ slightly with regard to the territorial aspect of each. Falk (2002) maintains that "despite the illegality of Israel's occupation and continuous violations to international law as well as the international humanitarian law and Geneva Conventions, Israel continues disregarding this on the basis that it considers the West Bank and Gaza as 'disputed territories'" (Falk 2002, p. 22). Israel continues to consider the West Bank as part of its territorial sovereignty and negates that it is occupied. This is proven by the fact that the Israeli authorities continue to delineate the West Bank as Judea and Samaria in geographic maps, government rules and political discourse and continue to maintain the institutional structure of the Israeli Civil Administration in the West Bank and Gaza.[81] Besides, although Israel claims that it ended its occupation of the Gaza Strip with the 2005 Gaza Disengagement Plan, it continues to control the Gaza borders, airspace and sea except for the Rafah crossing point with Egypt.

It is within this context that the institutions of the Palestinian Authority have been established and continue to operate, from the signing of the Oslo Agreements in 1993 to this very day. Accordingly, the Declaration of Principles on the Interim Self-government Arrangements shaped the fundamental role of the Palestinian Authority, which primarily focused on security, economic development and civilian responsibilities. And although the Palestinian Authority was supposed to be established as an interim authority, the lack of an agreement on the permanent status

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[81] Judea and Samaria is the Israeli government term designating the West Bank, after it was captured in 1967. The term is the ancient name after the ancient kingdom of Israel, Samaria being the northern kingdom and Judea being the southern kingdom (see, for instance, the website of the Office of Coordination of Government Activities in the Territories (Coordination Office of Government Activities in the Territories (COGAT) n.d.). Moreover, in 2012, the Netanyahu government commissioned a report on the legal status of Judea and Samaria to facilitate the legalization of the construction of illegal outposts in the West Bank. The Commission concluded that Judea and Samaria are not occupied territories but rather comprise part of the State of Israel (UNISPAL 2012).

negotiations has maintained its functions, which were initially designed only for the interim period (Participant 63, senior Fatah member, senior official at the Ministry of Local Government, 2017).

Nonetheless, as it has been pointed out in the previous chapter, the Palestinian Authority's assumption of the *de facto* state rests on the idea of the creation of institutions despite the limitations of the Oslo Agreements. For instance, despite the fact that there has been exponential expansion of Palestinian institutions, ministries and non-ministerial agencies now considered part of the State of Palestine, the functional aspect of the Palestinian Authority remained the same: a coordination role focused on the delegated powers and responsibilities in limited areas without any meaningful territorial sovereignty (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). Ironically, despite the fact that the Declaration of Principles stated that the interim self-governing authority, the 'Council', would be comprised of only 82 members mainly to have an administrative power over the population's affairs, and later designated it as 'the Palestinian Authority' in the Oslo II Agreements (Israel Ministry of Foreign Affairs 1995, Chap. 1, Art. I-IX), the Palestinian Authority changed its title to 'the 'Palestinian National Authority' immediately after its inauguration in 1995 and later to the 'State of Palestine' upon the granting of UN observer status in November 2012. Although this name change might seem irrelevant to people living outside the West Bank and Gaza, it has a variety of meanings and implications for the status of the Palestinian Authority from the perspective of its relationship with the occupying power.

Israel continues to consider the Palestinian Authority only as it is outlined in the Oslo Agreements and maintains its relationship with it on that basis. The Israeli restriction of Palestinian Authority jurisdiction to only the West Bank and Gaza signifies the prevention of the establishment of a Palestinian territorial state/ nation-state that would become the homeland for all Palestinians (Oslo Accord 1993, Annex III, Art. IV). The restrictions on the Palestinian Authority's jurisdiction and political title also signify the Israeli intention to prevent the presumably interim self-rule from emerging into an independent state. There are numerous examples indicating the actual status of the Palestinian Authority from the perspective of the occupation; this basic condition has not changed since the signing of the Oslo Agreements. Two such examples might give an indication of the reality on the ground. A look at the official website of the

Coordinator of Government Activities in the Territories (COGAT). which is the central coordinating body of the Palestinian civilian affairs, provides evidence on Israel's position regarding the administrative and legal status of the Palestinian Authority as well as its functions as per the Oslo Agreements.[82]

This being said, the COGAT's official counterpart in the Palestinian Authority is the General Authority for Civil Affairs (GACA) whose mandate is to liaise with the Israeli Civil Administration/ COGAT on all matters pertaining to the civil aspects of the Palestinian population in the West Bank and the Gaza Strip.[83] What is confusing in this instance, at least to the general Palestinian public, is the fact that unlike most of the Palestinian ministries, the GACA maintains its functions under the title of the "Palestinian Authority" and not the "State of Palestine". This signifies that the most vital coordinating body between the Palestinian Authority and the Israeli occupation authority—one that reports directly to the President of the Palestinian Authority—is not part of the Palestinian official government structure, i.e., the ministries supposedly created in defiance of the limitations of the functions of the 'Council' as per the Oslo Agreements (Participant 39, veteran politician/ PLO-central committee member, 2018). Although there is a strong view among some Palestinian officials that transforming the 'Council' into the 'Palestinian Authority' has been a significant breakthrough in Israeli-Palestinian negotiations (Participant 3, Fatah leader, ex-Prime Minister, one of the principal negotiators of the Oslo Agreements, 2018; Participant 39, veteran politician, PLO-central committee member, 2018), others believe that the 'Council' was supposed to reflect the functional limitations of self-rule, given that its role in the Israeli mindset was administrative rather than legislative. They maintain that Israel allowed for elections to take place upon the inauguration of the 'Council' to ensure it as a form of endorsement of the functions of the self-governing authority rather than allow for an all-inclusive democratic process to take place in the Palestinian territories (Participant 41, civil society activist, expert in international law and

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[82] See homepage of the Coordinator of Government Activities in the Territories-Israeli Ministry of Defence. Available at: http://www.COGAT.mod.gov.il/en/Pages/homepage.aspx. [Accessed 1 January 2018]. See Appendix 7: Structure of the COGAT Office.

[83] See homepage of the Palestinian General Authority for Civil Affairs (GACA). n.d. [Arabic]. Available at: http://gaca.gov.ps/StaticPage.aspx?id=2. [Accessed 1 January 2018].

international humanitarian law, 2018; Participant 47, Palestinian activist and head of Jerusalem-based NGO, 2018).

As a matter of fact, the GACA's mandate as the central coordinating body between the Palestinian Authority and the Israeli Civil Administration Authority gives it more power than other ministries. Compared to the Palestinian ministries, the actual role of the GACA exposes the ambiguities the Palestinian Authority's focus on using symbolic features of a state creates while being limited by the parameters of the Oslo. Ironically, the change of name of the Palestinian Authority is of no significance to Israel, as long as there is a separation between Israel and the Palestinians that can ensure that Israel maintains its Jewish identity, keeps its territorial sovereignty intact all over the country and ensures that Jerusalem remains the united and eternal capital of the State of Israel (Participant 57, Israeli politician – key player in the Oslo Accords, 2018).

The second example regards Abbas' presidential decree to replace "Palestinian National Authority" with "The State of Palestine" in all official documents, ministry banners and embassies (Institute of Palestine Studies 2013). This decree was issued upon the United Nations General Assembly's decision no 11317/2012 (UNGA 2012) to upgrade the status of the PLO mission to the UN to the permanent observer mission of the State of Palestine at the United Nations. Paradoxically (UNGA Press 2012), the Palestinian Authority's official news agency WAFA (2013) reported that "President Mahmoud Abbas issued a decree on Sunday giving instructions to the government to start using the term 'State of Palestine' instead of the term 'Palestinian National Authority' on all official documents including passports, identity cards, population registration, driving licenses and other documents". This message by the official news agency can be confusing to the general public given that in reality, while Israel continues to control the population registry, all those official documents hold the name of the 'Palestinian Authority' and cannot be issued by the Palestinian Ministry of Interior unless approved by Israel. This makes the Palestinian Ministry operate as a messenger between the Israeli Civil Administration Authority and the Palestinian population (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). This situation has not changed since the designation of the Palestinian Authority as the 'State of Palestine'. On the contrary, the day-to-day life of Palestinians has become more complicated even in Area A in the

West Bank, where the Palestinian Authority is supposed to have a significant level of direct control over the population. In many ways, this signifies the actual state of the Palestinian entity and most likely its future within the context of occupation.

The examples above are essential to understand the meaning of the Palestinian state-building endeavour and what it entails for the future of the Palestinian quest for statehood. In view of the above-mentioned, the following section looks into the Palestinian experience of state-building. It should be noted that while the Palestinian Authority's experience has been interpreted through the lens of state-building theories, we need to include into our analysis three concepts, state formation, state-making, state-building and institution building if we are to capture the complexity of state-building as a path to statehood under occupation.

In general, state-building theories provide tools to assess existing states rather than states in the making. Eriksen (2011) maintained that "if it is known that many states do not possess the properties that are associated with a particular conception of statehood (provision of services, sovereignty, monopoly of violence or whatever, one has to ask how useful it is to start with such a conception" (Eriksen 2011, p. 234). Theoretically speaking, the Palestinians have been undertaking a process of state formation, although not in the real sense of the word (Khan 2009a, p. 3). Sayegh (1997), for instance, argues that the PLO's state-building served a crucial function by 'territorializing' Palestinian nationalism and by firmly locating the project within the established formation of nation-states in the twentieth century (Sayigh 1997, p. 674), whereas Frisch (1998) argues that the PLO entered into the Oslo Agreements so as to resume the process of consolidating Palestinian statehood through territorializing (Frisch 1998, pp. 1-13). Kanafani (2011) on the other side suggests that the Palestinian Authority's strategy to create institutions before the attainment of sovereignty is problematic since it entails having functioning institutions as a precondition for rather than a consequence of political independence. He maintains that the most controversial element of this strategy is that it assumes the abandonment of all forms of armed struggle as a means of pressuring Israel to accept Palestinian rights.

In reality, having accepted to disrupt the process of state-making to establish the interim self-governing authority, the PLO has already forfeited its state-making

process for what has been perceived as a state-building enterprise under occupation. Following this line of thought, we should keep in mind that the idea of an interim or transitional self-governing authority may not have been exclusive to the Israeli mindset, as we have seen in the previous chapter about the linkage to 'autonomy' suggested in the Framework Agreement of the 1978 Camp David Accords. The establishment of an interim Palestinian Self-Governing Authority (PSGA) was also proposed by the Technical Committees working at the Orient House in the early 1990s. The PSGA reveals the initial readiness of the Palestinian leadership to accept transitional arrangements under continued Israeli territorial sovereignty, especially in the West Bank. Still, one can argue that moving its efforts for state-making from the exile to the homeland and agreeing to a local solution was the PLO's best alternative at the time, as argued in the previous chapter. Moreover, the devolution of powers and responsibilities to the Palestinian Authority did not entail a devolution of statehood, in reality, it was another enhanced version of the 1978 village leagues that Israel tried to advance and the PLO adamantly opposed (Camron 2016; Frisch1998, p. 37; Gordon 2008, p. 170).

Nonetheless, from the perspective of the Palestinian leadership, the Oslo Agreements provided the chance to proceed with a process of state formation by establishing the institutions of a central authority in the homeland and not in other countries or in exile (Sayigh 1997, preface). However, what the PLO considered to be planting the seeds for a central authority in Gaza first in 1995 and in the West Bank at a later stage has been shaped by the parameters of the self-governing authority. Accordingly, the PLO agreed to structure its governance institutions to assume its responsibility toward the population in those areas. Indeed, we are reminded of this fact by Imseis (2000), who recalls two significant pieces of analysis important to foster a better understanding of the parameters of the Oslo Agreements and of the institutional design of the Palestinian Authority. The first is of a political nature and date back to the early days of the Oslo Agreements. This is Edward Said's *Peace and its discontents: Gaza-Jericho, 1993-1995* in which he provides a political analysis predicting an illusionary peace process—a piece of analysis which was actually banned by the Palestinian Authority in 1996. The second contribution is Shehadeh's (1997) voluminous account of the Oslo Accords in: *From Occupation to Interim Accords*, which is a "scrupulous legal dissection" that went so the argument in the

opposite direction of what the Palestinian Authority aspired to (Imseis 2000, pp. 475-6).

Given this background, I find worthwhile discussing a couple of propositions put forward by Sayigh (1997) regarding the Palestinian state-building experience. The first one is his idea that the Palestinians are in a continuous state-building process since 1948 (Sayigh 1997, preface). For, although there is a degree of truth in this description, the problem is with the meaning of the state that the Palestinians have been seeking and the manifestation of such a state as opposed to the limited self-rule that they have agreed to since 1993. The second one relates to his suggestion that the PLO "inherited a ready governmental apparatus in the form of the Israeli-run civil administration which facilitated the transition and emphasized a new stage in an established process of state-building" (Sayigh, 1997, p. ix). I contend that in reality, the Palestinian Authority did not inherit the Israeli system of administration but instead was asked to manage parts of the system under the responsibility of the Israeli Civil Administration Authority. The institutional and administrative system was not to be fully managed by the Palestinian Authority as is the case of post-colonial countries where the post-colonial country inherits a copy of the colonial institution (Eriksen 2011, p. 240). The Oslo Agreements maintained an organic relationship between the Israeli Civil Administration and the Palestinian Authority. In this respect, the primary differentiation in our case has to do with the ultimate purpose of establishing the institutional structure of interim self-rule.

This leads us to question the trajectory of Palestinian state-building under occupation. Indeed, this type of differentiation may seem confusing, as it is difficult to define the nature of the self-governing experience during the past twenty-five years. However, it may be the case that we can reduce confusion by omission. In this way, if we assume that it may be that in analyzing the Palestinian experience, we can depend on Fukuyama's definition of state-building, which achieved orthodoxy in the field as "creating or strengthening state institutions" (Fukuyama 2004a, p. ix). After this move, we need to ask the question of whether the institutions of the self-governing authority are state institutions or have the capabilities to evolve into state institutions. If we base our analysis on a consideration of the nature and content of the self-governing authority under occupation, then it may be feasible to adopt a definition based on the notion of institution-building rather than state-building. Consequently, we might

understand that the Palestinian Authority has been working relentlessly in order to consolidate the functions of the institutions of the self-rule so as to achieve an independent and sovereign state. If we follow this line of thought, then it would be easy to agree to Sayigh's claim that "the search for state shapes the articulation of goals, formulation of strategies, choice of organizational structures, and conduct of internal politics through much of the preceding struggle" (Sayigh 1997, p. viii). In this sense, finding the precise definition depends on the assumptions behind this process, on the one side, as well as the manner in which it has been perceived and assessed, on the other.

On another note, although knowing the limitations of the Oslo Agreements, the donors supported Palestinian institutions and not necessarily state-building. In this respect, it should be noted that along with the euphoria of the Oslo Agreements in 1993, there has also been another euphoria in the academic community, who found the Palestine experience a stimulating and attractive empirical and theoretical case of state-building. As a result, the use of the state-building analytic framework enhanced a particular state of mind, namely that the process of strengthening the institutions of the Palestinian Authority was presumed to lead to a full-fledged state in the guise of a Westphalian Weberian state—territorially sovereign with a central government acting within a defined territory. However, the problem has been—as continuously referred to throughout this thesis—that the intention of the Oslo Agreements never was to create a Palestinian territorial entity. As such, if we assume that the intention has always been to strengthen state institutions following Fukuyama's definition of state-building, then, if taken literally, state-building would not have been limited only to the notion of strengthening state institutions to provide better services to their citizens, such as rule of law, a good economy and so forth. Instead, it would have entailed strengthening the capacity of state institutions to perform their sovereign duties, which would entail the protection of sovereignty through the strengthening of institutions such as a ministry of defence and a ministry of foreign affairs. In this instance, the function of state institutions would mean strengthening state institutions that entail the protection of sovereignty. However, in the context of the Oslo Agreements, the Palestinian Authority was denied both sovereignty tasks, including defence and external relations.

It is no surprise that the drafting of the Oslo Agreements has been quite meticulous so as to prevent any possibility for an independent Palestinian state to emerge or even to have it become a legitimate international personality enjoying and practising full statehood rights. Security remains as a sub-function under the full control of the Israeli military, and although the Palestinian Authority has achieved substantial international recognition, actual recognition can only be translated into tangible results, when the occupation ends, and the territorial state becomes a *de facto* and *de jure* state altogether. For instance, despite the fact that the Palestinian Authority established the Ministry of Foreign Affairs and the Diaspora, Israel does not deal with it and consequently, although most of the foreign representative offices present their credentials to the President of the Palestinian Authority, they cannot operate or travel within the West Bank and Gaza or even enter the country without Israel's permission. And although the Ministry of Foreign Affairs has been signing bilateral and multilateral agreements with third countries, any agreement that concerns the movement of goods and people has to abide by the *de facto* customs union, which results from the Paris Economic Agreement maintaining Israel's supremacy on the borders and on almost all Palestinian economic and trade issues (Israel Ministry of Foreign Affairs 1995, Annex V). Besides, the fact that over two-thirds of UN member states currently recognize the State of Palestine is more indicative of a rhetorical commitment to the realization of Palestinian self-determination than anything else (Eden 2013, p. 234). In this respect, it can be inferred that the external support for the presumed Palestinian state-building enterprise was not meant to capacitate the respective state institutions, but instead was meant to enhance the institutional performance of the Palestinian Authority, simply because the institutions of the Palestinian Authority were not designed to evolve into sovereign institutions.

To trying to find a meaning that captures the Palestinian experience requires to understand what institution-building means. Institution building is a significant activity that has gained traction in the developing world and especially involves capacity building. SIDA defines institution building as "an attempt to improve the capacity of specific organizations or networks of organizations" (SIDA 1995, p. 14). UNDP defines institution building within the framework of capacity building as "aiding institutions in developing countries". However, the definition entails that institution-building should not involve creating new institutions but rather gradually modernizing existing

institutions and supporting them in forming sound policies, organizational structures and effective methods of management and revenue control (UNDP 2006, p 8). In this sense, institution-building under occupation connotes, at best, building the organizational and human capacity of institutions to fulfil specific functions but do not necessarily entail building sovereign capacity (Participant 1, political scientist – Annajah University, 2018; Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). In this sense, the institution-building of the Palestinian Authority becomes inherently different from institution building as a direct contribution to state-building (Firsch 2012, p. xi).

According to the Oslo Agreements, the Palestinian Authority is expected to fulfil three main functions for the Palestinians residing in the West Bank and Gaza excluding Jerusalem: a security function, an economic function; and a service provision function (Israel Ministry of Foreign Affairs 1995, Annex I, Annex, Annex III and Annex V). It is essential to mention the vital significance of the Palestinian Authority's functions in the West Bank rather than Gaza. The Gaza-Jericho Agreement in 1994 or what is referred to as Oso I Agreement (Israel Ministry of Foreign Affairs 1994) treated Gaza as one administrative unit that continued even after the Gaza Disengagement Plan, which resulted in some relative internal territorial capacity for the Palestinian Authority. However, the situation in the West Bank has been different. The Oslo II Agreement has divided the West Bank into three administrative units; Area A, B and C where the Palestinian Authority has various civilian functions. Israel withdrew its administration from the major population centres, while it continues to maintain overall territorial sovereignty in the whole of the West Bank (Israel Ministry of Foreign Affairs 1995, Annex I, Art. IV).

Added to the complexity of operating under the occupation's authority, the establishment of the Palestinian Authority was also accompanied by extensive external intervention, which in a way, although Palestine has many similarities with countries undergoing post-conflict state-building, was unique from the perspective of the international community's political motivation in supporting peacebuilding and the impact of their intervention on the shape and direction of the institutions of the Palestinian Authority (Brynen 2000, p. 7; Le More 2008). In a 'normal' post-conflict state-building process, there are two parties: the donors and the recipient country. In the case of Palestine, it is the donors, Israel and the Palestinian Authority, and this

type of trilateral relationship has made Palestinian statehood subject to contingent negotiations with the occupation authority and the international community (Turner 2013, p. 339). To bring some clarity to this issue, the mandate of the Ad Hoc Liaison Committee (AHLC) established in 1993 was designed to manage, support and enable the Palestinian Authority to fulfil its role under the Oslo Agreements (LACS 2017.[84] The AHLC is a coordination framework that clearly shows the role of external parties in building the Palestinian Authority's institutional infrastructure. However, it has not been a neutral coordination body, since Israel is party to its organizational structure. The gravity of this type of trilateral framework is best demonstrated by an inquiry into the political motivations behind the Road Map for Peace in the Middle East and the ensuing Quartet's role established in 2003.

As a matter of fact, bringing the significance of the Road Map for Peace to mind is essential for our understanding of the background of the Fayyad Plan. If we look at the most important milestones of the Road Map, then we can detect a lot of similarities, especially when it comes to the issue of conditionality imposed on the Palestinian Authority, namely to have institutional and security reforms as pre-requisites for statehood (US Department of State 2003). The promise to establish a state in three years was based on the Palestinian Authority's performance in the security sector as well as the Palestinian capacity to manage the day-to-day affairs of the population in the West Bank and Gaza after the destruction of Palestinian institutional structures upon the outbreak of the second Intifada. As a matter of fact, the performance-based Road Map for Peace entailed a rigorous conditionality based on three main pillars with the promise of sustaining the Palestinian Authority's institutional structure and preventing its imminent collapse at the time. The first pillar was the need for political system transformation, which in terms of *realpolitik* equates 'regime change' and which resulted in the creation of the post of Prime Minister under the guise of giving the Palestinian Authority's governance system a more transparent and accountable quality (Turner 2010, pp. 346-447). The second pillar entailed the reconfiguration of the Palestinian Authority's security role in abolishing 'terrorist infrastructure' post-

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[84] According to LACS official website (LACS 2017), the AHLC chaired by Norway was established in 1993 and is "a 15-member committee that serves as the principal policy level coordination mechanism for development assistance to the Palestinian people".

second Intifada, which included all violent actions against the occupation stemming from either Fatah or Hamas members (Ibid.).

Moreover, the third pillar encompassed institutional, administrative and financial reforms as well as support for economic development.[85] Consequently, while the actual framework of the Palestinian state-building remained within the parameters of the Oslo Agreements, it also became subject to external discretion. In many ways, the Road Map for Peace presents the background for the Fayyad Statehood Plan, especially when it comes to the latter's focus on institutional, economic and security reforms as pre-conditions for/ enablers of statehood. Having said this, one may argue that the Road Map for Peace was intertwined with Palestinian efforts to reinstitute the role of the central institutions (Tocci 2013, pp. 35-6; Participant 46, legal expert, ex-legal advisor to the PLO, 2018). This is not to say that Fayyad had a role in the design of the Road Map for Peace, but as a matter of fact, whether intentionally or unintentionally, he was a by-product of the process in 2003 and since he became the Minister of Finance in 2003 (Turner 2011, p. 14). Moreover, whether intentionally or unintentionally, with his Statehood Plan, he became a significant player in the external efforts of liberal peacebuilding, which required cooperation with Israel (Persson 2011, pp. 25-6). Joshi and Mac Ginty (2014) maintain that such an approach rests on three dimensions: a political dimension with elections, transitional justices and the rule of law; an economic dimension with a focus on economic development through marketization, liberalization and good governance; and a security dimension where security sector reform, human rights and human security are the main components (Joshi and Mac Ginty 2014, pp. 364-89).

For, despite the many scholarly analysis of the Plan as an innovative unilateral effort to leverage the Palestinian negotiating position toward recognition and statehood (Bröning 2011, p. 99), in reality, it was inherently designed as a response to the state-building/ peacebuilding approach led by the bifurcated structure of external intervention, namely Israel and the international community. Besides, it is essential to note that the Statehood Plan was constrained by the same parameters of the Oslo

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[85] According to the UNSCO office: "The Quartet for Peace in the Middle East was established upon the announcement of the Road Map for Peace in the Middle East (2002) and consists of the United Nations, the European Union, the United States and Russia. Its mandate is to help mediate Middle East peace negotiations and to support Palestinian economic development and institution-building in preparation for eventual statehood". Available at: https://unsco.unmissions.org/mideast-quartet. [Accessed 2 January 2019].

Agreements, and therefore, could not re-invent the wheel of Palestinian state-building (Brown 2010). For, aside from its political rhetoric and international prominence, it followed the same probationary path within the parameters of the Oslo operational framework. It was a continuation of a coordinated functional role within an institution designed to fulfil specific tasks and not more.

Nonetheless, theoretically speaking, Fayyad's Plan presumed the creation of a *de facto* state despite the occupation (Participant 17, senior policy advisor to Fayyad, 2018; Participant 21, ex-senior Palestinian official, 2019). However, regardless of international recognition for having successfully elevated the performance of Palestinian institutions above the threshold of what is expected of a state (UNSCO 2011), after more than two decades of state-building, there was neither peace nor a Palestinian state. Palestinians are seemingly further away from statehood today than at any point since the state-building process began in the mid-1990s. It is unclear what strategic objectives the internationally supported state-building process can now achieve in the Palestinian territories, except for upholding the *status quo* (Persson 2018, p. 433). The following section provides the background of the Fayyad Plan and explains its significance by looking into the decade of its existence. More importantly, it traces its philosophical assumptions and main underpinnings and presents the arguments of both, the protagonists and antagonists of the Plan, to better understand the extent to which it has helped achieve Palestinian statehood as it once proclaimed.

4.2. Evolving approach for state-building: Solving the governance paradox?

The previous section introduced the nature of the institutional context governing the Palestinian Authority and its expected role under the Oslo Agreements, which was a coordination role of some functional aspects without territorial sovereignty. Before this backdrop, the argument stressed the conceptual difference between institution building and state-building in the context of the occupation. This section tries to highlight the state-building approach of the Palestinian Authority, as expressed in the 2009-2011 Fayyad Plan for Statehood. But before exploring this issue further, it is important to point at two defining aspects of the Plan that help understand its significance to Palestinian efforts to achieve statehood. The first is its timing and the political message it entailed while the second is its positioning within the Palestinian state-building trajectory. As for its timing, the Plan presented an effort to exit the

lingering political impasse in the time post-second Intifada, post-Hamas take-over of the Gaza Strip and the growing Israeli unyielding position vis-à-vis the two-state solution. The Palestinian Authority was facing an existential dilemma throughout the period from the outbreak of the second Intifada in 2000 until 2007. The challenge was what may be considered a governance failure in the West Bank and Gaza as a result of the destruction of the Palestinian Authority's institutional infrastructure (Esposito 2005, p. 88). It should be noted that since the outbreak of the second Intifada, the Palestinian Authority has been struggling to reinstate its capacity as a central authority, maintain its legitimacy and demonstrate its worthiness of statehood in the eyes of its people, Israel and the international community.

As for the positioning of the Plan within the Palestinian Authority state-building trajectory, its political message was based on the promise to end the occupation and establish the Palestinian state on the basis of the 1967 borders in the West Bank, Jerusalem and Gaza (PNA 2009, pp. 5-7). It has been hugely celebrated at the international level for its presumed novelty, vision and technical and bureaucratic road map for Palestinian statehood (Participant 17, senior policy advisor to Fayyad, 2018; Participant 21, ex-senior official, 2019). The Statehood Plan is a combination of political and developmental goals and therefore, should be interpreted accordingly. From a political perspective, the most significant aspect is the fact that the Plan presented a new approach to overcome the failure of the two preceding political strategies to attain statehood, namely bilateral negotiations and violence (Bröning, M. and Broning 2011, p. 73). In particular, the Plan presented a multidimensional purpose to more than one party and aimed at sending a dual message to both the international community and Israel as well as the Palestinians. When it comes to the international community, the plan was to seek a kind of international acknowledgement of Palestinian statehood other than the classical recognition of statehood (Participant 27, expert, advisor on Area C at the PMO, 2017). This being said, it should be noted that there are two theories for the criteria for international recognition of statehood. The declaratory theory denotes that an entity's statehood is independent of its recognition by other states and the constitutive theory holds the view that a state is "a person of international law, if it is recognized as sovereign by other states". The most significant issue in the recognition for statehood is the codification of the territorial element (Kukathas 2014, p. 361). Fayyad's approach was based on trying to find a third option

other than the UN option, which could help bolster the Palestinian claim for statehood (Burton 2011, pp. 1-3). His philosophical assumption was political par excellence; it postulated that building state institutions irrespective of the occupation will enable a *de facto* Palestinian state. The term *de facto* is a Latin word that describes practices that exist in reality, even if not officially recognized under law. It is commonly used to refer to what happens in practice, in contrast to the term *de jure,* which refers to things that happen according to law (The Free Dictionary n.d.; Online Etymology Dictionary n.d.). In this sense, Fayyad was seeking an acknowledgement that could happen through the proof of the Palestinian Authority's capacity to reinstate its central authority and implement the expected reforms, especially on the security front so that the international community would not have an excuse to shirk its responsibility for realising Palestinian statehood (Participant 17, senior policy advisor to Fayyad, 2018; Participant 21, ex-senior official, 2019).

When it comes to the Israeli side, Fayyad aimed to improve the Palestinian negotiating position by proving the Palestinian Authority's ability to maintain law and order. In other words, he sought to fulfil the Palestinian Authority's commitments under the Oslo Agreements, namely to contain terrorism and, hence preserve the continuation of its institutional structures, which had been threatened as a result of the second Intifada. When it comes to Palestinian society, Fayyad's message focused on reinstating the confidence in the Palestinian Authority as a central authority with its monopoly on the use of violence, capacity to reinvigorate socio-economic conditions and, above all, reinstating hope in the prospects of Palestinian statehood. Fayyad assumed that if the Palestinian Authority achieved progress on both the security and economic sector, which he saw as mutually reinforcing elements of his state-building scheme, then the prospect of statehood would be enhanced (Participant 11, ex-senior official during Fayyad government, 2018; Participant 17, senior policy advisor to Fayyad, 2018; Participant 21, ex-senior official, 2019). In parallel with this approach, he believed that he could address two things at the same time; state-building and the continuation of the national liberation struggle along with enhancing socio-economic resilience to achieve self-reliance and endorse non-violent resistance (Participant 17, 2018). Linked to this approach, it is essential to remember that the Statehood Plan cannot be understood without reference to the preceding and succeeding government plans, as they reflect the Palestinian Authority's political reiterated commitment to

achieve the Palestinian state in the borders of 1967 in the West Bank and the Gaza Strip with Jerusalem as its capital (PNA 2008, p. 4; PNA 2009, p. 3; PNA 2011, p. 5; State of Palestine 2014, p. 5; State of Palestine 2017, p. 4).

When it comes to the Plan's development aspect, it presumed the fulfilment of eight national goals that characterized its political underpinning and that included: ending the occupation, enhancing Palestinian unity, protecting Jerusalem as the eternal capital of the state of Palestine, protecting the refugee issues, releasing prisoners, fostering human development, achieving economic independence and national prosperity, achieving equality and social justice, enhancing principles and mechanisms of good governance, ensuring security in all the countries, building positive regional and international relations (PNA 2009, pp. 8-13). By reviewing the Plan, this section chooses to focus on the Plan's good governance approach and its main objectives as well as its link with the two main policy approaches of the Statehood Plan, namely the economic and security. After all, these issues were very prominent in the intense scholarly debate that took place around the period of the Plan's inception (WAFA 2009).

To start with, Fayyad's state-building policy was based on "the Palestinian Authority's commitment to the building and consolidation of public institutions that can provide efficient and effective services to the citizens despite the severe constraints of the occupation so that chances for the development of a free and sovereign Palestinian state can be better enhanced" (PNA 2009, pp. 14-7). Adopting a good governance approach seemed like the only available option given the Palestinian realization that neither violence nor bilateral negotiations with Israel had brought the Palestinians any closer to an independent state (Participant 11, ex-senior official during Fayyad government, 2018; Participant 17, senior policy official during Fayyad government, 2018; Participant 21, ex-senior official, 2019). It assumed that rebuilding Palestinian institutions based on good governance principles of transparency and accountability is essential for statehood trajectory not only, because it is an international demand, but because it is in the Palestinian interest to do so in the first place, and because state-building is happening within the context of the occupation (PNA 2009, pp. 4-5). This implied that building state institutions was based on the Palestinian Authority's permissible parameters within the framework of the Oslo Agreements. In other words, Fayyad's view was that though the Oslo Agreements

were founded on a transitional basis, they allow for a margin to provide good services to the population, hence, the Palestinian Authority's duty to deliver this function in the best way possible and based on the principles of good governance. Based on these principles, he wanted to build the elements of the state from the bottom up: "One piece of a road, one sensible law, one housing project, and one reliable police officer at a time irrespective whether the Israeli occupation is removed or not" (Participant 21, ex-senior official, 2019). This meant providing Palestinians with the three crucial things that his predecessors had failed to deliver: security, good governance and economic opportunity (Buck 2010). Thus, transforming these three primary functions into a national interest-based platform rather than giving in to the general presumption that they are in Israel's interest in the first place (Participant 17, senior policy official during Fayyad government, 2018; Participant 21, ex-senior official, 2019). In reality, however, it is easy to detect the Fayyad Plan's alignment with the international state-building agenda (Turner 2011, pp. 1-21; Turner 2009, p. 562; Usher 2005, p. 42). Most visible in this alignment has been the fulfilment of the Road Map's conditions, initially designed to reconfigure the structure of the Palestinian Authority in the post-second Intifada (Tocci 2013, p. 20; Turner 2011, p. 13).

It is essential to note in this instance that tackling the Fayyad Plan from a good governance perspective or the institutional side *per se* intends to illuminate certain aspects that may have been unintentionally overlooked by scholarly analysis. My analysis reviews the critique of the Plan from the perspective of neoliberal state-building (Khalidi and Samour 2011, p. 6) and the perspective of securitized development (Tartir 2017a; 2017b; 2015; 2013). It tries to understand the implications of those two aspects, as they have been the most visible in the Statehood Plan and had significant implications on Palestinian statehood. My analysis adopts the local perspective that includes many who were involved in the design of the Plan as well as those who have been involved in its implementation. It also tries to capture the perspectives of analysts, legal experts and social scientists who have had a keen interest in understanding and criticizing the underlying assumptions of the Fayyad Statehood Plan.

With respect to the economic aspect, the Statehood Plan stipulated government policy priorities in four main policy areas: 1) the commitment to restrict growth of the public sector wage bill; 2) strengthening and rehabilitating the national economy,

promoting growth to create job opportunities in the private sector and promoting service delivery; 3) securing fiscal stability as a way to achieve self-sufficiency; and 4) the development of the financial system on transparent grounds (PNA 2009, p. 15).[86] 10 years after the inception of the statehood programme in 2009 and 12 years after Fayyad's economic policy reform in 2007, there seems to be a general agreement amongst economists and critics alike that economic policies generated during the Fayyad consecutive governments were self-contradicting (Dana 2015, p. 455; Dana 2014, p. 3; Haddad 2013, p. 30; Khalidi and Samour 2014, p. 179; Khalidi and Samour 2011, pp. 6, 12; Participant 70, social scientist and political activist, 2018; Participant 37, economist, 2018; Participant 41, civil activist, expert in international law and international humanitarian law, 2018; Shweiki 2014, p. 220; Tuner 2009, p. 562). The following section unpacks the reason for this contradiction, the rationale behind adopting neo-liberal economic policies, on the one side, and a policy of resilience and self-sufficiency, on the other, and the implication of such contradicting policies on Palestinian statehood.

But before trying to understand this controversy, we need to bring to mind some definitions that can guide our analysis. Starting with the definition of neoliberalism,

> "neoliberalism is a policy model—bridging politics, social studies, and economics—that seeks to transfer control of economic factors to the private sector from the public sector. It tends towards free-market capitalism and away from government spending, regulation, and public ownership". "Neoliberalism as a philosophy approach has been mostly associated with Thatcher/Reagan economic policies calling for fiscal austerity, deregulation, free trade, privatization, and greatly reduced government spending. Besides, as an economic approach, it has been criticized for its potential to endanger democracy, workers' rights, and sovereign nations' right to self-determination" (Kenton 2019).

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[86] The plan identified five core areas to enhance institution-building: the legal framework; organizational structures and processes; the use of technology in government management of national financial resources; and management of human resources in the civil and security sectors in addition to its commitment to fulfil the PRDP reforms.

When it comes to the definition of Resilience, according to OCHA (n.d.), Resilience "refers to the ability of communities and households to endure stresses and shocks. Communities and households are resilient when they are able to meet their basic needs in a sustainable way and without reliance on external assistance. Resilience is, therefore, "an end state that implies that vulnerable communities and households have: 1) the capacity to maintain basic functions and structures during stresses and shocks; 2) access to a range of skills and resources that allow them to adapt to changing circumstances; 3) the ability to anticipate, prevent, prepare for and respond to stresses and shocks without compromising their long-term prospects". However, according to UNDP, "these and other definitions focus too narrowly on responding to shocks rather than preventing or preparing for them, and their stated goal is only to return beleaguered communities to their original state". UNDP, therefore, proposes to define resilience as a "transformative process of strengthening the capacity of people, communities and countries to anticipate, manage, recover and transform from shocks"—otherwise known as build back better (Kindra 2013).

When it comes to the definition of self-sufficiency, "self-sufficiency is the state of not requiring any aid, support, or interaction, for survival; it is, therefore, a type of personal or collective autonomy" (Definitions.net n.d.). Following this definition, economic self-sufficiency is understood as "the capacity to consolidate the independence of one's country to live independently also in politics and have the capacity to have political independence". Most importantly, in order to implement the principle of economic self-sufficiency, "one must build an independent national economy which is free from dependence on others and stands on its feet, an economy which serves one's own people and develops on the strength and resources on one's own country and by the efforts of one's own people" (Law.Columbia.edu n.d.).

Looking back into Fayyad's neo-liberal policies, it can be inferred that there is a widely shared perception that his neo-liberal policy approach "empowered the minority of the banks and large corporations at the expense of the majority that has become captive to their jobs in the hierarchy of the Palestinian Authority and the banks" (Dana 2014, p. 3). Data from the Palestinian Monetary Authority (PMA) Annual Report 2017, shows that in 2017, around two-thirds of credit was directed at consumption loans such as real estate, especially housing, credit card debt and cars

(PMA 2017, p. 77). Personal loans during the Fayyad government rose up to some USD 4.2 billion in 2013, which is as much as 50 percent of GDP, with annual interest running at USD 200 million and almost 75 percent of civil servants were having individual loans (Dana 2014, p. 3). A prominent Palestinian social scientist opined that as a result "the employees became tied to a capitalist neo-liberal system to the bone" (Participant 70, social scientist and political activist, 2018). Consequently, the interest of the employees and ordinary citizens becomes focused on maintaining the *status quo* and the sustainability of their jobs and, hence, the neo-liberal system turns into the governing moral of their existence, especially in places such as Ramallah, the centre of the state-building project (Participant 70, social scientist and political activist, 2018).

These neoliberal policies are perceived as inherently in contradiction with the rule of self-sufficiency, meaning that the economy can be self-sufficient in the absence of territorial sovereignty or any command of the borders and the labour market (Participant 37, economist, 2018). To better understand this argument, we present the context within which the Fayyad's neo-liberal policies have been implemented. First, it is a fact that the Palestinian economy is sensitive to external factors, namely Israeli discretion to absorb Palestinian labour and transfer of remittances from indirect taxes it collects on behalf of the Palestinian Authority, and donor contributions for development projects. Second, it is a fact that since 2008, there has been an exponential decrease in international financial support to the Palestinian Authority. External budgetary support dropped from USD 1,7631 in 2008 to 545.4 in 2017, and external financing for development dropped from USD 215.0 in 2008 to 175.0 in 2017.[87] Third, it is also a fact that the Fayyad government vowed to push economic development and increase tax revenues, which amounted to almost 43 percent of individual income. This meant in turn that reform policy was introduced in order to compensate for diminishing international aid to the Palestinian Authority (Zakarneh 2019). Fourth, it is a fact that high unemployment rates in 2014 led to more than 140,000 workers seeking work in Israel of which almost 35 percent enter Israel without

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[87] See Appendix 5: Policies and Trajectory of the Palestinian National Authority Budget, Table 1 - Palestinian Budget - Revenues and grants and balance 2008-2017.

a permit; hence, they risk their lives and livelihood at the same time (International Labor Organization 2014, p. 13). Fifth, the Palestinian socio-economic situation has not changed since the Fayyad Statehood Plan. On the contrary, increasing Israeli restrictions on the economy and its punitive measures against Palestinian political positions as well as decreasing external support have led to distress, uncertainty and a lack of policy options to maintain the people's resilience (Participant 37, economist, 2018).

When it comes to the analysis of the controversial nature of Fayyad's policies and their impact on Palestinian resilience, critics maintain that his dual approach to economic policies was an unrealistic matching of neo-liberal policies including free trade and global approaches to taxation (Khalidi & Samour 2011; Scott 2018, p. 78). Participant 37 (2018) contends that Fayyad's open policy for personal lending created a socio-economic bubble which perhaps unintentionally led to the impoverishment of the population. As a matter of fact, there have been numerous negative implications of his neo-liberal policies. Whether intentional or unintentional, they have been perceived as a way to appease Palestinian society and divert its attention from the need to resist the occupation. In other words, the continuation of such policies even after the end of Fayyad's tenure had negative implications for Palestinian society. The massive popular demonstrations against the 17th Government proposed bill for social security indicate the gravity of the socio-economic crisis the Palestinian society is going through. This crisis is a result of unfounded economic policies, uncertainty regarding the future of the Palestinian Authority and a lack of trust in the Palestinian government (Öniş and Şenses 2003; Verbeek 2018). It should be noted that post-neo-liberal effects and their implications for post-conflict countries are being hotly debated in recent scholarly accounts (Chandler and Coaffe 2016, p. 2; Chandler 2013, p. 276; Pugh 2014).

When the result is the complete opposite of Fayyad's declared policy to improve the Palestinian economy and achieve its independence from the Israeli economy, it is difficult to understand how such policies are related to his state-building approach. It is also difficult to find immediate answers to such controversy, primarily because of the context within which the neo-liberal approach has been unfolding—namely an environment of a restricted economy under occupation, "a debilitating economy" conditioned by the Oslo peace process, where the Palestinian Authority does not have control. This contradiction causes into question the validity of his economic policies in

view of a continuous process of de-development as well as limited policy space and policy tools for the actual implementation of the most conventional neoliberal policies (Khalidi and Samour 2011, pp. 9, 12; Menenber 2011, p. 23; Nagarajan 2014, p. 72; Roy 1999, p. 64).

More so, it is challenging to decide whether such a policy approach was intentional or unintentional, or whether the problem was inherent in the design of the vision, its implementation and efforts to institutionalize economic policies. Participant 70 opined that there is no use in questioning the intentionality or unintentionality of the policy, since "the moral of the story is in the conclusion and not in the intention" (Participant 70, social scientist and political activist, 2018). The biggest challenge, however, remains in the prospect to reverse such policies, as they have proven ineffective in realising statehood and instead had counter-effects on the well-being of Palestinian society and, consequently, its ability to resist the occupation or retain the claim for territorial sovereignty for that matter.

Given the controversial nature of the neo-liberal policies, it may be apposite to dissect the meaning of the policy of resilience advocated by Fayyad. Looking at the outcome of the neo-liberal policies, it does not seem that he encouraged the elements necessary for resilience in order to empower the people to stay on the land. For, on the one side, to build the constituents of the state under occupation, one has to work toward the creation of the conditions necessary for resilience and plan within a realistic and achievable vision. In turn, the latter rests on an informed decision based on the availability of resources and capacities. Fayyad's approach to work within the margin allowed for in the Oslo Agreements—if taken literally—could have considered those very factors (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). Besides, if his approach focused on building state institutions based on the principles of good governance, it is not clear how it could proceed without a national consensus over the policy within the constraining financial, economic and political environment caused by the lack of territorial sovereignty. In other words, the Statehood Plan does not provide indications for the employment of tools and resources within the reach and control of the Palestinian Authority to achieve its stated policies (Participant 27, expert, advisor on Area C at the PMO, 2018; Participant 37, veteran politician, PLO-central committee member, 2018).

As an example, the Palestinian Authority during Fayyad focused its resilience policy mainly in Area C, which was not within its administrative and territorial remit. At the same time, it based its intervention policy on a projection of unpredictable donor financing, on the one hand, and financial remittances from Israel, on the other; both of which were uncertain and not within the remit of the Palestinian Authority. On the other hand, those sceptical of the soundness of the resilience policy maintain that Fayyad's advantage was his access to financial resources, which increased to the benefit of the Ramallah-based government compared to the Gaza government, which was eventually deprived of any state-building support because of the Quartet's political conditionality on Hamas[88]. The claim is justified as we saw with regards to the decrease of external financing during the past decade.[89] As a result, the implementation of the resilience policy was based on financial resources that were uncertain and even more that were conditional on further political compromises (Turner 2013, p. 339). This type of policy approach risks being flawed by design as long as planning does not take the context into account. For, even if for the sake of argument, to the occupation takes prominence in the statehood program, this type of thinking defeats the purpose of the policy of self-reliance. For, in order to build the constituents of the state and an independent economy, there is a need to create the conditions for statehood. Such conditions would presumably include *among other things* clear policies and programmes to lessen dependence on the occupation's economy, something that seems impossible in a context of absent territorial sovereignty (Participant 37, economist, 2018; Participant 41, civil society activist, expert in international law and international humanitarian law, 2018).

As far as the security sector is concerned, the Plan's policy proposed safeguarding the citizens' security and protection of their property as well as the restructuring of security agencies and professionalization of the security sector (PNA

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[88] The Quartet's conditions on Hamas to 1) acknowledge the right of Israeli state to exist, 2) renounce violence (i.e., resistance in all its forms), 3) disarm and 4) complete the transition to a political party, meant that they became the preconditions for a restarting of the stalled "Roadmap" process (U.S. Dep. of State 2003), including bilateral talks with Israel and for the continuation of international aid to the PA (Knudsen and Ezbeidi 2006, p. 1).

[89] See Appendix 5: Policies and Trajectory of the Palestinian National Authority Budget, Table 1 - Palestinian Budget - Revenues and grants and balance 2008-2017.

2009, p. 17). When it comes to analysing this policy, it is necessary to see it within the context it was implemented in, the way it fits in with the expected function of the Palestinian Authority and its implications on Palestinian statehood. Guided by the good governance approach to state-building, Fayyad's efforts to remodel the Palestinian security doctrine was based on the need to transform the Palestinian Authority's security function from being a conditionality for peace into a national interest (Participant 17, Palestinian political figure, senior policy advisor to Fayyad, 2018; Participant 21, ex-senior official, 2018). From the perspective of ordinary citizens, Fayyad's security sector reform policy was essential to maintain the resilience of the Palestinian people, especially given confidence in the peace process was withering away with the inability of the Palestinian Authority to counter Israel's superiority in the military and diplomatic field (Participant 9, prominent academic, expert in international law, ex-legal advisor to the PLO, 2018; Participant 46, prominent legal expert, ex-legal advisor to the PLO, 2018).

However, despite his success in re-organizing the security sector after years of chaos (*Infilat Amni* انفلات أمني) (Participant 46, prominent legal expert, ex-legal advisor to the PLO, 2018), there was a strong perception that this was linked to the fulfilment of the conditions of the Road Map for Peace (Participant 1, political scientist – Annajah University, 2017; Participant 15, expert in international law, official of the Palestinian Authority, 2018; Participant 16, political analyst and head of a policy think tank, 2018; Tocci 2016; Turner 2013). The new policy approach was associated with the "creation of the new man in Palestine". It reflects the linkage to the mission of the United States Security Sector Coordinator General Keith Dayton assigned to oversee the training of the Palestinian security forces in the framework of the implementation of the Road Map for Peace (Maidan 2019; Thrall 2010). In light of this association, it was difficult to perceive the Fayyad security policy as neutral or only from the perspective of capacity building for national purposes (Echard 2016, p. 1). This interpretation was based on the increased investment in Palestinian security sector institutions as opposed to other sectors deemed essential for the well-being of the Palestinian society. For instance, "to understand the magnitude of the security coordination enterprise, it is useful to note that the Palestinian security sector employs half of all civil servants, accounts for nearly € 1 billion of the Palestinian Authority's budget, and received around 30 percent of total international aid disbursed to the Palestinians"

(Tartir 2017b). What is more significant in the case of the approach toward building the capacity of the security sector is the fact that it entailed a new pedagogy aimed at transforming the Palestinian security ideology away from being focused on Palestinian national interests. The association of Palestinian national security interests with broader regional and global security concern seemed to have centred around a revised definition of '*the enemy'* and therefore criminalized resistance against the occupation and legitimized the fight against the Palestinian opposition (Participant 44, senior official, Ministry of Interior, 2018; Participant 69, veteran political activist, 2018; Tartir 2018, p. 2015). Collaborating with the donor-driven security sector reform (SSR) and operating within the context of the occupation and the expected security functions of the Palestinian Authority meant that reinstating the Palestinian monopoly on the use of violence was inherently inconsistent with the purpose of national security. As a result, conducting the security reform in a context of lacking sovereignty paralyzed the formal political process in Palestine and securitized democracy (Turner 2011, p. 1).

In this respect, taking into consideration the pre-ordained role of the Palestinian Authority under the Oslo Agreements and the Road Map for Peace, the central predicament of the Palestinian Authority is to balance its commitment to counter violence against Israel and provide protection for its people. This dilemma is the main stumbling block influencing the prospects of having a meaningful national security doctrine as long as Israel retains superiority over security in all of the Palestinian territories and, therefore. explains the limitations on the Palestinian Authority's security governance and legitimacy.

This being said, despite the efforts of the Palestinian Authority to keep a balance between its security obligations towards Israel and its legitimacy (Participant 7, political scientist, 2018), the Fayyad security policy approach undermined the Palestinian Authority's legitimacy with the public (International Crisis Group 2010, p. 11). This fact underlines the need to compare the Palestinian Authority's security role under occupation with its discourse of encouraging a form of popular resistance as propagated by Fayyad. Though not directly stated in his Statehood Plan, with this approach, Fayyad tried to reconcile the lack of a meaningful security role of the Palestinian Authority under occupation with a discourse on popular resistance. Non-violent resistance entailed the continuation of resisting the occupation through non-violent means. Non-violent resistance is seen as an efficient approach that can

influence the occupation but create far less devastation for the resisting population than the failing approach of violent resistance pursued during the second Intifada. It is believed that non-violent resistance can lead to enabling the people to continue to be on the land in defiance of the occupation and can safeguard them from being crushed by the occupation's forces (Qumsieh 2011, p. 9).

The approach of promoting non-violent resistance as a national policy explains Fayyad's focus on Area C during 2011. It was intended to enhance the resilience of the population as the following chapter shows. Since Fayyad's re-invigoration of this approach and to this date, the Palestinian leadership uses the political rhetoric of popular resistance, non-violent resistance and resilience and steadfastness to complement its so-called state-building approach under occupation. However, the problem is that there seems to be no comprehensive programme or guidebook on how to continue with this policy within the constraining context of the Oslo Agreements, on the one side, and the difficulty of integrating such a policy within an overall national strategy and ensure its sustainability, on the other. This may be due to many reasons that include the impracticality of the strategy and its inconsistency with the neo-liberal policies when it comes to implementation. It might be the case that all this would be difficult as long as the society's overall direction, especially in the West Bank, is still operating within a neo-liberal type of economy that has been governing the West Bankers' way of life. This way of life becomes complicated when almost 75 percent of the Palestinian civil servants are bound to loans and credit. In turn, this results in almost 25 percent of the Palestinian society depending on the preservation of the Palestinian Authority, irrespective of whether it will lead to statehood or not (Participant 27, expert, advisor on Area C at the PMO, 2018; Participant 37, economist, 2018; Participant 70, social scientist and political activist, 2018). The current stagnation in resistance to the occupation, especially in areas where the state-building enterprise has been taking place explains the difficulty of bundling two inherently contradicting policy approaches, namely the neo-liberal and resilience approaches.

Nonetheless, some believe that Fayyad successfully implemented what was not achieved by previous governments. And not only this, the security institution reconfigured under his rule is almost the only sustainable institution in the Palestinian Authority ten years after the inception of his Statehood Plan (Participant 16, political analyst and head of a policy think tank, 2018; Participant 27, expert, advisor on Area

C at the PMO, 2018; Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). However, his success has come with negative consequences resulting in a twisted role for the central authority, especially when it comes to the notion of the monopoly on the use of violence. Hence, the scepticism regarding the *raison d'etre* of the Palestinian Authority, especially its viability and the credibility of its constant political discourse regarding the establishment of the state on the borders of 1967 in the West Bank, Jerusalem and the Gaza Strip. For, it goes without saying that security reform was not to institute any action to regain or retain territorial sovereignty, or even protect the population against external threat, namely the occupation. Instead, it resulted in a strong perception— which is well- documented—that the Palestinian Authority has become authoritarian with a tendency toward becoming a 'police state'. (Amrov and Tartir 2014; Müller and Zahda 2018, p. 119; Mustafa 2015, p, 212; Tartir 2015a, p. 475). This perception is based on the domination of the security sector, especially in the West Bank, by a Fatah/ Palestinian National Authority coalition that is characterized by an accommodating policy vis-à-vis the Israeli occupier. Moreover, it finds ground in the Palestinian Authority's lack of adherence to democratic practices, the deprivation of access to essential resources for the Palestinian population and the broader issue of the continued absence of Palestinian sovereignty (Høigilt 2016, p. 456; Leech 2015, p. 1011).

The primary shortcoming of the Fayyad security policy lies in the fallacy of the assumption that good governance and more efficiency in the security sector in the context of the occupation, would leverage the Palestinian claim for Palestinian statehood. Moreover, Fayyad's good governance policy premised on the need to prove Palestinian readiness for statehood was irrelevant, since it was based on a dual false assumption. For, neither the Oslo Agreements nor the Road Map for Peace promised the establishment of an independent state, if Palestinian security performance were satisfactory, despite the latter's presumed promise contingent upon Palestinian performance. In reality, at the time of the inception of the Statehood Plan, the Road for Peace was insignificant for the Israelis, not only because they did not initially accept it as a binding plan, but also because it became outdated and superseded by other considerations stemming from changing Israeli politics and accelerated settlement activities. Consequently, the state-building project during the

Fayyad era and later directly and indirectly sustained the occupation. Conceptually, the Palestinian case demonstrates the fundamental flaws of conducting a security sector reform in the absence of sovereign authority and local ownership of the reform processes, while living under foreign military occupation. Besides, the state-building and reform plans of the Palestinian Authority (2007-13) led instead to authoritarian transformations and trends, and therefore the entire security reform project constituted yet another form of institutionalized insecurity but bundled in a state-building and good governance framework (Tartir 2015b, p. 1).

Parallel to this position, sceptics question Fayyad's assumption of investing in what could have been permissible within the margins of the Oslo Agreements. They contend that his only success has been in institutionalising interlinked economic and security policies with the hope of creating a kind of pseudo-welfare society evident in the expansion of the banking sector and the security institutions primarily in the city of Ramallah. They argue that his success was the better implementation of the conditions set by the Road Map for Peace (Khalidi and Samour 2011; Tocci 2016; Turner 2013). Their position is based on stressing the sustained pressure from external control over Palestinian financial resources, from the one side, and from donor strategies to gradually decrease budget support and involvement in development projects, from the other.[90] This scepticism may be justified further given the policy measures taken to unify the public treasury account, which has been the prime success of Fayyad's reform policies since his appointment as the Minister of Finance in 2002 (Participant 37, economist, 2018). This policy decision deemed a positive step toward more transparency of public financial management in the early years after the second Intifada, has been perceived strongly as a step that allowed the Israeli authorities not only to monitor the expenditure of the Palestinian Authority but also and most importantly to control Palestinian financial policies. To show the implications of such a policy, it suffices to point to the recent decision of the Netanyahu government to withhold the transfer of tax revenue as a means to exert political pressure on the Palestinian Authority so as to prevent salary pays for Palestinian martyrs' families (Williams 2019).

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[90] Ibid.

Evidently, international support centred around two mutually reinforcing elements, which influenced Fayyad's policy direction: namely, the linkage of economic performance to security performance in line with the long-held Israel-American vision of economic peace—a vision that has dominated their approach to the nature and substance of the Palestinian entity from the 1980s onward (Lesch 1990, p. 127). At best, the resulting situation is seen as a reflection of the liberal peacebuilding agenda inherently focused on security performance with support of two interrelated policies: neo-liberal and economic peace. However, what Fayyad did was to couple them with an obscure discourse on resilience and self-reliance without any suggestion on how to take it further, resulting in a type of continued economic solutions that lead to nowhere (Khalidi, Raja 2018, p. 368).

4.3. Polemics vs prophecy

The following is an overview of the considerations regarding the Fayyad Plan and its feasibility as an approach to achieve Palestinian statehood. Although there is a realistic assessment of the context that has influenced the political rhetoric around the Plan (Participant 70, social scientist and political activist, 2018; Participant 9, academic expert in international law and ex-legal advisor to the PLO, 2018), it is clear that it is not enough to ignore the many institutional shortcomings that have accompanied its inception, implementation and implications on Palestinian statehood. Ten years after its inception, the soundness of its initial assumptions is still being debated for its intended and unintended consequences. In this respect, protagonists of the Plan, who can be considered realists, acknowledge the fact that Fayyad had a vision, a sort of an alternative model. They argue that the Plan should be understood according to the context within which it was conceived and without being judgmental, especially given the limitations of the Oslo Agreements and the power discrepancies between the parties to the conflict. Besides, they maintain that Fayyad's leadership was timely and therefore essential to both reinstate hope in the people's minds and confidence in the Palestinian Authority and offer the right discourse that pleased the international community (Participant 9, academic expert in international law and ex-legal advisor to the PLO, 2018; Participant 70, social scientist and political activist, 2018; Participant 17, senior policy advisor to Fayyad, 2018; Participant 27, expert, advisor on Area C at the PMO, 2018; Participant 42, civil society activist in Israeli-Palestinian second track

negotiations, 2018; Participant 46, legal expert and ex-legal advisor to the PLO, 2018; Participant 58, politician and head of a PLO political party, 2018).

Seen from a different perspective, however, others argue that there was a problem in the discussion of the Plan, as it was highly promoted despite a lack of a real plan of how to achieve statehood (Participant 1, political scientist – Annajah University, 2017; Participant 7, political scientist, 2018, Participant 27, expert, advisor on Area C at the PMO, 2018). The apparent disconnect between the rhetoric of the Plan and its content, especially when it comes to retaining the territorial integrity within the West Bank and Gaza as well as the territorial claim in Area C and Jerusalem was at the heart of criticism of the Plan and its proclaimed objectives. The main criticism of the ensuing discourse is that it created a sense of delusionary expectations, given the limitations of the Oslo Agreements (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018); Participant 27, expert, advisor on Area C at the PMO, 2018). Hence, one of the main shortcomings of the Plan is that it offered a political discourse for state-building, though it was not possible to spread the government's action to a territory other than Areas A and B in the West Bank, hence excluded Area C, Gaza and Jerusalem. Therefore, the problem was in selling a holistic governance approach that does not apply to the rest of the country (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018).

Consequently, critics maintain that the Plan's presumed state-building process was not genuine enough to ensure that state institutions are meaningful or sustainable beyond Fayyad's tenure as Prime Minister (Participant 50, member of a non-Fatah political party, ex-minister in several Palestinian governments including Fayyad governments, 2018; Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). In this respect, sceptics argue that there has not been any critical thinking on the governance structure to support the political discourse, in the sense that the Plan does not offer a coherent process of implementation in order to get to the desired state, not even through a transitional process. As an example, Participant 7 (2018), who is a political scientist, maintains that the problem with the Fayyad Statehood Plan is that it reflects customized criteria on governance under occupation, which has created an organic relationship between the occupation and the Palestinian Authority's administrative system rather than

achieve its stated objectives. Moreover, there is a wide consensus about the planning side of the statehood program, especially that high political rhetoric hyped the target of having the state in two years. Though some claim that Fayyad clearly understood the time limitation of the Plan, however, they claim that the two-year target had a two-fold connotation. It intended to encourage the government and the people to have a thoughtful outlook toward the prospects of reaching statehood, on the one side, and to send a message to Israel and the world about the urgency to accord statehood to the Palestinians, on the other (Participant 11, ex-senior during Fayyad government, 2018; Participant 17, senior policy advisor to Fayyad, 2018; Participant 21, ex-senior official, 2019).

The fact that the Plan did not result in the Palestinian state on the borders of 1967, as announced, begs the question of its intended and unintended consequences. More importantly, it begs the question of evidence-based policymaking in the first place. For, if the Plan was presumed to offer a new approach of good governance, the process of designing it could have been more transparent, scientific and within what is possible rather than what is impossible (Khalidi & Samour 2011, p. 12; Participant 27, expert, advisor on Area C at the PMO, 2018; Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). In this sense because of the inability of the restricted Palestinian Authority to break the mould of the Oslo Agreement, the Fayyad Plan is seen as focused only on the "crust and not on the constituents of the state as long as it did not tackle the territorial sovereignty issue" (Participant 27, expert, advisor on Area C at the PMO, 2018). In other words, critics maintain that the Fayyad Plan should have been more realistic at least in the accompanying political discourse and more scientific in its planning; otherwise, "the state becomes something of a symbolic nature and nothing more" (Participant 16, political analyst and head of a policy think tank, 2018; Participant 27, 2018; Participant 41, civil society activist, expert in international law and international humanitarian law, 2018; Participant 70, social scientist and political activist, 2018).

It is because of this controversy around the Plan that those who support the idea of better governance irrespective of the occupation gain more ground. Their argument implicitly questions the initial foundation of the Fayyad proclaimed philosophy of good governance and the need to have better-performing institutions, because "we owe it to ourselves" (Participant 27, expert, advisor on Area C at the

PMO, 2018; Participant 40, ex-minister in several governments and one of the founders of the Technical Committees at the Orient House, 2018). This explains the whole dilemma of the Palestinian governance structure under Oslo, which has provided the foundation of Fayyad's statehood eligibility plan. In this respect, they maintain that this Plan, drove the Palestinians against the wall, primarily because it was a top-bottom plan without much public support, responsiveness or accountability in the absence of a functioning Palestinian legislative council. To these proponents, the issue of a twisted notion of legitimacy has been path-dependent under the framework of the Oslo Agreements. It first started with the Palestinian Authority deriving its legitimacy from Israel and ended up having Fayyad seeking legitimacy from both Israel and the international community. In the end, in both cases, the Palestinian Authority did not consult with the Palestinian people on their programmes, the first being the Oslo Agreements and the second being Fayyad's statehood eligibility programme (Participant 27, expert, advisor on Area C at the PMO, 2018). Such an attitude reflects the sense of resentment at the international community's embrace of Fayyad's leadership, despite the fact that his political party, which he founded in 2006, only had two seats in the Palestinian Legislative Council (Participant 51, thinker-philosopher-founder of the Technical Committees at the Orient House, 2018).

Notwithstanding, others contend that the Fayyad Plan did not entail a process of state-building since this process had already started with the establishment of the Palestinian Authority in 1995. In this case, he cannot be given credit for its initiation. Instead, what he did was to enhance the performance of some public institutions but not all (Brown 2010; Participant 50, member of a non-Fatah political party, ex-minister in several governments including Fayyad governments, 2018; Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). Moreover, they maintain that even if the Fayyad Plan was a genuine one offering a state-building process as a path to statehood, the fact that it has already failed and that ten years after Fayyad, Palestinians neither have sustainable institutions nor have a state makes it more contentious. From the outset, though the plan seemed different, it was working within the restricted space given to the Palestinian Authority and was implemented with the same tools under the same conditions imposed by the occupation authority and the donors. This being said, the contention points to the unviable nature of the state-building criteria and tools used to fit with limited and

restricted self-rule under occupation, hence the fallacy of the assumption in the very first place (Participant 1, political scientist – Annajah University, 2017).

The Plan drew intense criticism for the assumption that the good governance approach—if undertaken effectively—can end the occupation. It is not only that this assumption is under scrutiny both in theory and practice, but because of its particularity in the Palestine case. This particularity stems from the unique process under occupation, which is inherently an extension of a settler-colonial project and requires a different set of tools and criteria. In this respect, Fayyad's approach, in general, did not seem to have focused on territoriality as a pre-requisite for the success of his objective to reinstate a central authority. Fayyad's state-building concept was seen as viable apartheid, because it assumed to` make the best of the margin given to the Palestinian Authority by the Oslo Agreements (Participant 19, Israeli-American peace activist, 2018). His focus on providing an excellent institutional structure mainly in Areas A and B and his attempts to leverage the Palestinian Authority's policies in Area C meant that the statehood programme did not pay much attention to the significance of the territorial aspect. In other words, the Fayyad state-building model gave the impression that the territorial aspect is insignificant in the interim period as long as the Palestinian Authority will prove its eligibility to govern and have a state of its own. The problem was that settlement expansion, especially in Area C and Jerusalem, continued at an accelerated rate, while the Palestinians had to depend on a perceived promise of the Road Map regarding the territorial integrity of the West Bank and Gaza. In the interim, state-building was being undertaken to prove that a state can work in Areas A and B of the West Bank and if proven eligible, the Palestinians would be given economic space. In this sense, Fayyad's good governance approach combined with empowerment and resilience, was seen as viable apartheid, a temporary tactic at a specific point in time. Besides, it is difficult to look at it as part of the national struggle for statehood, primarily because of the nature of the conflict with the Israeli colonial project, which had begun in the 1890s. Fayyad's Plan confronted a deeply enshrined ideology that claims that the land of Palestine, especially in the West Bank and Jerusalem, belongs exclusively to the Jews and only they as a nation are entitled to it (Participant 19, senior policy advisor to Fayyad, 2018).

Inferring from the many interviews with a diverse group of politicians, practitioners, policymakers and activists, there is a strong opinion about the fallacy of the assumption of state-building under occupation. It was quite interesting to observe that the internal and external limitations Fayyad faced were seen quite realistically. There seems to be agreement that the Plan was more of an individual top-down vision, which did not bode well with expectations of a champion of good governance. However, in the absence of a functioning democratic system, hardwearing national division and an unrelenting occupation, my interviewees agree that the Plan served as a solution to an impending governance failure at the time—a crisis that had to be dealt with in a politically astute way, though an analysis of the trajectory of Palestinian state-building efforts makes evident that this Plan has also been reactionary. The fact that it did not achieve its stated objectives weakens its assumption and credibility as a political model to achieve statehood.

The current situation facing the Palestinian Authority is a mere reflection of the fallacy of both the assumption of state-building under occupation and the neoliberal approach designed in an uncertain and un-enabling political environment. More importantly, it reveals the fallacy of advocating resilience and steadfastness along with the security-neoliberal approach under occupation. The current situation can be called a post-post-neo liberal situation, where it is hard to undo or reverse the combined security and neo-liberal economic policies that have been having a detrimental impact on Palestinian statehood, right to independence and resilience. This is precisely the main shortcoming of Fayyad's state-building policy approach to end the occupation and establish the state. For, although it was highly celebrated as having resumed Palestinian state-building, ten years after, there is neither peace nor a state (Persson 2018, p. 433).

Conclusion

The Statehood Plan closely corresponded to the frameworks established by the Oslo Agreements and the Road Map for Peace and has been implemented within the institutional set-up of the Oslo Agreements. Refocusing the Plan onto the same issues that had preoccupied the Palestinian Authority since its establishment meant that it responded to the liberal state-building agenda, which entailed foreign policy objectives, such as democratization, state-building and national security. All of which

were regarded as mutually reinforcing elements of a broader peacebuilding agenda (Khaldi & Samour 2011, p 15; Persson 2011; Poggodda 2012, p. 535). In this sense, it can be said that the Statehood Plan did not bring anything new since the "development of Palestinian state capacity or using the good governance approach in the West Bank first has preoccupied the donors' discourse on capacity building" (Turner 2011, p. 13).

However, it should be noted that research on the conceptual and theoretical underpinnings of the Statehood Plan indicates that the Palestinian Authority appeared to break the chains of the Oslo Agreements, though unsuccessfully. In this sense, it can be said that the operational context of the Statehood Plan resembled a prisoner's dilemma.[91] For, having volunteered to subject the right to self-determination to the eligibility criteria, the Palestinian Authority including Fayyad and perhaps his state-building approach risked the fallacy of playing double roles: gaining recognition and legitimacy from the international community and Israel, on the one side, and from the Palestinians living in the West Bank, excluding Jerusalem and the Gaza Strip, on the other. Ironically, no move proved to be sustainable with Israel being wary of Fayyad's policies as being too moderate and the Palestinian public has doubts about the success of his policies (Sarid 2012; Zayid 2013). Moreover, though the plan triggered extensive academic debate about its feasibility within the context of the occupation (Danin 2011, Bröning 2011; Khalidi & Samour 2011; Persson 2011; Springer 2015), ten years after its inception, it is still being judged for its intended and unintended consequences (Persson 2018, p. 433). Besides, in the absence of a political horizon, key domestic issues are still being discussed: the accelerating deterioration of socio-economic conditions and the deepening national division between the Ramallah government and the Gaza *de facto* authority as well as the implications of the Fayyad Plan on the socio-economic situation in the West Bank.

It seems that the only legacies that the Palestinian Authority inherited from the Statehood Plan were strong security institution in Ramallah and the unintended consequences of the neo-liberal policies and their effect on Palestinian society,

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[91] "The prisoner's dilemma is a paradox in underline decision analysis in which two individuals acting in their own self-interests do not produce the optimal outcome. The typical prisoner's dilemma is set up in such a way that both parties choose to protect themselves at the expense of the other participant. As a result, both participants find themselves in a worse state than if they had cooperated with each other in the decision-making process. The prisoner's dilemma is one of the most well-known concepts in modern game theory." (Chappelow 2019).
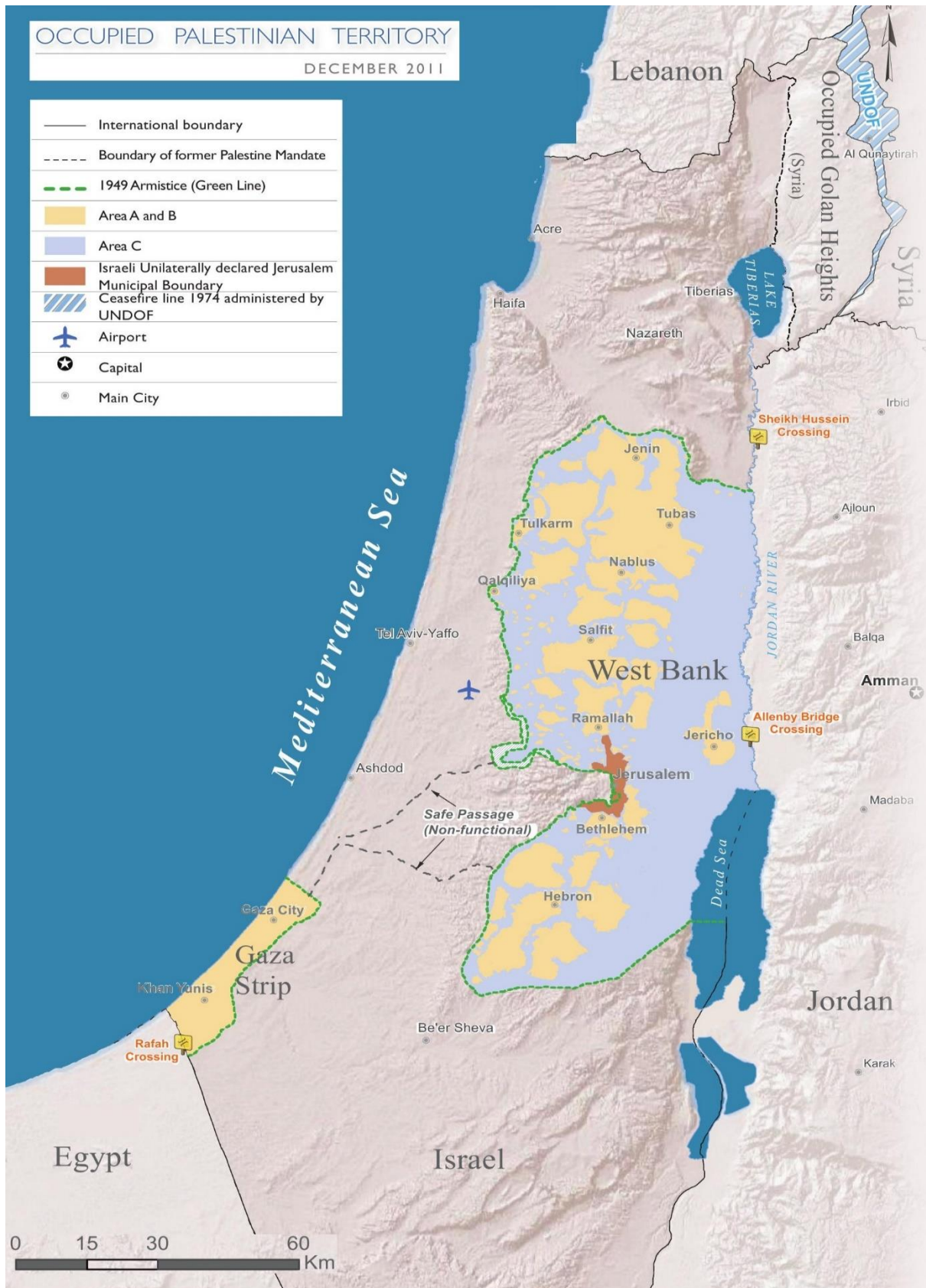
especially in the West Bank. Two legacies that had their impact on the function of the Palestinian Authority and that will perhaps determine its future as well mainly, since it is unlikely that the latter has the capacity or willingness to revisit their implications for Palestinian statehood as long as the political discourse focuses on the need to enhance resilience—not only of the people under occupation but also of its institutional structures of the Palestinian Authority. In this respect, two interrelated questions require answering: What is the purpose of institutional structure resilience and the process of strengthening them; for, if it is not to protect the Palestinian people and the land from external threats and ensure the monopoly on the use of violence as a national tool to defend the state. What is the possibility of curbing and redirecting the negative impact of the neo-liberal policies, especially in the West Bank, on the one side, and the possibility of lifting the socio-economic situation in the Gaza Strip and Jerusalem? Empirically, it is not only that both approaches did not lead to statehood, but more importantly, they perpetuated the vulnerability of the Palestinian society and intensified national fragmentation (Participant 8, ex-minister of economy, 2018; Participant 27, expert, advisor on Area C at the PMO, 2018; Participant 45, economist, 2018).

In this respect, it can be said that the Statehood Plan was not a strategic plan, but rather a policy reaction to a specific occurrence in Palestinian modern history—subject to the same operational context limiting Palestinian political and economic independence. Though it was understandable that at the time of the Plan's inception there was a need to instil local and international confidence in the Palestinian Authority, yet good governance and economics cannot replace political solutions, and most importantly, they cannot be guaranteed in the absence of a territorial political solution. Fayyad's policies could not alter the occupation with its territorial expansion, reduce restrictions on the movement of people and goods and lift collective punishment on Gaza. Simply put, the success of Fayyad's state-building approach could not end the occupation as proclaimed, thus causing questions regarding the real purpose of strengthening institutions, if they are not intended to be leading to statehood in the first place.

In this sense, it can be said that although the Plan pushed for good governance in the sense of transparency, accountability and openness, it lacked a genuine accountability framework to hold all actors answerable for its failure to meet its

objective of establishing a state within two years; a state that according to the Plan should have become a reality in 2011. For all intentions and purposes, the plan was a combination of a politically-driven discourse at a certain point in time, rather than well-founded national strategy, endorsed and internalized at the national level. It provided a temporary solution without much contemplation of their political implications on Palestinian statehood. Moreover, although the Plan acknowledged the limitations of the Oslo Agreements, it did not offer any gradual proposal of how the government would achieve the aspired statehood from a territorial perspective. Besides, it did not indicate how it would engage the institutions, once strengthened to enhance sovereignty in Area C, Jerusalem or achieve geographic integrity and national unity between the West Bank and Gaza.

More importantly, the dilemma continues unresolved of the nature and substance of the role of the Palestinian Authority under occupation as well as its role vis-à-vis the Palestinian people at least in the West Bank and the Gaza Strip. Therefore, for the sake of argument, if there is agreement that there has been a process of state-building under continued occupation, then there is a need to question both the validity of the underlying assumption and its feasibility. For, at least in the Palestinian case, both concepts state-building and occupation are inherently antithetical (Participant 1, political scientist – Annajah University, 2017).

Map 6: West Bank Access and Closure 2006 / OCHA. Available at: https://www.ochaopt.org/content/west-bank-closure-map-october-2006

CHAPTER FIVE: AREA C

Introduction

This chapter assesses the Palestinian Authority's state-building policy approach in Area C and the extent to which it has contributed to Palestinian statehood. I seek to understand the underlying assumptions behind the policy given the context within which it has been conceived and implemented. The chapter tracks the evolution, conceptual framing and implementation of the state-building policy. It tries to understand how the policy of resilience has been applied to counter Israeli policies of land expropriation. I try to assess the implications of such a policy on the ability of the Palestinian Authority to retain its claim on territorial sovereignty, provide security and protection to the Palestinian population residing in Area C and maintain its legitimacy in the absence of territorial jurisdiction. The chapter concludes by pointing at the need to revise the concept of the nature of the Palestinian entity under occupation and consequently, to revise the definition of the monopoly on the use of violence and of legitimacy.

5.1. The significance of sovereignty and territoriality to Palestinian statehood

In this chapter, we return to the debate about the relationship between territorial sovereignty and effective domestic control (Held 2013; Krasner 1999; Weber 1904). This type of debate may have lost its significance in a world that does not pay much attention to the notion of territorial sovereignty for reasons that have been discussed in chapter one. It is always possible that states lose their sovereignty, either due to a globalizing economy or from external intervention in a country. In either case, states exist as international legal personalities, irrespective of their degree of sovereignty or statehood. Territorial sovereignty remains a fundamental component of statehood and the exercise of a state's sovereignty. History has shown that the territorial state, the country and the homeland has been the ultimate national aspiration, whether linked to liberation from foreign control or protection against external threats (Tilly, Rueschemeyer and Skocpol 1985, pp. 35-60).

When it comes to the significance of territorial sovereignty in the Palestinian case, the idea of establishing the state on the 1967 borders has been central to Palestinian political discourse and action toward state formation. Two scholars traced the Palestinian quest for statehood and a territorial state and concluded that the

territorial state had become the primary goal of the Palestinian national struggle (Frisch 1998; Sayigh 1997). The PLO's decision to sign the Oslo Interim Agreements to establish a transitional self-governing authority was based on its belief that this would pave the way for a return to the homeland and the resumption of the national struggle on the ground. The national struggle involved erecting political and administrative institutions to create a *de facto* presence in preparation for the Palestinian state (Participant 31, veteran Fatah member, ex-official at the President's Office, 2018). The Palestinian leadership's pragmatic approach was guided by the PLO's Ten-Point Program which called for the "establishment of a national authority over every part of the territory that is liberated and the Palestinian Declaration of Independence which envisaged the establishment of a Palestinian state in the territory of the West Bank and Gaza Strip with East Jerusalem as its capital" (Palestine Liberation Organization Statements 1974). This programme established the basis for the Palestinian strategy of combining state formation and state-building as an approach toward national liberation. All this may sound logical if we assume that the process of combining state formation and state-building in the Palestinian case can lead to the establishment of the territorial state. The future of the Palestinian quest to realize the territorial state will attest whether this assumption is feasible or not. However, the problem may not be restricted to a test of time, but rather it may come down to the interpretation of territoriality in view of the nature of the Oslo interim arrangements.

We have already established that the Oslo Agreements shaped the form and substance of the Palestinian entity and limited it to a functional self-governing authority under the supreme power of the Israeli occupation authorities. We have also established the fact that the Israeli vision of the nature and content of the Palestinian entity trumped Palestinian expectations and ensured that at least to this date the self-governing authority would not evolve into a territorially sovereign state. However, despite all these facts, the Palestinian claim to establish a territorial state remains unchanged.

Territoriality remains at the core of the Israeli-Palestinian conflict. It is the reason that the Palestinians continue to call for an end to the Israeli occupation. It plays a central role in the Palestinian Authority's capacity and exercise of sovereignty over the West Bank and Gaza (Lartkins 1999, p. 2; Shehadeh 1985, p. 61). Likewise,

territoriality poses the biggest challenge to the feasibility of the state-building project under occupation. Ironically, the problem lies in the divergent narratives about the Israeli occupation, which left its imprints on the territorial aspect of the conflict despite the broad international recognition of the right of the Palestinians to their own territorial state. In addition to the abundant theorization and historical analysis of the Israeli position vis-à-vis the exclusivity of the territory to Israel, it may be useful to see how the official Israeli position constitutes itself. According to the Israeli Ministry of Foreign Affairs, the official Israeli position considers the West Bank and the Gaza Strip as "disputed territories" and posits that the Palestinian territories are not occupied but rather were captured in war (Israel Ministry of Foreign Affairs 2003). To the Israeli government, the Israeli occupation is not illegal. It argues that the West Bank and Gaza Strip were not under the legitimate and recognized sovereignty of any state prior to the Six-Day War. Therefore, they should not be considered occupied territories, and their status can only be determined via negotiations. On top of that, the official Israeli position considers the whole territory as Israeli. Therefore, any sort of negotiations with the Palestinians would entail a sort of benevolent act rather than a recognition of the national rights of the Palestinians to their homeland (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). The Israeli Nation-State Law is a clear example of the territorial vision of the State of Israel; a vision that is exclusive only for Jews and is not to be shared with the Palestinians (Knesset 2018).

The reason for the above introduction is to indicate the complexity of the situation in which the Palestinian Authority finds itself in. The moment the Palestinian Authority assumed that it was conducting state-building under such an unsuitable situation, the moment it overburdened itself with commitments that lay beyond its capacity. For instance, Fayyad's approach of institutional strengthening as a way to create the *de facto state* meant that he had put the Palestinian Authority in a position that required action at least from the perspective of the Palestinian citizens. In reality, it does not seem that there is much left to the Palestinian aspired state to do borders given Israeli territorial policies, especially in the West Bank. Having said this, it is no surprise that many within Palestinian society debate the significance of having a territorial state under the current circumstances, pondering its value-added and whether seeking such an independent state would continue to be in the best interest of the Palestinian people (Participant 21, ex-senior official, 2019; Participant 51,

thinker-philosopher-founder of the Technical Committees at the Orient House, 2018). Their perspective entails a pragmatic approach toward the notion of territorial sovereignty, namely borders, land swaps, natural resources, economy, national currency and even security. It is no secret that there have always been different scenarios circulating among Palestinian and regional political circles about the need to look at the best possible option given the current geopolitical situation. As such, there is the possibility of having the Palestinian Authority in the West Bank enter into a confederation with Jordan, with relative access on the borders and in cooperation with Israel. A confederation is best defined as "a more or less permanent union of states with some or most political power vested in a central authority" (Oxford living dictionary n.d.). As a matter of fact, such scenarios may be just around the corner, especially if we analyze carefully Israel's border arrangements at the crossing point between Jordan and Israel. The latter implies a seeming permanence of the occupation's border control on what is supposed to be the 1967 borders delineating the presumed Palestinian state. A Palestinian confederation with Jordan seems to be a favoured option by the current Israeli government as expressed by the Minister of Justice Ayelet Shaked, who stated that "Israel's current plan regarding sovereignty in Area C, is to apply Israeli sovereignty and give the Palestinians living their full citizenship, while to have Areas A and B become part of a confederation, together with Jordan and Gaza" (Ahern 2018).

Proponents, who argue that the notion of territorial sovereignty has little significance for the future state of Palestine, consider that it might become a secondary issue in a continuously evolving context that requires a pragmatic reconsideration of Palestinian priorities about statehood. However, the problem does not lie in the possibility of future territorial concessions in return for Palestinian statehood. The problem lies in the Palestinian Authority having the right to decide over its territorial sovereignty and political arrangements that best serve the national interest in the first place. This type of thinking can be decided on the basis of having the territorial aspect of the state-recognized in the first place, and the principle of non-intervention established and preserved. This involves the recognition of the 1967 borders in the West Bank according to international law and Israel's withdrawal from those territories—not redeployment. Then, giving up parts of the territorial sovereignty of the Palestinian Authority or the state of Palestine becomes an act of sovereign will rather

than a decision to mitigate the consequences of Israeli "*irreversible facts on the ground*". In this instance, it is good to recall Vattel's point about the sovereignty of the state in the case of reaching the decision to enter into a confederation in his famous book on the *Law of Nations.* Vattel maintains that "several sovereign and independent states may unite themselves together by a perpetual confederacy, without ceasing to be, each individually, a perfect state. They will together constitute a federal republic: their joint deliberations will not impair the sovereignty of each member, though they may, in certain respects, put some restraint on the exercise of it, in virtue of voluntary engagements. A person does not cease to be free and independent when he is obliged to fulfil engagements, which he has voluntarily contracted" (Vattel 1758, chapter one).

This is where the notion of territoriality gains prominence in the Palestinian case. The issue is not about the degree of statehood or the degree of sovereignty, but instead, it lies in the principle of the right to territorial sovereignty that can enable the choices over internal and external sovereignty-related issues (Krasner & Risse 2014; Risse 2011). Wheaton (1836) maintained that a sovereign state is generally defined to be any nation or people, whatever may be the form of its internal constitution, which governs itself independently of a foreign power (Wheaton 1836, p. 51).

Jackson (1990a) and Ottaway (2003) concluded that whereas the internal dimension of a state's sovereignty involves its capacity to make laws, decisions, policies and control within its territorial '*de facto* capacity', the external dimension involves international recognition and non-intervention in another state's affairs. We have already established the fact that territorial sovereignty is a pre-requisite for statehood, and without it, an entity would not be called a state. However, although the nature of the current Palestinian entity does not meet the criteria for statehood, it has accepted to assume several statehood-like functions in the absence of territorial sovereignty. The empirical research on the Palestinian Authority's intervention in Area C below illuminates our understanding of this anomaly. We highlight the significance of Area C to the viability of the Palestinian state.

The significance of Area C stems from the fact that it is part of what the Palestinians claim to be the territory upon which they aspire to establish their nation-state, their territorial state. It is the largest administrative division of the West Bank and has strategic importance for the future of the Palestinian state. For, in addition to the
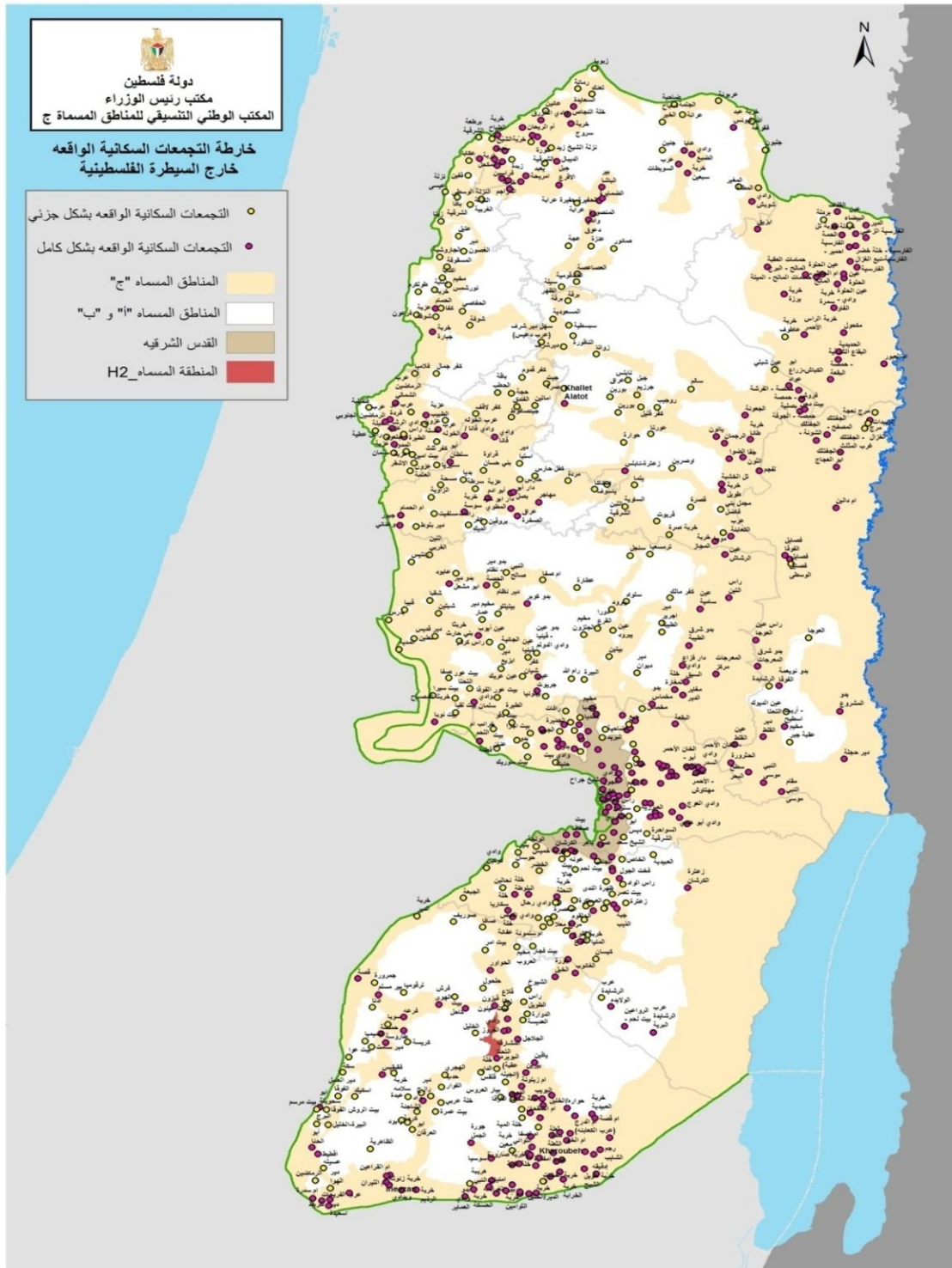
large area it comprises compared to the rest of the West Bank with almost 64 percent of the territory, it offers the most contiguous territorial unit that can render the Palestinian Authority economically viable and financially independent from external aid.[92] Area C is the most fertile part of the West Bank, rich in resources and provides the territorial basis for large state infrastructure projects including water, energy, transportation, tourism and agriculture (World Bank 2014).

At the same time, Area C has witnessed a stark increase in Israeli settlements and Israeli settlers, especially since the signing of the Oslo Agreements in 1993.[93] Despite the fact that the Oslo Agreements deferred the discussion over border issues and settlements to the permanent status negotiations, Israel worked incessantly to create irreversible facts on the ground. A look at the rising number of settlements and Israeli settlers in the West Bank indicates the extent to which Israel has managed to control the land and created a situation of *fait accompli*. The number of Israeli settlers has risen to 800,000 in more 200 settlements in the West Bank and East Jerusalem (B'tselem 2019). This number is approximately 13 percent of the Israeli population living in Israel and the West Bank settlements (Israel National News 2016). Amongst the 200 settlements, 127 are officially recognized by the Israeli Ministry of Interior, while the remaining are built without official authorization (illegal outposts) though are highly supported by the Israeli government. Almost half of the settlers live in Area C, and they exceed the size of the Palestinian population, which is around 300,000.[94] As a matter of fact, the settlements are the most critical factor in shaping the life of the West Bank in general and Area C in particular, since Israel continues with its annexation policies in contravention to international law. To understand this situation, the following section highlights the background of Israel's initial position regarding the West Bank in general and its policies in Area C in particular.
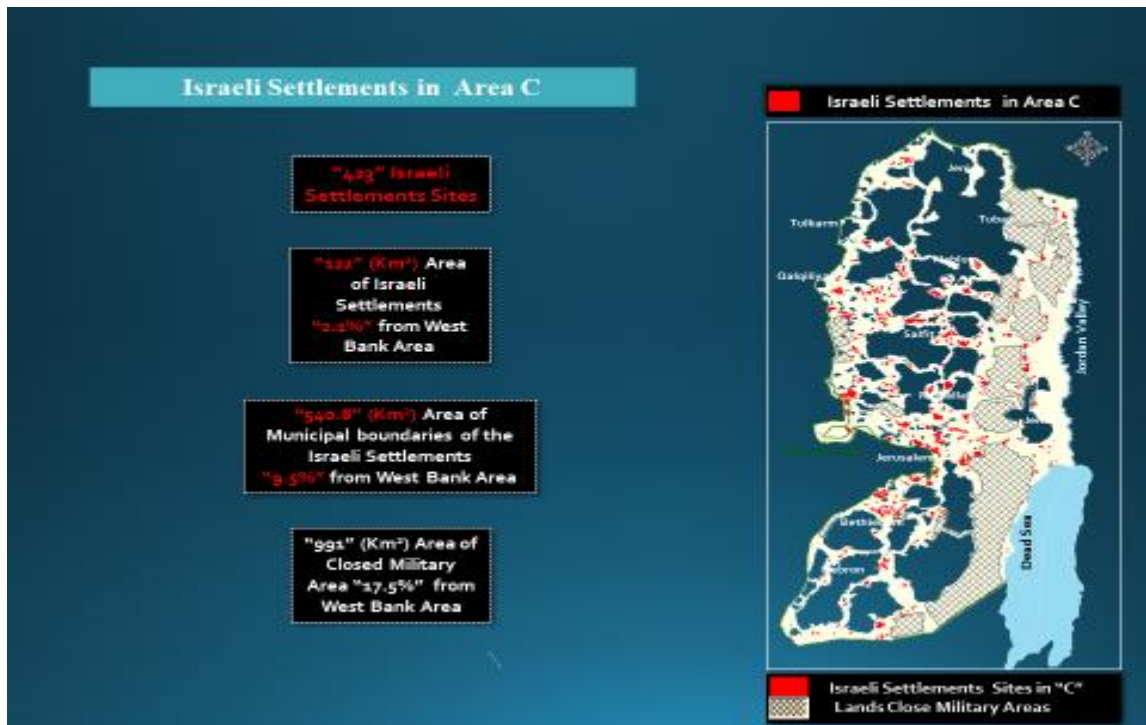
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[92] See Map 7: Palestinian Communities Outside Palestinian Authority Jurisdiction.
[93] See Map 8: Israel Settlements in Area C.
[94] Ibid.

**MAP 7: Map 9: Palestinian Communities (Partially or fully in Area C) —ACCO—
PMO / State of Palestine**
Areas called C in pink – Areas called A and B in white – Areas H2 in red

Map 8: Israeli Settlements in Area C—ACCO—PMO / State of Palestine

5.2. Understanding the context

Three aspects shape the context in Area C harmful to the permissibility of Palestinian statehood; 1) the historical background of Israeli territorial ambitions in the West Bank; 2) the operational framework of the Oslo Agreements; and 3) the ensuing Israeli policies and practices in the West Bank in general and Area C in particular. When it comes to the first aspect of Israeli territorial ambitions in the West Bank, there is ample evidence of Israel's systematic policy of maintaining territorial supremacy and never ceding territorial concessions to the Palestinians. Israel has always considered the West Bank part of the Jewish State, which explains why Israel called the West Bank 'Judea and Samaria' immediately after the war of 1967, making it part of the six districts in the State of Israel until this very day (Statistical Abstract of the State of Israel 2012). In this respect, we should not forget, the Israeli biblical attachment to the West Bank. However, from a political perspective, by looking at the current Israeli political map with the dominance of religious parties as well as leaders of the settlements in the West Bank, it is clear that religious issues have been abused politically (Participant 21, ex-senior official, 2019). Besides, there is a firm belief in Israel that the West Bank has never been under the sovereignty of any state and, hence, came under Israeli control in June 1967, during a war Israel deems to be a war

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of self-defence (Rodenhäuser 2013). In this respect, a number of different researchers agree on Israel's political strategy vis-à-vis the West Bank since 1967. Benvenisti (2012), Shehadeh (1997), Shlaim (2001), Stein (2002), Yehuda & Yehudit (1991) maintain that Israeli territorial interest in the West Bank became evident upon the formulation of the Allon Plan after the June 1967 war (ECF 2014).[95]

Chapter three pointed to the historical and political origins of the Allon Plan and how it advanced permanent Israeli settlements in the West Bank. The significance of the Plan lies in the power of having a strategic vision that has been incrementally implemented, leading to the current geographic and demographic structure of the West Bank. The Allon Plan was based on linking security and a systematic land grab of West Bank territory, which governed the occupation's settlements policies since 1967. Its guiding assumptions were that Israel must have defensible borders based on the Jordan River, the Rift Valley and the Judean Desert, which meant that it was never the intention of the State of Israel to relinquish any territorial concessions to the Palestinians. (Shehadeh 1997, p. 3).[96] The current territorial situation in the West Bank is very close to the Plan's fundamental concept and has been guiding Israel's settlement policy, despite the fact that it has been considered illegal under international law. This policy aimed at "sharing the West Bank with the Palestinians, so that the area of Israel would be more than 85 percent of historic Palestine, leaving the Palestinians with the least territory within the main cities of the West Bank to manage their daily issues within the framework of a limited autonomy" (Mansour 2014).[97]

When it comes to the second aspect; the operational framework of the Oslo Agreements, it is clear that the current application of the concept of territorial sovereignty in the West Bank, in general, and Area C, in particular, has not been the outcome of a sudden agreement between the both parties, but instead, an operative principle of Israeli occupation devised long before the negotiations had begun (Shehadeh 1997, p. 79). Besides, the text of the Oslo Agreements has been carefully crafted so as to ensure that Israel remains the absolute source of sovereignty over every single aspect of the lives of the Palestinian population in the West Bank and

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[95] See Map 5: The Allon Plan and Jewish Settlements 1970-1990.
[96] For more detail of the systematic Israeli settlement policies especially in the West Bank, see UNHRC 2013.
[97] See Map 4: Palestinian loss of land from the UN treaty 1947 to present.
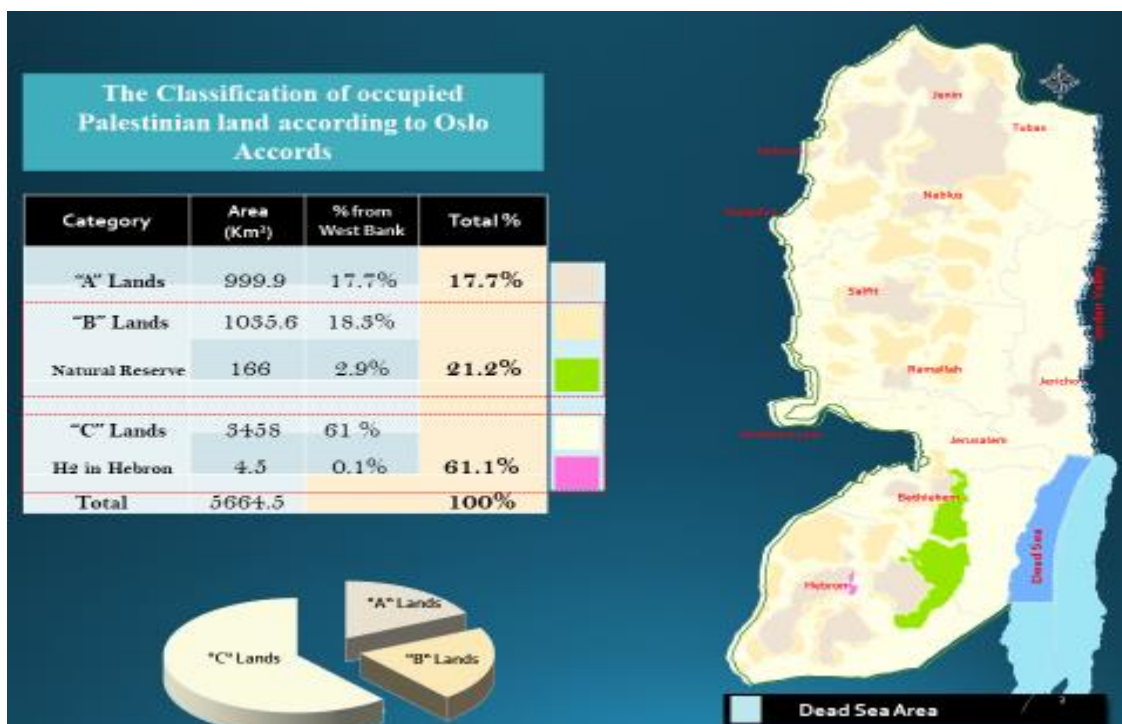
Gaza. It has been shaped in a way that "leaves little chance of deviating from them or evading their consequences on the shape of the self-rule" within the framework of *de facto* Israeli sovereignty over the territories concerned (Dajani 1994, p. 5; Keochler 2000).

The classification of Palestinian territories, especially in the West Bank into Areas A, B and C reveals the intentions of the State of Israel with regard to potential sovereignty for the Palestinians (Shehadeh 1997; Mansour 2001). This is also quite obvious, when it comes to the actual Israeli government control of access and continuous closure of the West Bank.[98] The unequal division of the Palestinian Authority's functional responsibilities within the West Bank had a detrimental effect on the prospects of the Palestinian Authority to move beyond interim self-rule. The Palestinian Authority's functional responsibility in Area C is restricted to education and the health sectors (Israel Ministry of Foreign Affairs 1995, Annex III, PCCA, Art. IV). It does not have any territorial or civilian jurisdiction, and, therefore, it is not allowed to independently implement development projects, even those responding to urban growth and civilian needs (Israel Ministry of Foreign Affairs 1995, Art. XI.2), or exploit its economic prospects to maintain the viability of the anticipated state-to-be (Participant 27, expert, advisor on Area C at the PMO, 2017; Participant 47, activist and head of Palestinian Jerusalem-based NGO, 2018).

According to Article XI.2 Oslo II Accords "Land in populated areas (Areas A and B), including government and Al Waqf land, will come under the jurisdiction of the 'Council' during the first phase of redeployment" (Israel Ministry of Foreign Affairs 1995). Areas A and B initially comprised 3 percent of the West Bank, excluding Jerusalem, and expanded to 18 percent as of 2013. The Palestinian Authority has powers in civilian and internal security affairs, but cannot prevent Israel from entering the main cities within Area A. Area B comprises 22 percent of the West Bank as of 2013 and the Palestinian Authority has powers over civilian and joint security matters with Israel. Area C was initially 73 percent as of the Oslo II Accord and became almost 61 percent as of the signing of the Wye River Memorandum in 1998 transferring 12 percent to Areas A and B (Israel Ministry of Foreign Affairs 1998). The main problem in Area C is that it includes most of the Israeli settlements, outposts and declared 'state
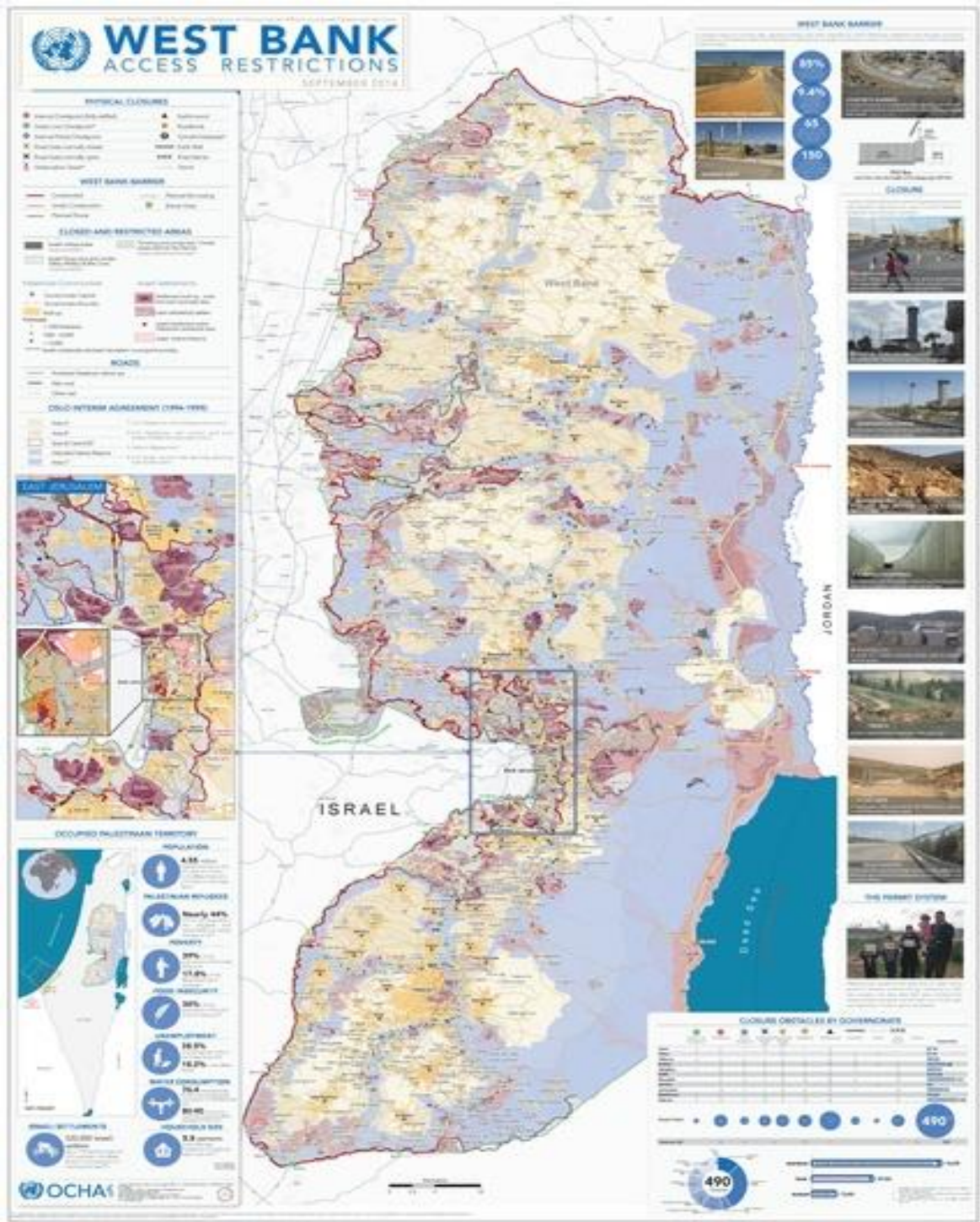
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[98] See Map 9: The classification of occupied Palestinian territories according to Oslo Accords and Map 8: West Bank Access and Closure.

land', where Israel has full control over planning, land administration and infrastructure development and security (Btselem 2017).[99] And although Article IV Declaration of Principles (DoP) states that "the two sides view the West Bank and the Gaza Strip as a single territorial unit, whose integrity will be preserved during the interim period" (Israel Ministry of Foreign Affairs 1993), Israeli settlement activities accelerated since 1993 to the extent that the current government is legalizing the settlements and *de facto* annexing all of Area C including the Jordan Valley.
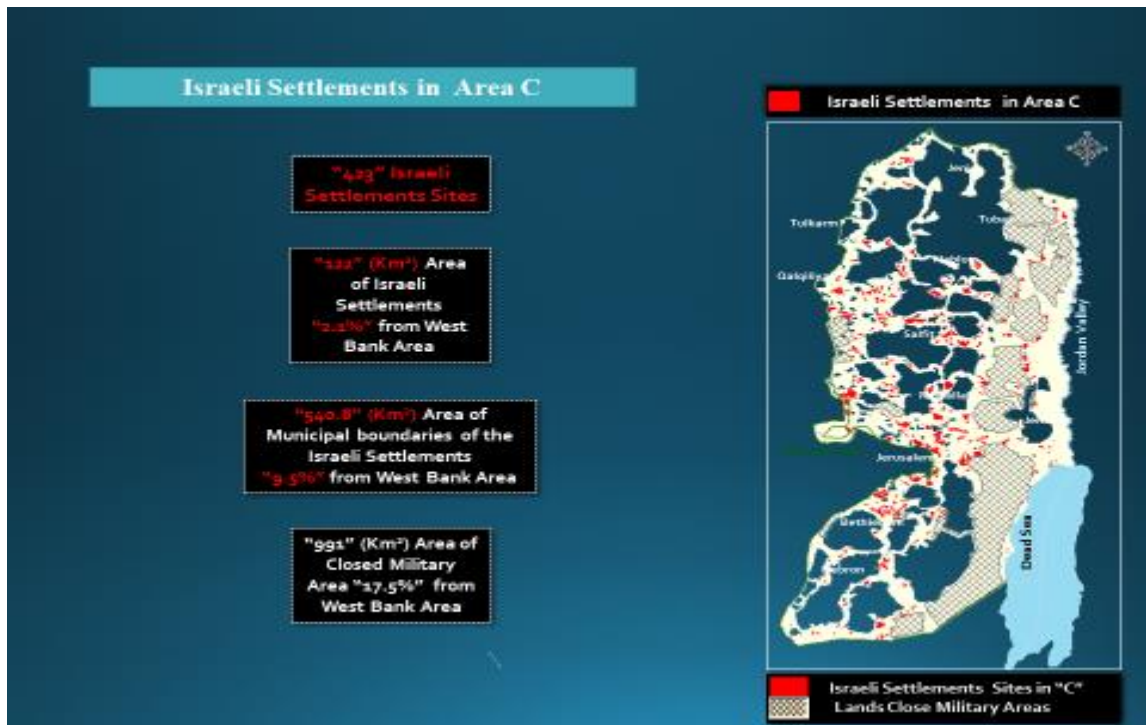

Map 9: The Classification of occupied Palestinian land according to Oslo Accords—ACCO—PMO / State of Palestine

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[99] See Map 11: Israeli settlements in Area C.

Map 10: West Bank Access and Closure 2006 / OCHA. Available at: https://www.ochaopt.org/content/west-bank-closure-map-october-2006

Map 11: Israeli Settlements in Area C—ACCO—PMO / State of Palestine

When it comes to the third aspect regarding the Israeli government's policies in the West Bank in general and Area C in particular, a complex system of legal and administrative procedures has been established in order to ensure Israeli control. At the legal level, after the war of 1967 Israel devised a complex system of laws and military ordinances to ensure control over the land and the population of the West Bank and Gaza. At the administrative level, immediately after the war, Israel froze or suspended the application of the Jordanian law of the land that was applicable before 1967 and started applying a series of military ordinances most of which are valid to this date. The military ordinances gave the Israeli military government the absolute power to control all aspects of the land and the people and consequently, the supremacy over the decision to control and confiscate Palestinian land in the West Bank and Gaza. For instance, these military ordinances included the administration of absentee properties, state property, the declaration of land to combat or fighting zones, land expropriation for public purposes, natural reserves, and land declared as closed areas (Arij 2007). Most of these laws have been systematically used to prevent Palestinians from keeping their property or from using it for their development and urban expansion, especially in Area C in the West Bank.

Besides, Israel created alternative legal and administrative structures to serve the interests of the Israeli settler population (Shehadeh 1997, p. 79). The series of military laws issued since 1967 enabled Israel to gradually legalize Israeli settlements in the West Bank and consolidate its sovereignty in Area C in contravention of international law. The fact that the United Nations issued numerous Resolutions on Israeli settlements since 1967 had little effect on stopping Israeli policies. Perhaps the most notable has been the United Nations Security Council Resolution 2334 that reconfirmed the illegality of the Israeli settlements and the responsibilities of the State of Israel as an occupying power. Most importantly, it stressed the danger that the settlement policy poses to the viability of the two-state solution.[100]

It should be noted that the Oslo Agreements deferred the negotiation over the issue of settlements to the permanent status negotiations and established a commitment on both sides not to take any measures that would jeopardize their final outcome (Oslo Accords 1993, Art. V). However, the process of legalizing the settlements has accelerated after the signing of the Oslo Accords and has culminated in a new series of laws that aim at giving the settlements a civilian character. Israel has been implementing a 'quiet creeping annexation policy'. A policy of creeping annexation entails a continued Israeli policy of legalizing annexation through laws and regulations along with a continued process of settlement activities, though without officially declaring it as such so as to not antagonize the international community over its settlement policies (Masarat 2018). Most of these laws have been proposed to the Knesset during the years 2017-18 and have been debated in parliament (Madar Center for Israeli Studies n.d.). They include—*among other things*—proposals that aim at imposing a civilian character onto the settlements deemed illegal under international law. For instance, Israel tries to integrate the settlements' educational institutions in the Israeli Council for Higher Education and tries to impose a civilian character on military courts in the West Bank. Perhaps the most important law that reveals the political bases for annexing the West Bank is the "Land Settlement Law" (United Nations Meetings Coverage and Press Releases 2017), also called the 'Regularization

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[100] The first UNSC Resolution regarding the illegality of the Israeli settlements in the occupied Palestinian territories was issued in March 1979, UNSC Res/446 (UNSC 1979) and the latest one was issued on 23 December 2016, UNSC Res/2334 (UNSC 2016) that reconfirms the illegality of the Israeli settlements, and the responsibilities of the State of Israel as an occupying power as well as the danger that the settlement policy poses on the viability of the two-state solution. (See Appendix on UN Resolutions).

Bill' passed by the Israeli Knesset on 6 February 2017. The bill aims at regularising retroactively the illegal settlements in the West Bank and provides immunity to the settlements illegally built on private Palestinian land, despite the strong opposition from the Israeli government legal advisor as well as the Knesset's legal advisor (Ibid.). This being said, one should not forget the fact that all settlement activities in the West Bank are illegal under international law. Two other laws in line with the Land Settlement Law include a bill proposing the enforcement of Israeli military sovereignty over all areas of Judea and Samaria and prescribe that Israel's judicial authority and sovereignty will be in force throughout settlement areas in the West Bank as well as the Jordan Valley.

At the administrative level, since the occupation of the West Bank and the Gaza Strip in 1967, Palestinian territories have been subjected to military government equipped with "governmental, legislative, appointive, security, and administrative powers" (Cavanugh 2002, pp. 941-42). The issuance of the *Military Order No Two* on 7 June 1967 stipulated the establishment of a military government and concentrated all powers and authorities of the former regime (the Jordanian rule) in the hands of the Israeli military governor (Arij 2007). Jordanian rule was the result of Jordanian annexation of the West Bank and East Jerusalem in the aftermath of the 1948 Arab-Israeli War. Though considered illegal and void by the international community, the Arab League viewed the area annexed by Jordan as a "trust" in its hands until the Palestine case is fully solved" (Benvenisti 2004, p. 108). To this date, the primary reference point to almost all the delegated functions to the Palestinian Authority is in the remit of the military commander heading the Israeli Civil Administration established in order to administer the territories captured by Israeli in 1967 (Bregman 2015).

As explained in the previous chapter, the Israeli Civil Administration—which is part of a larger entity known as Coordination of Government Activities (COGAT) and is part of the Israeli Ministry of Defence—is the main counterpart of the Palestinian Authority via the Joint Civil Affairs Committee (CAC). Its mandate is to coordinate the latter's activities about borders, movement, trade and security. Most importantly, it is the primary party responsible for the territorial administration of Area C (Coordination Office of Government Activities in the Territories (COGAT) n.d.)*.* The partition of the West Bank into Areas A, B and C and the nature of the designated jurisdiction implied a more consolidated presence of the Israeli Civil Administration. The partition gave

Israel the power to approve and disapprove requests regarding every single aspect of civil, economic and security matters relating to Palestinians residing in the West Bank and Gaza. Under the guise of coordination, Israel retains the right to influence Palestinian efforts to develop and improve the populations' conditions, especially in Area C, where the Palestinian Authority does not have much of a civilian responsibility (Participant 64, development expert, UN agency, 2017). Despite the Palestinian Authority's attempts to supersede this coordination structure since 2009, it did not achieve much as is shown in the next section.

COGAT has superior responsibility for every aspect of Palestinian life in Area C of the West Bank with minimum Palestinian responsibilities for education and the health sector. In addition, COGAT covers both the civilian part of the Palestinians as well as the Israeli settlers residing in the West Bank. However, the institutional structures, legislation, administration and court system is designed to serve the settlers separately and is entirely different from the one established for the Palestinians. Israeli settlers are subject to Israeli civil laws since the West Bank (Judea and Samaria) is considered the sixth district of the State of Israel (Statistical Abstract of the State of Israel 2012). While Palestinians residing in Area C are subject to Israeli military law, the dual administrative system is designed to empower the Israeli settlements and disempower the Palestinians residing in the West Bank through a complex system of restrictions on development projects, land use and movement (Participant 19, Israeli-American peace activist, 2018).

Moreover, to indicate the permanency of the Israeli occupation authorities in the West Bank, the Head of the COGAT, 'the Coordinator' transformed his mandate throughout 2017 in a way that explicitly undermines the role of the Palestinian Authority. "Transformations in the Military Rules of the West Bank indicate recent intervention of Israeli agencies under the umbrella of the 'Coordinator' in Palestinian civilian life" (Anabtawi 2018). For instance, the Coordinator's website gives an idea of the extent to which the office works as the *de facto* government in the West Bank (Coordination Office of Government Activities in the Territories (COGAT) n.d.). The website is published in three languages, Arabic, Hebrew and English and is designed to serve both the Palestinians and settlers. It gives the appearance of an open and responsive government for the Palestinian residents not only in Area C but all over the West Bank. By inviting citizens with the message 'let us talk', the Coordinator implies

to substitute the coordination role of the Palestinian Authority created by the Oslo Accords (Anabtawi 2018). In a way, this sends a message to the Palestinians in the West Bank that Israel is the primary source of power. More importantly, it sends a message that the Palestinian Authority is irrelevant when it comes to allowing the West Bankers to move and trade within Israel and with the outside world. Given this backdrop, the following section examines the challenges facing the Palestinian Authority's work in Area C. It reviews the evolution of the Authority's focus on its significance, and the manner in which it developed its policy approach, institutional and governance structures so as to counter the policies of the Israeli occupation.

5.3. Palestinian Authority state-building approach in Area C: Before, during and after Fayyad

The objective of this research is to understand the underlying assumptions of Palestinian state-building policy approach, especially with regard to the establishment of a Palestinian state within the borders of 1967 and Jerusalem as its capital. The problematic nature of the policy's assumption "provoke a cause to question" its validity, given the context within which it has been designed and implemented (Bacchi 2012, p. 1; Bacchi 2009, pp. xii, 267). Unpacking this assumption and assessing the evolution of the policy resulting from it would help to evaluate the extent to which the state-building policy approach contributed to the achievement of Palestinian statehood. In this respect, this section reviews the Palestinian Authority's state-building policy in Area C. In particular; it assesses the extent to which the Palestinian Authority was able to retain its claim on territorial sovereignty while working within the framework of a constraining legal and administrative system of the occupation. It further examines the effectiveness of the policy of resilience and the challenges facing the legitimacy of the Palestinian Authority in Area C.

We have seen that since the establishment of the Palestinian Authority in 1995 the underlying assumption of the Palestinian state-building approach was that once in the homeland, setting-up the Authority's political and administrative institutions would create a *de facto* presence of the Palestinian leadership in the Palestinian territories. This, in turn, would pave the way for Palestinian statehood (Falah 1996, p. 60). The dominant characteristic of the initial phase of the Palestinian Authority was the building of institutions that correspond to the permissible functions within the limitations of the

interim self-rule. Consequently, the fundamental role of the Palestinian Authority was designed to correspond to the role of the COGAT office (Coordination Office of Government Activities in the Territories (COGAT) n.d.) considered the "major source of information for the Palestinian sector" (Ibid).

When it comes to the Palestinian Authority's focus on Area C, it can be said that it began during the Fayyad governments 2007-13. Concern over the territorial aspect of the West Bank in the pre-Fayyad period was mainly down to the danger of accelerated settlement activities and the completion of the Separation Wall in the West Bank in 2004. Before that, there was no explicit political discourse or administrative action highlighting the potential loss of Area C as an integral part of the aspired territorial state to be established in the 1967 borders. Whatever the reasons, the absence of attention to the significance of territorial issues in Area C is worth examining. In trying to have a sense of this absence, interviewees provided divergent arguments. One respondent related this absence to the fact that the Palestinian Authority was pre-occupied with establishing the institutional structures of the interim self-rule and believed that the outcome of the permanent status negotiations would lead to a Palestinian state (Participant 3, Fatah leader, ex-Prime Minister and one of the principal negotiators of the Oslo Agreements, 2018). However, this argument is difficult to justify given the many indicators revealing the Israeli intentions and policies concerning the territorial dimension of the Palestinian entity (Participant 53, Palestinian Authority official, expert in local government, 2017).

Another interview respondent maintained that this absence might be related to the fact that the Palestinian Authority was busily re-instating the institutional and economic structures of the Palestinian Authority, which were destroyed by Israel upon the outbreak of the second Palestinian Intifada in 2000. He then argued that the aim of the Palestinian Authority became one of survival and preservation of the institutions of self-rule rather than a state-building enterprise (Participant 63, senior Fatah member and a senior official at the Ministry of Local Government, 2017). Another interview respondent opined that this absence is due to the fact that both the Palestinian Authority and the international donors and development agencies were either committed to or confined by the limitations of the functional jurisdiction of the Palestinian Authority, especially in Area C. Before the renewed interest in Area C, it was difficult for both sides to envisage activities in areas that were not within the remit

of the Palestinian Authority's functional jurisdiction, as they were forbidden spheres of authority during the transitional period (Participant 27, expert, advisor on Area C at the PMO, 2017).

Surprisingly, awareness for the need to intervene in Area C and Jerusalem was prompted by non-governmental actors. The International Peace and Cooperation Center (IPCC), a Palestinian NGO working in Jerusalem started to work on Area C and Jerusalem from early 2000 on (IPCC n.d.). The IPCC's approach was guided by the need to be creative and pro-active in Area C and Jerusalem in order to preserve the population's rights to the land and development against the occupation's settlement and annexation policies. The IPCC's guiding principles were based on the need to understand the institutional structures and mechanisms of the occupation, including its complex system of rules, regulations, laws, procedures and information about policies on spatial planning and development. Such knowledge was deemed crucial to empower Palestinian citizens to deal with the occupation's authorities and to preserve Palestinian presence on the land, in Jerusalem and in Area C (Participant 47, activist and head of a Jerusalem-based NGO, 2018). In a parallel move, there were two other attempts that may be seen as offering 'creative solutions' to counter the implications of Israeli settlements and the Separation Wall in the West Bank. The first attempt was the Arch proposal by the RAND Corporation, which designed a comprehensive plan for building a successful Palestinian state. RAND provided a model for transportation and urban planning to foster economic and social development through the construction of a corridor infrastructure within the West Bank and between the West Bank and the Gaza Strip (Rand Corporation 2007). However, their proposal was firmly rejected by the Palestinian Authority on the basis that it served the *de facto* Israeli annexation of the West Bank.[101] The second attempt has been the construction of Rawabi, a new residential neighbourhood located in the northern part of the city of Ramallah, yet falling within the geographic delineation of Area C.[102] Though the idea of building a new city is deemed necessary, since it would lead to the consolidation of the Palestinian presence in Area C, the Rawabi project prompted controversy around its original intentions. Critics of the project claimed that

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[101] Unpublished official document—access from the Prime Minister's Office 2005.
[102] Rawabi is a commercial project that was launched during the first Palestine Investment Conference in 2008 hosted by Ex-Prime Minister Salam Fayyad. The city is situated in the northwest of Ramallah, and the first planned city built for Palestinians.

it is commercial and based on purely neo-liberal values rather than driven by a nationalist ideology countering the occupation's annexation policies and helping retain the Palestinian claim to territorial sovereignty in the West Bank (Khalidi 2016; Munayyer 2015).

From an official perspective, the Palestinian Authority's approach to counter Israeli territorial ambitions and policies in the West Bank was launched during 2004 with the establishment of a particular unit in the Cabinet Secretariat of the Prime Minister's Office. The unit had monitoring rather than a policy role designed to counter the settlements' expansion in Area C. It was to follow up on the issue of settlements and the Separation Wall following the International Court of Justice (ICJ) advisory opinion on the illegality of the settlements in July 2004 (UN News 2004). Consecutive governments changed the structure and mandate of the unit and housed it in different ministries. In 2012, it was made part of the Ministry of Local Government, in 2013, it was part of the Ministry of Agriculture until it was re-established as 'The Commission for Wall Resistance and Settlements (CWRC) and became part of the PLO institutions in 2015. The CWRC was established by Presidential decree on 18 September 2014. However, its role is more one of advocacy and coordination without much investment made to empower it politically, technically and financially (Participant 27, expert, advisor on Area C at the PMO, 2018).

When it comes to the Fayyad's government intervention in Area C, it should be noted that although the policy discourse of state-building started to take shape during the 13th government, the Statehood Plan did not include any explicit reference to the territorial aspect of Area C other than the reference to establishing the state in the 1967 borders (PNA 2009, p. 3). The plan did not include details as to the exact geography of Area C; how ministries would include it in their sectoral plans or the mechanisms that the government would employ to retain its claim on the territory. This being said, to understand Fayyad's policy approach toward Area C, there is a need to look beyond the Statehood Plan. As the previous chapter stated, the implementation of the Statehood Plan exceeded the written document, which, to a certain extent, was attributed to Fayyad's charisma. Although opinions vary as to who actually triggered interest in the need to focus on Area C, no one doubts that Fayyad's activities targeted at enabling the population in marginalized areas was a significant milestone in the Palestinian Authority's operational approach. Almost eight months after his

appointment in June 2007, during the commemoration of the *Land Day* or *Yum el Ard* Fayyad endorsed *popular Palestinian resistance* and started to finance projects in Area C. The choice of this day was remarkable for its political significance to the Palestinian collective refusal of Israeli policies to expropriate Palestinian land. The commemoration of this day started in 1976 as a result of a demonstration in Galilee (what has become Israel today) against the Israeli government's announcement to expropriate Palestinian land for government purposes. To understand the background of the Land day, (see, for instance, Kimmerling and Migdal 2003; Nassar and Heacock 1990),

To understand what is meant by *popular resistance*, Qumsieh (2011) defines popular resistance in Palestine as a movement of direct action intended to accomplish what other similar movements have done before by 1) pressuring opponents to understand the injustice that they engage in; 2) weakening the grip of opponents on power; 3) strengthening the community, including forms of empowerment and steadfastness (*sumud* in Arabic); 4) bolstering the ability to withstand injustice and do something about it; 5) building self-sufficiency and improving standards of living; and 6) achieving justice, including the right of return and self-determination (Qumsieh 2011, pp. 30-5).

Inspired by these principles, Fayyad steered a programme called 'Guardians of the Land' to support the Bedouins in Area C and mobilized the Palestinian civil society and the international donors alike. The guiding principle of his approach was to redirect the focus of the Palestinian national struggle from negotiations only, into a territorial one based on the creation of facts on the ground. In a way, he was trying to emulate the Israeli policy of controlling the land through settlement activities, though without real enforcement capacity due to the constraints of the Oslo Agreements (Participant 17, senior policy advisor to Fayyad, 2018). Guided by the principle of "doing what is possible so that we can institute the best",[103] Fayyad wanted to realize his BATNA despite the constraining legal and administrative framework governing the Palestinian self-governing authority.[104] Fayyad pushed for the implementation of 'One Thousand

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International Conference on Effective Governance under Occupation held in Birzeit University on 18-19 October 2016 -(informal copy shared by Participant 17: Salam Fayyad speech, p. 7).

[104] BATNA is the Best Alternative to a Negotiated Agreement and is a term coined by Roger Fisher and William Ury in their 1981 bestseller (Fisher, Ury and Patton 2011).

Projects' in Area C, and at the same time, he asserted the need for Area C to become an integral part of government plans. He believed that by doing so, he could overcome the entrenched territorial fragmentation resulting from the Oslo Interim Agreements (Participant 17, senior policy advisor to Fayyad, 2018; Participant 27, expert, advisor on Area C at the PMO, 2018). He wanted to enable the Palestinian people to build in Area C, to demonstrate their ability to retain control of the land of the state-to-be and, therefore, prevent the expansion of Israeli settlements in the West Bank (Journal of Palestine Studies 2009). This being said, it is no secret that many Palestinians fear renewed Israeli action to force the displacement of Palestinians not only from Area C but also from all of the West Bank. With the rise of Israel settlers' influence in the Israeli government and the imminent annexation of the West Bank, it seems that there is an ongoing debate of such a possibility (Abu Zayyad 2019).

Moreover, Fayyad's policy approach in Area C was based on the assumption that it would expose Israeli policies that prevent the establishment of a Palestinian state. By initiating state-like infrastructure projects that he knew would be rejected by the Israeli government, he wanted to add more explicit action to the political confrontation with the occupation (Journal of Palestine Studies 2009, pp. 58-74) In his view, in addition to challenging Israel with projects in Area C, he intended to mobilize the international community to pay attention to the challenges that Israel imposed on the viability of the Palestinian state-to-be (Ibid.). For instance, he commissioned a government study to ponder large infrastructure projects that would serve the State of Palestine, such as an airport in Nabi Musa that would have been located between Jericho and Jerusalem[105] and the building of a highway that crosses all of the West Bank on the model of Highway 6 in Israel, from Jenin in the north of the West Bank to Hebron in the south.[106] He knew that eventually, he would stumble upon Israel's refusal to conduct such highly political and sovereignty-related projects (Participant

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[105] According to ARIJ, it is a Palestinian village that lies within the Jericho Governorate, however, according to the Oslo II Interim Agreement An Nabi Musa locality was divided into areas "A" and "C". Approximately 1,955 dunums (1.7 percent of the total locality area) were assigned as area "A", where the Palestinian National Authority (PNA) has complete control over administration and security matters. On the other hand, approximately 110,847 dunums (98.3 percent of the total locality area) are classified as area "C", where Israel retains full control over security and administration related to the territory. In area "C" Palestinian building and land management is prohibited unless through a permit given by the Israeli Civil Administration. Most of the lands lying within area "C" are agricultural and open spaces (see ARIJ 2012).

[106] Inaugurated in 2000, Highway 6 in Israel is also called 'Cross-Israel highway' and aims to provide an efficient north-south transportation corridor in Israel (see, Route 6 2018).

22, Palestinian activist, writer from Gaza, December 2018).[107] What is noteworthy in this respect is that it has been difficult to find public records that substantiate such an approach or the feasibility and impact of the one thousand projects on retaining the territorial claim to sovereignty in Area C.

This being said, it is interesting to observe the shift in the Palestinian Authority's interest in Area C. What may have been significant—at least from a national and political perspective—is that the Fayyad government reinvigorated the national awareness for the territorial integrity of the West Bank as a whole. Fayyad's message may have been released to defy the general existential feeling of political fragmentation and loss of hope as a result of the Oslo Interim Agreements' geographic partition of the West Bank. With his approach to adopting a more inclusive development policy toward the population living in Area C, he was trying to remedy the implications of the unintentional neglect of the people residing in Area C during the interim period (Participant 53, Palestinian official, an expert in local government, 2017). And though much has been said about his propaganda like state-building discourse (Participant 47, activist and head of a Jerusalem-based NGO, 2017), it is difficult to deny the fact that with his charisma, he was able to break the taboo of working in Area C. "By affirming this support to the resilience and steadfastness of the people in Area C, he was trying to get out of the embedded limitations of the Oslo Agreements and the territorial classification of the interim period. Besides, for the first time since the establishment of the Palestinian Authority, Fayyad was able to draw the attention of the international community" (Participant 27, expert, advisor on Area C at the PMO, 2018).

As a result of Fayyad's activism, donors such as the European Union and the United Nations agencies started paying attention to the significance of Area C for the viability of Palestinian statehood. The European Commission produced an internal report warning of the fading away of the two-state solution and the need for a re-designation of Area C to Areas A and B (European Union 2012). This report triggered further interest by the European Commission and the Parliament, which continued to produce reports warning of the ongoing Israeli practices in Area C (European Commission 2018; European Parliament 2018). The United Nations development

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[107] This information has been shared with request for anonymity. There is no public record providing information about this project idea.

organizations working in the occupied territories integrated work on Area C into their Development Assistance Framework (UNDAF) and expressly supported the "Palestinian path to statehood and independence" (UNDAF 2018). This being said, it should be noted that interest into Area C amplified following the 2013 World Bank Report on the significance of Area C for the future of the Palestinian Economy (World Bank 2014).

Despite Fayyad's intense focus on Area C, it needs to be noted that it was only in 2014 that Palestinian National Development plans started making explicit reference to it (State of Palestine 2014, p. 5). Although this plan signified a late awakening of the Palestinian Authority in realizing the significance of Area C twenty years after the establishment of the Palestinian Authority, this was considered a "cornerstone for Palestinian statehood". It was also seen as an alarm signal for the need to protect the Palestinian claim to sovereignty in the West Bank against imminent Israel annexation and forced displacement of the local population (Participant 27, expert, advisor on Area C at the PMO, 2017). This being said, it should be noted that the 2009-2011 Statehood Plan did not have any reference to Area C (PNA 2011), whereas the following National Development Plan 'Establishing the State: Building our Future (2011-2013)' was the first plan that explicitly mentioned sovereignty, although it did not elaborate on the mechanisms to achieve the latter (PNA 2011, p. 5).

Nonetheless, on the positive side, the late awakening regarding the significance of Area C led to a whole new system of national and international cooperation. At the national institutional level, the Cabinet's decision to establish a 'Standing Ministerial Committee' for Area C as well as a particular office at the Prime Minister's Office in 2015, the 'Area C Coordination Office' (ACCO), shows the commitment of consecutive governments to Area C.[108] The Cabinet decided on 25 August 2015 to establish a ministerial committee to "formulate policies, identify priorities, and supervise interventions in areas designated as area C". The Ministerial Committee was presided by the Prime Minister with the membership of the Ministers of Finance and Planning, Jerusalem Affairs, Local Governance and Agriculture. The government also decided

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[108] For further information, see Palestine Cabinet. 2015. "Council of Ministers decisions: 1. Council of Ministers Decision no (م.و /ر.ح/17/65/07)- 2015, 2. Council of Ministers Decision, 3. no ((م.و /ر.ح/17/79/04) – 2016; Council of Ministers Decision no (م.و /ر.ح/17/84/12) – 2015". [Arabic]. Available at: http://www.palestinecabinet.gov.ps/Website/ar/NDecrees/. [Accessed 1 January 2018].

to establish a Technical Committee consisting of senior technical public civil servants from 17 government institutions. The main task of this Committee was to follow-up on the implementation of projects in area C on the basis of priorities set by the Ministerial Committee and in coordination with national and international partners. In the following decision, the Cabinet decided to add the Municipal Development and Lending Fund (MDLF) on 1 December 2015 and later on 5 January 2016 added the membership of the Negotiations Affairs Department of the Palestine Liberation Organization.

Following the National Policy Agenda 2017-22 (State of Palestine 2017), ACCO helped develop the Area C framework (2018-19) with three main priorities: 1) legal and advocacy efforts to strengthen Palestinian sovereignty in Area C; 2) increasing geographic coverage in terms of land registration, local and regional planning and better service delivery; and 3) incorporate Area C in sustainable development.[109] Countering the complex Israeli administrative system then became a priority at the international level and led to the establishment of the joint Palestinian-international cooperation. As a result, a combined intervention of advocacy and humanitarian assistance was founded: 'The West Bank Protection Consortium'.[110] The Consortium was established in January 2015 to deliver a range of humanitarian services to families at risk of displacement in the West Bank. It is comprised of five international non-governmental organizations/ partners whose role is to develop a protection-centred humanitarian response and humanitarian advocacy. It is funded by like-minded donors Belgium, Denmark, France, Ireland, Italy, Luxembourg, Spain and Sweden. The Consortium has been highly active in supporting humanitarian action in Area C, especially for forcibly displaced people.

What is noteworthy to mention here is the trajectory of the Palestinian Authority's interest in the territorial aspect of the state-to-be. For instance, the Palestinian Reform and Development Plan 2008-11 (PRDP) mainly focused on reinstating law and order (PNA 2008) and confidence of the international community in Palestinian governance, whilst reference to occupation policies was limited. The

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[109] Area C strategic framework (internal paper), privately shared by the head of ACCO from the Prime Minister's Office.
[110] See: West Bank Protection Consortium (WBPC) Representative. Available at: https://www.linkedin.com/jobs/view/west-bank-protection-consortium-wbpc-representative-at-nrc-europe-norwegian-refugee-council-1090912535/?originalSubdomain=il. [Accessed 1 January 2018].

13th Government Plan denoted as Fayyad's Statehood Plan (PNA 2009) did not explicitly mention the issue of territorial sovereignty, although it was his charisma that highlighted the territorial significance of Area C during 2009-11. Consequently, the policy discourse on state-building started to include a reference to the notion of the sovereignty of the Palestinian state. The National Development Plan (NDP) 2011-13 'Establishing the State, Building our Future' assumed that state-building had been resumed during 2009-11 and that "the next phase will bring to fruition the building of a sovereign state" (PNA 2011, p. 5). Moreover, while the National Development Plan (NDP) 2014-16 'State-Building to Sovereignty' was centred around the materialization of sovereignty and the development of Area C (State of Palestine 2014, pp. 4-5), the National Policy Agenda (NPA) 2017-22 mainly focused on 'Putting the Citizens First'. This way, the latest Palestinian development plan makes the notion of resilience its central guiding principle after having realized that the occupation is persistent (State of Palestine 2017, pp. 8-9). By reviewing the logical order of the political messaging in the ensuing national development plans, it can be argued that there was a shift toward a more realistic policy discourse. The failure of the 13th Government Plan for Statehood has prompted the Palestinian Authority to become more realistic about its political aims within the constraining nature of the occupation. It redirected its focus internally to ensure that the people persevere and stay on the land. The following section looks into how the Palestinian Authority has approached resilience to counter Israeli annexation policies in Area C.

5.4. Resilience as a policy to counter Israeli annexation strategies

Before examining the implications of adopting a policy of resilience and steadfastness, it may be useful to look at their different interpretations. Initially, the term resilience or *sumud* is an ideological Palestinian expression that emerged after the 1967 war; however, it gained traction during the first Palestinian uprising in 1987. Nassar and Heacock (1990) maintain that *sumud* became a sort of ideology that expressed a strategy of perseverance under Israeli hegemony against the pressures causing the deterioration and threatening the integrity of Palestinian society. They argue that this ideology represented the continued presence of the Palestinians on their national soil (Nassar and Heacock 1990, p. 28). Kimmerling (2003) observes that resilience from a Palestinian perspective can be motivated by "a desire to avoid a second ethnic cleansing" (Kimmerling 2003, p. 15). Norris et al. (2008, p. 130), claims "that most

definitions of resilience emphasise a capacity for successful adaptation in the face of disturbance, stress, or adversity".

It might be that the Palestinian Authority's recent focus on the resilience of the population in Area C is guided by all these definitions. However, it should be noted that adopting resilience as a policy to counter the Israeli settlement policy in the West Bank remains contested. This is due to the fact that it is difficult to have a precise position about its scope and impact on retaining the Palestinian territorial claim in the West Bank. It is quite clear that the approach that Fayyad pursued in reinvigorating popular resistance and resilience became later part of the Palestinian Authority's political rhetoric. However, it is not clear yet how this approach can be applied against Israeli policies beyond the mitigation of their impact on Palestinian livelihood. For instance, subsequent national development plans have reiterated the Palestinian Authority's position regarding Area C as an integral part of the West Bank and the future Palestinian State and vowed to maintain its territorial integrity (State of Palestine 2014, p. 5; State of Palestine 2018, p. 6). The following section will examine whether and how this political rhetoric was translated into practical measures. It mainly focuses on two principal activities considered significant to retaining the territorial claim on the land in Area C and to enhancing resilience and steadfastness: The first is the work of Palestinian institutions to improve land registration of private land in Area C; and the second is the work directed at enhancing local Palestinian capacity in preparing planning and zoning subject to the legal and administrative occupation rules in Area C. The section ends by examining the controversial nature of the concept of resilience in the context of the occupation.

The lack of Palestinian territorial sovereignty in Area C prohibits the Palestinian Authority from protecting the territory and from providing economic development for the population. The Israeli Civil Administration, the *de facto* sovereign authority, uses a complex system of legal, planning and building policies in Area C. It implements a policy that is designed to enable the development of Israeli settlements at the expense of Palestinian development and land ownership. It uses a complex system of professional and legal policies applied to development in the settlements and Israel proper and at the same time, it "exploits the law to prevent development, thwart planning and carry out house demolitions whenever there are Palestinians living in Area C" (B'tselem 2013).

The 1995 Oslo Interim Agreement on the West Bank and the Gaza Strip had two main articles related to the territorial aspect of the West Bank: Article 22 on Land Registration and Article 27 on Planning and Zoning. The Agreement stipulated the transfer of "all civil powers and responsibilities to the territory, including planning and zoning in populated areas (Areas A and B) that will be transferred to and assumed by the 'Council' (i.e. the Palestinian Authority)".[111] Responsibility for land registration in Area C was supposed to be transferred gradually and within eighteen months of the inauguration of the 'Council'. However, the stalled process of transferring Area C to the Palestinian Authority impeded the expansion of Palestinian functional responsibilities beyond health and education. As a matter of fact, land registration has been problematic even before the establishment of the Palestinian Authority in 1995. Israel applied existing Jordanian laws enforced during the latter's annexation of the West Bank in the aftermath of the 1967 war. In particular, laws relating to land registration and spatial planning and zoning designed in the 1950s are still applicable without consideration of the developmental requirements of changing demography over decades of military occupation (Participant 64, development expert, UN agency, 2017).

In order to counter Israeli settlement expansion and annexation of territory in Area C, the Palestinian Authority established the Palestinian Land Authority (PLA) in 2002 and the Land and Water Settlement Commission (PLWSC) in 2016. The Land Authority's mandate is to manage land registration (Palestinian Land Authority, n.d.). The Commission's mandate is to ensure efficient land registration in all of the West Bank including Area C as a way to secure Palestinian land ownership as well as to allow for the development of the population and the territory.[112] By doing so, Palestinian individuals are to be more equipped to claim their private possession under

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[111] Article 27, Appendix 1, Annex III, Protocol Concerning Civil Affairs, Oslo Accords. Article 22 Protocol Concerning Civil Affairs in the Oslo Interim Agreements states "civil authority related to land inculdes registration of land transactions in the land registry, first-time registrations of land and administration of land registry office." However, the planning and zonning of Area C remain under full Israeli control were to be transferred to Palestinian jurisdiction during the further redeployment supposedly" to be completed within 18 months from the date of the inauguration of the Council (Israel Ministry of Foreign Affairs 1993).

[112] According to the Commission's mission statement (Land & Water Settlement Commission n.d.), the Commission considers completing land settlement 'Tabo registration' in Palestinian territories (of about 3.6 million dunum) as the most important service to be rendered to Palestinian land and people, since it conserves the land from being expropriated or leaked. It also aims at human and economic development and the realization of social cohesion, comprehensive planning and economic empowerement for the peasants and women.

the law and use it for their development (Participant 34, senior official, Palestinian Authority, 2018; WAFA 2019).

Paradoxically, there seems to be a confusing Palestinian understanding of *de facto* Israeli jurisdiction in Area C. The underlying assumption of institutionalizing land registration posits that the administrative divisions of the West Bank into Areas A, B, and C created by the Oslo Agreements, are not binding under international law. Therefore, the Palestinian Authority has an obligation to ensure that there is full land registration for all the West Bank. From a legal point of view, this assumption is correct, since Israel's policies are illegal under international law in general and the 4th Geneva Conventions and International Humanitarian Law (IHL) in particular. However, while Israel continues to practice *de facto* sovereignty unabated, the Palestinian Authority does not have the power to prevent the occupation authorities from expropriating or annexing the land, even if it is registered in the Palestinian land registry. To point at the extent to which there is a schism between the Palestinian Authority's political rhetoric and actual capacity, Palestinian citizens do not trust the capacity of the Palestinian land registration office (Tabo), even when it comes to ensuring the legality of their land registration in Area A, which is under considerable functional/ territorial responsibility of the Palestinian Authority. This lack of confidence in the Palestinian Authority grows when it comes to land registration in Area C, which is under full Israeli Administration. In both cases, there are many Palestinians who go directly to the Israeli Civil Administration to register their land, as they believe that it is the primary source of information. By doing this, they try to avoid the lack of clear separation of responsibilities between the Palestinian Authority and the Israeli occupation authority.

On another note, the process of preparing and approving spatial plans for Area C is quite complicated, especially since the Palestinian Authority does not have any jurisdiction except for health and education. According to the Oslo Agreements, neither the Palestinian Authority nor the donors are authorized to have direct coordination on spatial plans in Area C with the Israeli Civil Administration. The Palestinian General Commission for Civil Affairs is the only designated party to coordinate programmes with the Israeli side through the Joint Civil Affairs Committee (CAC) since the Palestinian Authority is not allowed to directly intervene in the implementation of development plans on the ground. To bypass Israeli limitations, a new mode of governance as an adaptation to the permissible functions of the Palestinian Authority

resulted in the establishment of a functional equivalent substituting for the lack of original jurisdiction of the Palestinian Authority. For instance, the Municipal Development and Lending Fund (MDLF) is a semi-government organization established in 2005 to support the development of municipalities and local councils. MDLF has a leading role in the implementation of projects in Area C. However, project implementation is not directly undertaken by MDLF, rather MDLF subcontracts private engineering and contracting firms to implement projects, because the Palestinian Authority is not allowed to have any direct civilian responsibility in Area C. The Ministry of Local Government (MoLG) assigns MDLF to conduct unofficial consultation with the local councils in Area C. UN-HABITAT sub-contracts NGOs to work on the urban and spatial plans, and MOLG coordinates with the Palestinian Commission of Civil Affairs. This being said, it should be noted that membership in the CAC is limited to the Palestinian Commission for Civil Affairs. MoLG has a representative/ observer in the CAC, who does not take part in decision-making or in the approval of projects. Neither MoLG nor MDLF is allowed to implement the plans for Area C, once and if they are approved. MDLF then coordinates with the donors to have private contractors implement infrastructure projects, mainly in the housing, educational and infrastructure sectors (Participant 53, official, expert in local governance, 2017; Participant 64, development expert, UN agency, 2017; Participant 68, senior official, Ministry of Local Government, 2017).[113]

Inherently, though this may seem as defiance from the part of the Palestinian Authority and the international community, it is also another form of resignation to the constraints imposed by the occupation authority. The process of having spatial plans approved by the Israeli Civil Administration is quite complicated, difficult to track, uncertain and entails working in accordance with the effective Israeli planning laws in Area C. This process requires at least eighteen months for the Civil Administration to approve before providing the permits for construction or infrastructure development (Participant 64, development expert, UN agency, 2017). As a result, two approaches evolved in order to deal with the intransigence of the occupation's policy of delaying the approval of spatial plans in Area C. One is a statutory approach to implement projects in Area C, and the other is non-statutory. Participant 64 (Participant 64,

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[113] Participants 53, 64 and 68 are officials and experts in local governance who work in the Palestinian Authority and international development agencies.

Palestinian development expert, UN agency, 2017) explained that "this policy has been shaped by ex-Prime Minister Salam Fayyad and has been supported by some donors who are contributing to projects in Area C". A mutual understanding between the Palestinian Authority, the donors and international organizations evolved regarding the implementation of projects presented to the Israeli Civil Administration and meeting the 18-months period pending official approval. The decision to start implementation would presume that if 'no objection is acquired, then the projects are approved" (Participant 64, Palestinian development expert, UN agency, 2017; Participant 53, official, expert in local governance, 2017).

Notwithstanding, intervention in Area C can be a hugely controversial political action. In August 2017, one Palestinian official opined that the work that had been done since 2011 had a minimum impact not only on the lives of the population residing in those areas but also on the prospects of a real breakthrough in the national struggle in Area C and, henceforth, on a future Palestinian state. To this date, only five spatial plans out of 113 presented to the Israeli Civil Administration have been approved, since this operational approach started four years ago (Participant 63, senior Fatah member and a senior official at the Ministry of Local Government, 2018). The problem is that although intervention supports the population and mitigates the occupation's policies, it is not and cannot be strategic. It remains reactive without clear guidelines and prey to an institutionally more sophisticated, ideologically- and militarily-driven government machinery (Participant 64, development expert, UN agency, 2017; Participant 53, official, expert in local governance, 2017). Though there have been considerable efforts by major donors, such as the EU which contributes to the Palestinian Authority's Resilience Policy in Area C in addition to an elevated language of support and empowerment, there has not been an express effort to enforce the application of International Humanitarian Law or force Israel to cease its expansion of settlements (European Parliament 2013). An exciting instance of above-mentioned language can be detected in the objectives of the UNDP Community Resilience and Development Programme (CRDP) for Area C, and Jerusalem launched in March 2015. The programme focused on the humanitarian aspect as well as the protection of the population and land property in Area C and Jerusalem. It further stated that its objective was to "mitigate and ideally reverse migration flow from Area C and East Jerusalem by enhancing human security and livelihood of Palestinians". The language

was carefully crafted to reflect the migration of citizens from Area C and Jerusalem. It described migration as "a neutral outcome of impoverished communities" as if this impoverishment was not the result of a "peculiar logic of the Israeli government state apparatuses to control the Palestinian population and colonize the West Bank" (Joronen 2017, abstract). Another example is the diplomatic language of the European Union's call for donors to support Area C. The EU's call for the Ad Hoc Liaison Committee (AHLC) mainly focused on supporting economic activities in Area C identified under the National Policy Agenda (NPA) 2017-22. Ironically, when it comes to joint national and international intervention in Area C, some within the international community are not enthusiastic about it. They see it as "illusionary" and argue that it will not have the potential to yield tangible political results. In other words, they would rather see "the Palestinian Authority and political leadership focus on their functional role in Area A and B, and restart negotiations with Israel with a pragmatic mind, rather than continue having an abstract idea of the sovereignty of the future Palestinian state" (Participant 10, European diplomat, 2018).

Regarding the implications of adopting a policy of resilience and steadfastness, one can argue that at best, it may be a passive form of resistance despite the fact that it comes as a natural consequence of an ontological understanding of the complexity of the situation of life (Chandler 2010; Joseph 2013, p. 38). In this sense, as a governance model, it cannot provide solutions (Chandler 2014a). Consequently, resilience as part of a state-building policy discourse becomes inherently self-contradictory and shows the inevitable inconsistency within a policy that claims feasibility, especially with regards to retaining the claim on territorial sovereignty. Vice versa, it can imply the referral of responsibility from the central authority to individuals to provide protection and well-being, in the sense that it empowers the people to remain on the land but cannot protect them from external aggression. Moreover, as a policy approach, resilience may be attractive as political propaganda, since it sends a message that there is no alternative remaining given the occupation context. In this case, adaptation becomes a way of normalising the occupation and surrendering to the *status quo* rather than formulating clear policies and strategies to counter it. Some of the negative sides include relieving the international community from assuming its role in ending the decades-long occupation, and most importantly, the occupation from assuming its obligations under International Humanitarian Law (IHL).

Besides, one of the most significant shortcomings of such a policy is that intervention for resilience cannot result in real economic growth as long as it is focused on the day-to-day survival of the population in Area C nor can it ensure the protection of their land. In this case, Resilience does not seem to be based on a strategic political or development policy on the part of the Palestinian Authority, because of the latter's subjection to Israel's discretion of allowing it to exist in the first place, as we have seen in the example of permission requests for planning and zoning from the Israeli Civil Administration. In its best form, resilience in Area C can be considered as a 'humanitarian plus, development minus'-approach without much promise to retain the claim for territorial sovereignty given the context within which it is being undertaken.

On another note, to this date, theoretical debates about the resilience approach have not tackled the notion of the central authority having to intervene on behalf of the population at times of distress. As an example, the Palestinian Authority remains morally responsible for the well-being of its people irrespective of the Israeli imposed territorial jurisdictions in the West Bank. Intervention in this regard becomes a measure of persistence and capacity to absorb change as a means to preserve the existence of the population and the legitimacy of the central authority. For, in between policy discourse and political rhetoric lies the complexity of the political process as a result of persisting Israeli settlement expansion in Area C. In this sense, it is difficult for the Palestinian Authority to balance between the need to deliver its duties and responsibilities to its people and protect their land and lives, on one side, and the commitment to maintain its security function under the Oslo Agreements. The following section highlights the implications of the lack of territorial sovereignty on the capacity of the Palestinian Authority to act on behalf of its citizens in Area C, and, hence, discusses the impact on its legitimacy and its ability to retain its territorial claim.

5.5. Implications of the lack of territorial sovereignty

This chapter intended to illuminate the context within which the Palestinian Authority has been working in Area C. The late awakening of its intervention required to question the validity of supporting resilience in a context of continued occupation. Tracking the conceptual and practical application of the state-building policy regarding Area C leads to the conclusion that there has been a disconnect between political rhetoric and the policy discourse, on one side, and the institutional capacity and functional

permissibility of the Palestinian Authority, on the other. And though there seems to have been a considerable shift of position in self-restraint regarding the implementation of activities in Area C—taken by both the Palestinian Authority and the international community alike—toward the establishment of what can be described as "creative modes of governance" and institutional configurations to mitigate the Israeli policies in Area C (Börzel & Risse 2010; Risse 2013, 2012, 2011), empirical evidence shows that this has been insufficient to guarantee the retention of the Palestinian claim for territorial sovereignty in the West Bank.

In this respect, institutionalising policies of popular resistance, resilience and steadfastness does not seem to help to depart from the impasse of the pre-ordained limited self-rule. As an example, the establishment of a hybrid model of governance involving international and national non-state actors to work as a substitute for the lack of jurisdiction given to the Palestinian Authority in Area C does not have the capacity to provide political solutions as long as the international community is not ready to force an end to Israeli occupation. Moreover, with the continued Israeli policy of imposing *faits accompli*, prospects for Israel territorial concessions seem unlikely. For, when comparing the essence of the expected functions of limited self-rule under occupation with the ideal type of a Westphalian-Weberian state, it can be inferred that the problem does not relate to the notion of capacity or domestic sovereignty (Krasner & Risse 2014, p. 545), but instead, it is a problem of an absence of statehood as a concept in the first place. Therefore, even if for the sake of argument, we assume that the situation in Area C resembles a situation of limited statehood, in which case the central authorities (governments) cannot implement and enforce rules and decisions and where the legitimate monopoly on the means of violence is lacking, it is hard to imagine that this is applicable to the Palestinian case. Statehood functions are fundamentally different from those of limited self-rule under occupation. As an example, the security function without territorial sovereignty is difficult to understand in a situation where the central authority does not have the right or the capacity to defend the people and the land.

Although there might be some resemblance between Palestine and other post-conflict or in-conflict countries, when it comes to the central government's capacity to have a monopoly on the use of violence, the difference lies in the fact that the determining variable in the Palestinian context is the occupation. The occupation is

the *de facto* holder of the monopoly on the use of violence. Article X Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (1995) maintains Israel's control over external security matters, while Palestinian security responsibility is limited to internal policing. For this reason, it is essential to consider this fact, when we look at the expected role of the Palestinian Authority in Area C. Still, this does not dismiss two facts that are inherently antithetical; the first lies in the existing role of the Palestinian Authority in terms of coordination with the occupation's authorities in matters relating to security, even in areas where it is not allowed to excercize the preservation of law and order; while the second lies in the fact that not being allowed to exercize security responsibilities in Area C puts it at odds with its moral and national responsibility to provide protection for the people and their land. As a result, it is difficult to identify the enemy within a comprehensive and meticulous system of security coordination and cooperation with the occupation's authority (Israel Ministry of Foreign Affairs 1995, Annex I).

Adding to this confusion, it is essential to note that successful security coordination between the Palestinian Authority and Israel—which has never been enough—has put the Palestinian Authority at odds vis-à-vis the population (Participant 18, political analyst, official in Palestinian Legislative Council, 2017). In a situation where the occupation authorities continue to have the supremacy and discretion to decide over the Palestinian Authority's security performance, it is difficult to decide how the Palestinian Authority can protect its citizens from external security threats to their lives and land. Consequently, though much has been written about Israel's aim to pacify resistance or that the Palestinian Authority has become Israel's security sub-contractor (Hilal 2018; Tartir 2015), all of which hold an element of truth, not much has been written about the implications of the dual nature of the Palestinian security mandate under occupation for the morale of Palestinian security officials. Having conducted several interviews with officials from the Palestinian security sector, discussions about the role of the Palestinian Authority in Area C revealed a growing crisis of identity at the senior and junior levels of the security apparatus. The strained action of the Palestinian security to act on behalf of the population in matters of internal and external security has resulted in a confused perspective of the *raison d'être* of Palestinian security forces within a context of military occupation.

On another note, though directly related to the above, despite the fact that the Palestinian Authority has been making progress in capacity building, policy planning, building security premises, policy discourse on state-building, it was difficult to locate any direct or critical assessments of the real security threats against the people and the territory. The national development plans lacked any direct indications on how to tackle Israeli settlement expansion, land expropriation, settler violence in Area C and home demolitions in a pre-emptive way. Instead, most of the Palestinian Authority's intervention came in the form of mitigating the impact of Israeli policies against the people and the land in Area C. In most government plans, the security sector safeguards the rule of law as a matter of internal order and has been limited to areas under the Palestinian Authority's control, namely in Area A and to some extent in Area B. The notion of a Palestinian monopoly on the use of violence is not explicitly stated and informing the Palestinian Authority's national security strategy. As an example, the National Development Plan 2014-16 concluded that "the Palestinian Authority is proud of the security achievements in instating peace and the rule of law in areas that they have access and control" (State of Palestine 2014, p. 30). And though there has been massive investment in enabling Palestinian security, their limited capacity to act even with regards to internal law and order in Area C not only delegitimizes its role but also demoralizes the security forces across the board from the highest decision-making level to the lowest cadres (Participant 55, official, Ministry of Interior, 2017).

In this sense, we can infer that the issue is not a lack of capacity as is the case in fragile or failed states (Fukuyama 2004c; Chesterman 2005), but rather the definition of Palestinian national security ideology and purpose. The notion of national security has been absent from the operational modality of the Oslo Agreements and consequently has been missing from the Palestinian state-building policy discourse (Participant 6, Palestinian Authority official, ex-Quartet staff member, 2018). Though, Fayyad and others firmly pointed to the need to see the security aspect as a Palestinian necessity not only because it is an obligation under the Oslo Agreements (Participant 46, legal expert, ex-legal advisor to the PLO, 2018), there does not seem to be any solution to ensure the protection of the land and the people against the occupation's policies or settler violence (Journal of Palestine Studies 2009). The only available mechanism to cope with the security dilemma and the need for protection of

the people and the land has been the provision of humanitarian support and advocacy including spatial planning and zoning to allow for development plans for Area C.

Empirically, the absence of territorial sovereignty, intensive territorial fragmentation and subjugation to the laws of the occupation impairs the Palestinian Authority's capacity to ensure peace and security for its citizens and has therefore resulted in a severely weakened central authority (Delaney 2005, p. 16). What is quite encouraging though, is the fact that the United Nations Development Program's (UNDP) series of Palestine Human Development Reports (PHDR) clearly indicates the significance of sovereignty to the promotion of human development and considered that the concept of human security could only be achieved through the triangle of development, freedom and peace as a necessary prerequisite for achieving full and secure statehood.[114] In relation to this perspective, it is essential to note that it is only recently that some of the answers to the security dilemma have been embedded in the report 'Who needs Security?' published by the Palestinian Centre for Policy and Survey Research (PCPSR) in August 2017 summarizing the societal debate over the Palestinian security doctrine beyond Area A (PCPSR 2017).

The report provides a comprehensive assessment of the challenges to people's security in areas that do not fall under Palestinian jurisdiction: a combination of threats to internal security coming from the settlers. It unpacks the straining factor permissible functions have for the Palestinian Authority within Areas B, C and H-2 in Hebron. It describes how Palestinians residing in those areas struggle to survive in an environment lacking security and the rule of law and provides testimony of people holding the Palestinian Authority responsible for their protection and demanding to have effective Palestinian policing in their areas".[115] There are two aspects in the report that point to its significance for understanding the particularity of the Palestinian situation: The first aspect is the lack in analyses of Palestine that take into

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[114] The first Report (1997) pondered the complexity of promoting human development in the absence of a sovereign State. The 1999 Report went further, proposing how the foundations for that state might be laid. The PHDR 2002 was written under the shadow of renewed conflict. The extreme violence of the second Intifada prompted a call for a re-evaluation of the Oslo Accords and a re-assessment of the performance of the Palestinian Authority (PA). The most recent Report (2004) rightly predicted that territorial fragmentation would lead to further social and political disintegration. See Preface at: http://www.undp.ps/en/hdr/index.html [Accessed 3 March 2018].

[115] The Hebron Protocol concerning the redeployment of Israeli forces in Hebron and signed on 17 January 1997 divided the city into two sectors: H1 comprising 80 percent of the city to be controlled by the Palestinian Authority and H2 comprising 20 percent of the city to be administered by Israel.

consideration the context as a determinant factor for understanding the intricacies of the security function of the Palestinian Authority in the absence of territorial sovereignty; and the second aspect emanating from the first is the problematic use of analytic tools applicable to consolidated states in a context of a limited self-rule under occupation. The report is a good reminder of the need to revisit the analysis of the performance of Palestinian security even in Area A, where the Palestinian Authority has internal security responsibilities. For, even this function that can be seen as an internal function of the Palestinian Authority is overruled by Israel's overall security sovereignty in the West Bank. In this sense, we always need to be reminded of 'Annex I, Protocol concerning Security Arrangements in the Interim Oslo Agreements', which in reality, entails that the limited security responsibility of the Palestinian Authority is an act of a devolved responsibility, which not only is overruled but can also be withdrawn by Israel as has been the case in the Second Intifada. In reality, Israel has a say even in the recruitment of Palestinian security officials (Israel Ministry of Foreign Affairs 1995, Annex I).

The concept of holding the monopoly on the use of violence is twisted within a context of limited self-rule. The *de facto* dual structure created under the conditions of limited self-rule under occupation, necessitates a different analytic framework, especially when the policy discourse affirms a commitment to achieving sovereignty but does not present tools to achieve it other than resilience and steadfastness. The dilemma of the Palestinian Authority resides in the fact that it is unable to provide real protection for its people and its territory under the constraints of the Oslo Agreements and its pre-ordained security function. This dilemma will continue to persist as long as there is no explicit recognition of the limitations of the security function in the context of the occupation. In this instance, there seems to be a Palestinian awareness for the need for the political authority to balance its political rhetoric with the actual security mandate of the Palestinian Authority, not only in Area C but also in the rest of the West Bank. As expressed by two interviewees from the West Bank, it seems that a continued disconnect between political rhetoric and reality does not improve the legitimacy of the Palestinian Authority in the eyes of the Palestinian people. They hope that the Israeli occupation demolishing of Khan El-Ahmar in Area C on 4 July 2018 would help the Palestinian Authority to reach "the tipping point" and instigate a moment of truth with regards to the value of continuing with the policy of Popular Resistance

and Resilience under the current context (Participant 27, expert, advisor on Area C at the PMO, 2017; Participant 55, official, Ministry of Interior, 2017; Middle East Eye 2018).

On another note, it is essential to compare the expected role the Palestinian Authority has set itself to undertake in its state-building discourse from 2009 onwards. Having its legitimacy based on the commitment to fulfil national aspirations in establishing a Palestinian state in the West Bank and Gaza with Jerusalem as its capital city necessitates the question of what has been done in order to get there, and what should and could have been done during the past twenty-five years. Legitimacy then becomes a notion that is beyond a Weberian conceptualization of the monopoly on the use of violence, or even the validity of the Palestinian Authority on the basis of its capacity to perform its security function. For, in a typical conceptualization of the notion of legitimacy of a particular political order, it is a measure of holding the government accountable for its programmes or its performance vis-à-vis its functions and promises to the people. This type of legitimacy is commonly decided through democratic elections; however, when discussing the legitimacy of the central authority in Area C, it is difficult to delineate the Palestinian Authority's responsibility or actual function from the influence of the external factor of the occupation. For, although political legitimacy is an essentially contested concept, it should be understood in totality.

In the Palestinian case, the problem of interpreting legitimacy lies in the fact that the actual role of the Palestinian Authority in Area C has not been explicitly explained to the people. Therefore, the framework for a mutual social contract has been absent, which makes it challenging to evaluate its legitimacy. Beyond the theoretical assumption of a government's legitimacy based on its ability to provide protection and well-being, the late awakening in tackling the significance of Area C does not seem to have formed a clear programme as to how the Palestinian Authority could address the issue of lacking territorial sovereignty.

What is more complicated is the fact that the Palestinian Authority's responsibility for protecting the land and the people has been shifted toward the population in Area C under the framework of popular resistance, resilience and steadfastness. Even if the intervention of a coalition of national and international state

and non-state actors, which may be seen as a hybrid model of governance (North 1991), can be considered adequate, it is not clear who is to be held accountable and for what. In reality, the problem is that the population are caught in limbo without any direct responsibility for their well-being or protection, whereas the best the Palestinian Authority and international development actors can do is to provide humanitarian and capacity-building support. It is also difficult to see that the territorial issue in Area C will be solved beyond nominal international resolutions and Palestinian political condemnation. Moreover, it is evident that there is a correlation between the Palestinian Authority's effectiveness and its legitimacy in Area C. However, it should be acknowledged that this situation is of a more complex nature than any other state-building situation (Schmelzele 2012).

To better explain the impact of the lack of territorial jurisdiction in Area C and the systematic Israeli fragmentation of Palestinian territories in the West Bank, we need to be reminded of the Oslo Agreements. According to the Agreements, the Palestinian Authority does not have any jurisdiction in Area C, except for responsibility in the health and education sectors, while Israel retains full sovereignty over all of the West Bank. The Westphalian-Weberian model of the state postulates a strong relation between territorial sovereignty and a state's capacity to act as the central government, to hold the monopoly on the use of violence and to generate legitimacy. The absence of the concept of sovereignty for the Palestinian Authority in Area C is not only a territorial one but is instead the result of the systematic policy of territorial control that dates to the early days of 1967. Moreover, the operational framework of the Oslo Agreements did not come as a result of a quick process of peace negotiations, but rather has been the result of an embedded ideology and responding systematic policies meant to prevent the eventuality of a territorially sovereign Palestinian state (Anziska 2018).

Nevertheless, from a positive point of view, the Palestinian Authority's awareness of the significance of Area C to Palestinian sovereignty, territorial contiguity and economic viability have been a step forward. Establishing government structures as a response to follow-up on the complicated relationship with the Israeli Civil Administration can also be seen as a step toward effective governance. However, this is actually not where the problem lies. The problem lies in the lack of sovereignty, lack of defined borders of the State of Israel, assuming that as an occupying power it has

the ideological willingness to live side by side with a sovereign state of Palestine. In the context of this anomaly, it might be adequate to conclude that even a situation of limited functional sovereignty is debatable. I contend that it is either functions or sovereignty. The functional role of the limited self-rule under occupation in the Palestinian case has become immersed in the process of mitigating the impact of the occupation's colonial and expansionist policies rather than to end the occupation. This anomaly brings back the need to examine the validity of combining state formation with state-building in the Palestinian context.

While it has been almost ten years since the Palestinian Authority renewed attention to Area C, work modalities and institutional structures have been gradually and incrementally established. It is true that there have been some successes, but the imminent threat of having Israel annexe Area C calls for questioning the underlying assumption of intervening in Area C, and whether it has been meaningful as to retain the claim of territorial sovereignty in the case of future negotiations between the Israelis and the Palestinians. For, it is not only that the Israeli institutional system and policies have been designed to achieve incremental control of the land and to impose *irreversible facts on the ground*. Also, the current government's political move to fully annex the West Bank settlements means that this annexation will extend Israeli sovereignty to all of Area C and eventually enlarge the territorial aspect of the State of Israel on account of any future Palestinian entity. What remains important to note in this case is the future of the nature and substance of the Palestinian self-governing authority and the institutional and political limitations on its future capacity to maintain its role as a central authority beyond Area A and B in the West Bank.

Conclusion

In conclusion, the Palestinian Authority's policy discourse on state-building in Area C oscillates between adaptation, confusion and cognitive dissonance (Participant 7, political scientist, 2018). Thinking with the mentality of a sovereign state while operating within the parameters of limited self-rule is the characteristic of the day. During the past years, Fayyad and the successive governments tried to go beyond the limitations of the Oslo Agreements, but this was difficult to the extent that the modified version of the policy of resilience and steadfastness had counter effects on the notion of resistance and unintentionally rendered service to the occupation rather than

advance statehood. The problem is that the Palestinian Authority is unable to get out of the orbit of the Oslo Agreements, because in fact, though its presence in the West Bank has become a *de facto* reality, it is subject to Israel allowing it to exist in the first place. The nature of the devolved powers and responsibilities of self-rule under the aegis of occupation does not entail any possibility for a meaningful future Palestinian territorial sovereignty.

Though absolute sovereignty will continue to be contested (Krasner 1999) in a global context that is continuously changing (Jackson 2003), the notion of state capacity (Fukuyama 2004b) will impose itself on the debate and, hence, on the possibility of framing the stance toward the nation-state. What may be needed, especially concerning the anomaly of the Palestine case (Agnew 2005), is to understand the contextual permissibility and possibility of exclusive authority that might be the antonym of limited self-rule. Krasner (1988) contends that "the assertion of final authority within a given territory is the core element in any definition of sovereignty". When the COGAT is the source of information and legal order for both the Palestinian Authority and the population in all the West Bank in general and in Area C in particular, then there is a need for a new theoretical framework helping to understand the limitations and the feasibility of the Palestinian Authority's state-building policy discourse and the extent to which it has been able to advance Palestinian statehood.

CHAPTER SIX: JERUSALEM

Introduction

The central topic of this research is to examine state-building as a path to Palestinian statehood. This chapter intends to illuminate the underlying assumptions of the Palestinian National Authority's state-building policy with regards to Jerusalem from its establishment in 1995 during the Fayyad governments to this date. In this respect, I contend that there is a need for a more in-depth analysis of the context within which the Palestinian Authority has been working in Jerusalem; this is of particular relevance since there is a gap between mainstream political discourse and the actual policies on the ground. I try to present empirical facts substantiated by scholarly analysis about the implications of Israeli policies on the future of the city. I further argue that as an eventual outcome of deferring an agreement on the city, the latter was left out of state-building policy and government plans. Based on enhancing resilience and steadfastness of the population, the Palestinian Authority's intervention in Jerusalem has, as a result, been circumstantial and reactive rather than strategic. I conclude that the intervention of the Palestinian Authority faced internal and external challenges leading to scepticism regarding its actual capacity to transform power relations to the benefit of the Palestinian people and their aspiration to have East Jerusalem as the capital of their future state.

6.1. The significance of Jerusalem as a capital city

Establishing a capital city has substantial implications for the sovereignty of a state. For, it is the place where the actual capacity of the state's institutions becomes manifest. It is precisely in the Westphalian-Weberian sense that a capital city is essential to the effectiveness of state institutions and the preservation of the nation. In this sense, a nation-state would ultimately necessitate a central territorial authority to steer and administer its affairs. A capital city would have considerable political and symbolic importance to the national 'territory' to which it belongs. It is mainly the seat of power and decision, including the power over the economic sphere" (Hypergeo 2014). Accordingly, ensuring a capital city is not something that comes by coincidence but rather is a process (Participant 49, activist, a member of a prominent Jerusalem family, 2018). Based on a political decision, a process that takes adequate measures to create and maintain a metropolitan centre, which reinforces the central authority's

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political, administrative and socio-economic rule as well as its cultural identity as a living symbol and demonstration of national pride and sovereignty (Participant 40, ex-minister in several governments, one of the founders of the Technical Committees at the Orient House during the early 1990s, 2018; Participant 47, activist and head of Palestinian NGO who believes that the best way to maintain resilience in Jerusalem and Area C is by working from within the Israeli system, 2018; Participant 49, Palestinian activist, member of a prominent Jerusalem family, 2018). In the case of Jerusalem, in addition to the aspiration of having it represent political, administrative and economic power, its religious significance adds more responsibility on the shoulders of the Palestinian political leadership and the Palestinian people in general. For, they find their utmost pride in preserving the city because of its religious and historical heritage. This being said, Jerusalem, as a city, has always triggered academic research and analysis. It suffices to read two most comprehensive accounts by Michael Dumper, amongst which the most recent *Jerusalem Unbound* provides a detailed account of Jerusalem's geography, history and *"The Politics of Jerusalem since 1967"* provides a mapping of the possible future of the Holy City (Dumper 2015; Dumper 1997).

The recent history of the city attests to the fact that Jerusalem's political status has been at the centre of Palestinian politics since 1964. It was always significant to the Palestinian national identity to the point that the Palestine Liberation Organization (PLO) was launched in Jerusalem in 1964 at the first Palestinian National Council (PNC).[116] Since then, the issue of Jerusalem has been central to Palestinian political discourse. Jerusalem has been part of the fundamental national principles of the Palestinian struggle for liberation since the 1970s (Tamari & Hamami 2000, p. 3).[117] Consequently, the 1988 Palestinian Declaration of Independence and the acceptance of the two-state solution based on the United Nations Resolutions 242 and 338

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[116] The Palestinian National Council (PNC) is the legislative body of the Palestine Liberation Organization and elects the PLO Executive Committee. The PNC is responsible for formulating policies and programmes for the PLO. It serves as the Palestinian national parliaments for all Palestinians inside and outside the Palestinian territories, and all political parties, popular organizations and independent figures from all sectors of life (see PASSIA 2014).

[117] Palestinian fundamental principles (Al-Thawabit al-Wataniyya (Arabic: الثوابت الفلسطينية) or what is known as Palestinian red-lines are considered to be the main principles formulated by the National Council of the Palestine Liberation Organization (PLO) in 1977 regarding the main national issues vis-à-vis the conflict with Israeli. They include the right to resistance, the right to self-determination, Jerusalem as the capital of Palestine and the right of return for Palestinian refugees in accordance with the United Nations General Assembly Resolution 194.

encompassed the notion of East Jerusalem as the aspired capital of the Palestinian state within the borders of 1967.

It is important to note that what is meant by East Jerusalem is the sector of the city that was annexed by Jordan in the post-1948 war between Israel and the Arab countries, as opposed to the western sector of the city occupied by Israel. Since the 1967 war, East Jerusalem has been occupied by Israel along with the West Bank. The term refers to the area that was incorporated into the municipality of Jerusalem after 1967, covering some 70 square kilometres; sometimes it also refers to the smaller area of the pre-1967 Jordanian-controlled part of the Jerusalem municipality, covering 6-4 square kilometres (Hass, 2014). Besides, East Jerusalem is the area that includes the Old City encompassing holy sites, such as the Temple Mount, the Western Wall, Al-Aqsa Mosque, the Dome of the Rock and the Church of the Holy Sepulchre as well as a number of neighbourhoods belonging to different religious sects. The main contention between the Palestinians and Israelis over the city relates to each side's definition of its borders. For, while the official Palestinian position is based on the 1967 borders, what is referred to as the Green Line or the 1949 Armistice Line, Israel's position is based on the current municipal boundaries of the city, which Israel unilaterally modified since 1967.

The creation of the Palestinian Authority under the Oslo Agreements did not entail any direct responsibility in East Jerusalem. Negotiations over the issue of Jerusalem were deferred to the permanent status negotiations. When it comes to the meaning of the word 'defer', note that according to Merriam Webster Dictionary (Merriam-Webster n.d.), "the verb defer has two possibilities, the first is to imply a deliberate putting off to a later time, and the second, means yield, submit, capitulate and succumb which may apply to any sort of degree of giving way before force, argument, persuasion or entreaty to give way to someone or something that one can no longer resist". In this sense, deferring Jerusalem has had a detrimental effect on the future of East Jerusalem, especially since 1993. While Palestinians continuously claimed their legal right to territorial sovereignty in East Jerusalem, most post-Oslo negotiations, whether formal or informal, did not contemplate—at least from the Israeli side—any direct territorial sovereignty in the city that Israelis deem to be their eternal united capital. Instead, there were proposals to use Abu Dis, an adjacent village to the municipal boundaries of East Jerusalem that lies within Area C in the West Bank.

However, this proposal was adamantly refused by the Palestinian leadership (Hanieh 2001, p. 84). Having said this, it is essential to note that although the Palestinians always claimed their legal right to East Jerusalem as their capital city, it is difficult to know exactly which area they refer to, or how they envision the territorial aspect (Dumper 1997, p. 271). In comparison, Israel has had a clear vision since 1967 of what it wanted so as to ensure that the holy sites and the surrounding territory would remain in Israel's hands (ICG 2012a, pp. 4-5). The following section elaborates on this point and indicates how Israel's vision of transforming the city's geographic and demographic structure made it difficult to contemplate a future sharing the city with the Palestinians.

Five decades after UN Resolution 242 and almost three decades after the signing of the Oslo Agreements, political rhetoric on Jerusalem continues to be at the centre of Palestinian politics. Declared as the round of 'Jerusalem and Protection of Legitimacy', the 23rd round of the Palestine National Council (PNC) held in Ramallah in May 2018 restated the Palestinian position on Jerusalem as being at the core of the conflict. It confirmed that it remains part of the non-negotiable Palestinian fundamentals along with the Palestinian right of return (Wattan News 2018). The latest reiteration of the Palestinian right to the city reflects a renewed Palestinian diplomatic effort to focus on what Dumper (2008) referred to as a *"rights-based-approach"* vis-à-vis the political claim to the city as the capital of its aspired state (Dumper 2008, p. 21). In reality, however, this reiteration flows out of distress and frustration given the absence of a political process in the face of an unyielding Israeli position on the city and ongoing policies of creating a seemingly irreversible situation that prevents the possibility of sharing the city, even with a minimum political or functional administration (Participant 1, political scientist – Annajah University, 2017; Participant 41, civil society activist, expert in international law and international humanitarian law, 2018).

On another note, Jerusalem's international and religious significance exceeds its political significance to the Palestinian national liberation cause. International interest in the city has its roots in the long-standing diplomatic and religious presence that existed decades before the recognition of the Partition Plan in 1947 and that designated the city as a c*orpus separatum*. The *corpus separatum* status of the city of Jerusalem was recognized by European countries running consulates-general in Jerusalem, such as Italy, France and the UK in addition to the Holy See and later by

the European Union. Consecutive US governments also recognized this status before the Trump Administration's recognition of Jerusalem as the capital of the State of Israel and its decision to move the US embassy to the city. The UN General Assembly Resolution 181 proposed to make the city a '*corpus separatum*' and to divide it into three entities, Arab, Israeli and international supervised by the United Nations Trusteeship Council, while it deemed the residents as "residents of the city of Jerusalem unless they opt otherwise".[118]

Since then, there were two contested claims for territorial sovereignty over the city of Jerusalem. While Palestinians base their claim on international legitimacy, in particular, the 1967 border defined as the 1949 Armistice Line (UNGA 1947),[119] Israelis base their claim on biblical and historical reference, on one side, as well as on the idea of a "void of sovereignty" before 1947, on the other (Quigley 1996, pp. 766-68). It should be noted that Quigley fairly presents the origins of both Palestinian and Israeli claims to territorial sovereignty in Jerusalem and concludes that, though the Palestinian claim is more legally founded, Israel's de facto sovereignty alters the facts on the ground, primarily since the "*de facto* control rests with Israel, and Israel enjoys a preponderance of administrative and political power relative to the PLO" (Quigley 1996, p. 780).

Israel claims that prior to 1947 there was no sovereign authority in Jerusalem, hence, the official justification of its annexation in 1967 (see Israel Ministry of Foreign Affairs 2009). This being said, it is essential to point out that Jordan annexed the city in 1948, and it remained under its rule until the June 1967 war. Jordan's influence in the city continues to this date, despite the fact that it disengaged from the West Bank in 1988. To this date, it has kept its trusteeship of the Jerusalem religious sites on the basis of the 1994 Jordanian-Israeli agreement (Wadi Araba Treaty) and the agreement with the Palestinian Authority in 2013.[120] In any case, "the city used to be the *de facto*

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[118] Resolution 181 (III) talks about the future government of Palestine, and it states that: "*Citizenship.* All the residents shall become ipso facto citizens of the City of Jerusalem unless they opt for citizenship of the State of which they have been citizens or, if Arabs or Jews, have filed notice of intention to become citizens of the Arab or Jewish State respectively, according to part I, section B, paragraph 9, of this plan".

[119] The Armistice Line, often referred to as the Green Line or pre-1967 border, is the demarcation line set out in the 1949 Armistice Agreements between Israel and Egypt, Jordan, Lebanon and Syria after the 1948 war. It became the *de facto* border of Israel from 1949 until 1967 (for a complete copy, see Yale Law School. n.d.

[120] The Wadi Araba Treaty is the Israel-Jordanian Peace Treaty signed in 1994 regarding the settlement of land and water issues between the two countries. Article 9 of the Treaty on "Place of historical and religious

centre of economic, political and cultural life during the 1980s and 1990s. Its geographic positioning and political significance to all Palestinians allowed it to become the centre for the provision of health and education services and host national associations, national unions and media" (Participant 47, activist and head of a Jerusalem-based NGO, 2018). More importantly, East Jerusalem used to be the centre for the PLO's political and administrative institutions during the 1980s and 1990s. The late Faisal Husseini garnered attention to the city's political significance for the contemporary Palestinian national movement; he also turned the Orient House into the centre of decision-making during the first Intifada. This role evolved into the linchpin of political and diplomatic efforts during the 1991 Madrid peace process.

East Jerusalem was not only at the centre of diplomatic negotiations and mobilization in the early years of the peace process, but the whole thinking of the institutional structures of the Palestinian state was set off from the Orient House. The Technical Committees established by prominent Palestinian intellectuals and activists led the preparations for the Palestinian negotiation position in the 1991 Madrid Conference and helped lay the foundations for the Palestinian plans to establish the institutional structures of self-governing authorities. Their work has been crucial in establishing the most important institutions of Palestinian self-rule, which transformed into ministries and state-like institutions, such as the Palestine Housing Council and the Statistics Centre that became the Ministry of Public Works and the Palestinian Central Bureau of Statistics respectively (Participant 40, ex-minister in several governments and one of the founders of the Technical Committees at the Orient House, 2018; Participant 47, activist and head of a Jerusalem-based NGO, 2018).

However, Jerusalem's central role in Palestinian political reality was diminished by two occurrences: the first was the tightening of the Israeli closure of the city and *de facto* annexation policies, which intensified since the early 1990s, and the second was the establishment of the Palestinian Authority and its consolidation in the city of Ramallah as the *de facto* capital (Ju'beh 2017, p. 20). These two developments had detrimental consequences for the city from a political, commercial and cultural perspective, on the one side, and for its relevance to the state-building endeavour taking place in the West

significance" recognizes Jordan's "special role in Muslim Holy shrines in Jerusalem with Israel giving high priority to the Jordanian historic role in these shrines" (Israel Ministry of Foreign Affairs 1994).

Bank and Gaza, on the other. In view of this situation, understanding the underlying assumptions behind the Palestinian political rhetoric that stuck to the claim to the city as the capital of a future state-to-be is essential. This chapter intends to advance this understanding. The following section primarily focuses on the background of the Israeli position vis-à-vis the city; how Israel envisaged the issue of Jerusalem in the Oslo Agreements and its policies influencing the prospects of the Palestinian Authority retaining its claim on the city as its future capital.

6.2. Jerusalem: Understanding the context

This section does not aim at reproducing material regarding ongoing Israeli policies in Jerusalem or repeat already existing assessments of many international institutions (e.g., MEMO 2017; also Begley 2016), diplomats and scholars who have warned of the impact of Israeli settlement policies on the diminishing prospects of the two-state solution (Falah 2005; Faris 2013; Farsakh 2011; Hilal 2007). It does not even tackle the question of having Jerusalem as a shared city or the fact that there is a *de facto* reality of an apartheid state (Dumper 2014; Tilley 2003, 2010b, 2013; Yiftachel 2005; Whitbeck 2000). Instead, by highlighting the context, the aim is to provide examples and historical evidence that exposes the initial Israeli position regarding the territorial aspect of the city and its impact on the current situation. The aim is to illuminate the extent to which the Palestinian political discourse and state-building policy—if it exists—vis-à-vis Jerusalem advanced the claim to the city to continue to be the capital of the future state-to-be.

For, apart from the Israeli narrative of its religious and biblical claim to the city, it may be plausible to say that what characterizes the context that shapes the issue of Jerusalem has been the Israeli policies regarding the city since 1949. The persistence of the consecutive Israeli governments to ensure that Jerusalem remained within the absolute sovereignty of the Israeli state (Hindi 2017, pp. 94, 98-9,) indicates a somewhat firm 'ideology' underlying Israel's initial intentions about the territorial aspect of the West Bank in general and Jerusalem in particular (Golan 2017, p. 111; Said 1995a, p. 71). This argument finds confirmation by the growing tendency amongst some Israeli and Palestinian scholars to revisit Israel's historical settlement policies in the West Bank and Jerusalem; the emerging analyses corroborate the impact the ideological background has on Israel's current policies. There is ample evidence of the

engagement of consecutive Israeli governments in the settlement project, which has remained constant irrespective of who is in power (Jamal 2017, p. 179, Zertal & Eldar 2009, p. xviii). For instance, Zeltar and Eldar maintain that "authorized legal" settlements began in the era of Labor-led governments from 1967 to 1977 and flourished under the Likud governments that followed and during the subsequent period of Labor, Likud, and unity governments. As a matter of fact, scholars pointed at the manifestation of the 'settler-colonial project' and the utilization of its mechanisms to achieve its aims in Jerusalem (Abowd 2014, chapter one; Ju'beh 2017, p. 7; Llyod 2012, p. 59); even before the June 1967, political battles had subsided reflecting a concerted effort within the state (Zertal & Eldar 2009, pp. xx, xvii and xviii).

Three key aspects highlight the context within which Israel's position vis-à-vis the territorial aspect of Jerusalem has been shaped thus far. The first has to do with Israel's domestic politics that was translated into legislation since the establishment of the State of Israel; the second has to do with Israel's official position in historic negotiations, the Egyptian-Israel Camp David Agreement in 1978, the Oslo Agreements and the Camp David negotiations during Clinton's tenure in 2000, which ultimately also shaped non-official second track negotiations; the third relates to Israel's policies, plans and *de facto* changes regarding the prospects of having East Jerusalem as the capital of the aspired Palestinian state.

When it comes to Israel's domestic political position and legislation, it can be said that historically, Israeli legislation defied the UN Security Council Resolutions since 1949. The first historical milestone in Israel's defiance was Ben-Gurion's Proclamation of Jerusalem on 5 December 1949 (Knesset 2018; see also ECF n.d.). The Proclamation rejected the Jerusalem-related provision in UNSC Resolution 181 and vowed not to surrender Israel's position to have Jerusalem as "Israel's eternal capital". The second historical milestone was Israel's refusal to abide by the UNSC Resolutions 476 and 478 in June and August 1980. The Resolutions found Israel's legal and administrative measures in Jerusalem to be a violation of the 4th Geneva Convention and international law. And the third milestone is Israel's continued defiance of UNSC Resolution 2334 (2016) that deemed its settlement activities a "flagrant violation" of international law with "no legal validity" and demanded Israel to fulfil its obligations under the 4th Geneva Convention. Israel's policies continued unabated, and consequently, its explicit annexation of the city in 1967 allowed it to initiate its

settlement project in the city and its surroundings (for geography, see BBC News n.d.). The Annexation Act formalized in 1980 with the enactment of the "Basic Law: Jerusalem, Capital of Israel," remains in force to this date only to be amended in 2000. It provides a constitutional limitation on the ability to change the city's 'area' and jurisdiction. This being said, Ian Lustick argued that the Act entails no constitutional reference to Israel's declaration of formally annexing the city or imposing its sovereignty (Lustick 1997: 45). However, perhaps 22 years after his essay, it is evident that Israel's strategy of 'creeping annexation' has led to *de facto* annexation of the city, despite the fact that its unilateral act has been deemed void and null by Security Council Resolutions 252, 267, 271, 298, 465, 476 and 478. The term 'creeping annexation' has been introduced in the previous chapter on Area C. Current scholarship especially among Palestinian researchers from Israel have been using this term to describe the depth and danger of Israeli settlement policies and the tendency of the current government to legalize it. This term is mainly used to "show the disapproval at Israel's refusal to respect the Palestinian right to self-determination … or more often in the case as used by Israelis as a warning of the future non-viability of the two-state solution" (Nakba Files 2017; for legal implications, see Dajani, O.M. 2017).

In trying to understand the logic of Israel's continued policies in the city especially since 1967, it may be fitting to point out that Israel has actually benefitted from the malleable interpretation of UNSC Resolution 242 regarding its borders. For, although the Resolution called on Israel to withdraw from occupied territories in exchange for peaceful treaties, Israel took advantage of the absence of peace treaties and imposed its own vision regarding the municipal boundaries of the city, thus extending its jurisdiction into East Jerusalem and its surroundings. Consequently, after the 1967 war, while Israel expanded the municipality area of Jordanian East Jerusalem, to include parts of the West Bank territory hence expanding it from 43 to 111 square kilometres, it excluded many of East Jerusalem's suburbs such as Abu Dis, Al-Eizariya, Beit Hanina and Al-Ram (Dumper 2014, pp. 49-50; Hiltermann 1993, pp. 24-7; Segal 2017, p. 185). Extending Israeli jurisdiction to East Jerusalem signified its annexation of the city and its subjugation under Israeli law and administration (Lustick 1997, pp. 37-45; Israeli Ministry of Foreign Affairs. n.d. b).

Undoubtedly, in the Israeli mind, the issue of Jerusalem has always been off-limits in formal and informal Israeli Palestinian negotiations. The official Israeli position was always against any territorial concessions in Jerusalem and can be traced back to the 1978 Camp David Peace Treaty between Egypt and Israel, which tackled the arrangements of five-year transitional self-rule without any reference to Jerusalem (Israel Ministry of Foreign Affairs. n.d. a). Mirroring the general principles of limited self-rule as laid down by the 1978 Camp David Accords, it is easy to understand the reason why the Declaration of Principles (DOP) did not tackle the issue of Jerusalem and hardly referred to the Palestinians of Jerusalem.[121] Following this position, the Oslo II Agreements deferred the discussion of the issue of Jerusalem to the permanent status negotiations, though without indicating any possible territorial concessions in the city. Besides, comparing the texts of the different agreements as well as the various memoirs relevant for the Israeli-Palestinian peace negotiations, one can find ample evidence that the Israeli position has always been constant, irrespective of who was in government and has been in line with the initial proclamations and legislation throughout Israel's existence as a country (e.g., Hirschfeld 2014, 2000; Qurei' 2006; Ross 2005).
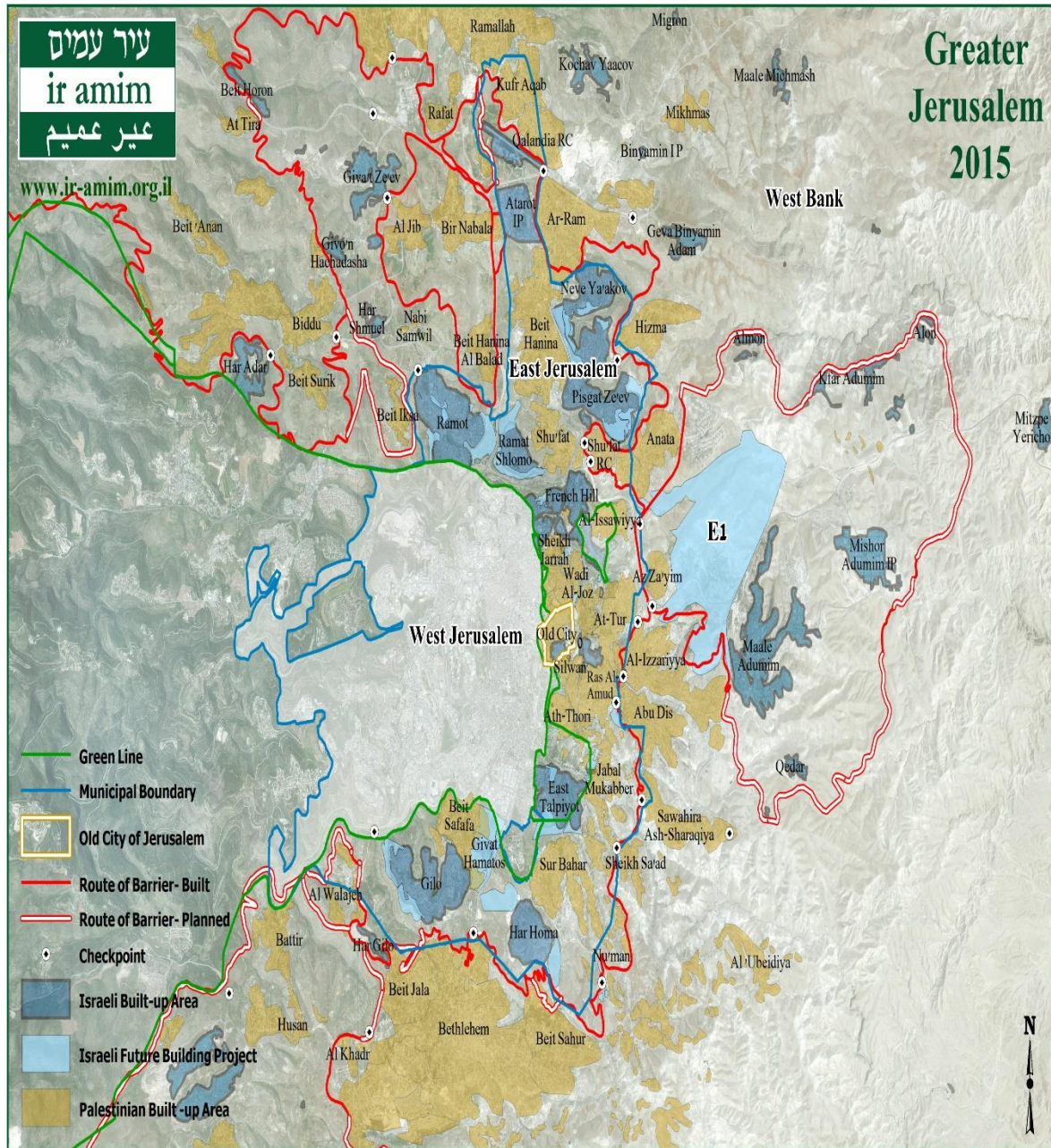
Moreover, beyond the text of the Agreements, there are two official declarations that undeniably substantiate this fact. The first is Rabin's speech before the Knesset for the purpose of ratifying the Oslo Agreements, which confirms the consistency in the Israeli position for Jerusalem to remain the united capital of the State of Israel and, hence, for the former to continue under the sovereignty of the latter, whilst according some individual and religious rights to non-Jewish residents of the city (Israel Ministry of Foreign Affairs. n.d.). The second is Netanyahu's 1997 commitment to keep the city united and forever to remain under Israeli sovereignty "and hence prevent any action against Israel's exclusive sovereignty over the city" (Lustick 1997, p. 34). A commitment that he manages to maintain through his "no-solution doctrine" and that has allowed Israel to continue its initial project of Greater Jerusalem (Shalhat 2014).[122]

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[121] See, as an example, Annex I (Protocol on the Mode and Conditions of Elections) in the Declaration of Principles referred to the possibility of "Palestinians of Jerusalem to participate in the election process" (see Israel Ministry of Foreign Affairs 1993).

[122] The no-solution doctrine has been coined by Palestinian Author and expert in Israeli affairs Antoine Shalhat. In his book *Benjamin Netanyahu: No Solution Doctrine* (2014), he "monitors Netanyahu's stalemate policy, which always hides attempts to 'buy' more time from the Palestinians, Americans and the world, in order to enforce facts on the ground and realities that hinder the possibility of reaching an agreement with the Palestinians, so

The Greater Jerusalem Project entails "the area known as 'Greater Jerusalem' which is an approximately 100 square miles space surrounding the Old City of Jerusalem. This area includes both West and East Jerusalem, including the adjacent neighbourhoods outside the municipal boundaries of the city" (Jewish Virtual Library n.d.). The 'Greater Jerusalem' project intends to redraw the municipal boundaries of Jerusalem with unilateral annexation of the large Israeli settlements presumably in the West Bank, such as Maale Adumim. It entails a series of local and regional land-use schemes for the area, thus irrevocably compromising the last remaining prospects for the socio-economic redevelopment in the Palestinian territories in the crucial area of Jerusalem; in fact, it precludes a meaningful degree of Palestinian sovereignty in the city and its environs (De Jong 2000, p. 46). It is important to note that the Greater Jerusalem Project is not a purely technical project that takes into account the organic growth of the city, but it rather expands the municipal borders of Jerusalem to include all the settlements around it to the north of Ramallah and south of Bethlehem in the West Bank, from the outskirts of Jericho in the East to Beit Shemesh in the West. The Project complements the Israeli vision to keep it as the united capital of Israel, and it is intended to create an expanded metropolitan Jerusalem area, and transform its capital from a frontier city, bordered by Arab territory on three sides, into one with an Israeli hinterland. Adding Givaat Zeev, Maale Adumim and Efrat that are located outside Jerusalem's municipal borders would cut-off all possibilities to have a contiguous Palestinian state as indicated by the maps (ICG 2012a, p. 11; Ir-amim 2018; for scholarly analyses, see Lustick 1993; Shlay and Rosen 2010; Allegra 2013.).

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that the settlement expansion would cover all the occupied territories between the Jordan river and the sea" (Shalhat 2014).

Map 12: Greater Jerusalem-2015. Available at: http://www.ir-amim.org.il/sites/default/files/Greater%20Jerusalem%20Eng%202015.jpg

Likewise, as explained in chapter three, informal negotiations maintained the same position of exclusive Israeli territorial sovereignty over the city, though with slight variations of permissible functional control for the Palestinians, which include education, health and some local security functions. Further evidence of the constant Israeli stance vis-à-vis the city irrespective of the political affiliations of its protagonists is the *Beilin-Eitan* Agreement on the coordinated positions of the Labor and Likud parties regarding the elements of any future deal between the Israelis and the Palestinians, in which both sides commit to having Jerusalem as the eternal capital for Israel and not to concede territorial concessions.[123]

Israel's most accommodating position regarding Jerusalem entailed the possibility of conceding jurisdiction over Palestinian villages outside what it considers within its municipal borders and what has now become outside the Separation Wall such as Abu Dis, Al-Ram, Kufur Aqab along with minor functional responsibilities inside the Al-Aqsa. Whereas the future of East Jerusalem inside the wall has been best represented by the Clinton parameters in the post-2000 Camp David Negotiations. Clinton's parameters entailed the adoption of the Israeli position of no Palestinian territorial sovereignty in the city. His proposal included granting sovereign custody of the Haram, while Israel would retain residual sovereignty over the remaining parts of the city. This meant that Palestinians would have sovereignty over the Muslim and Christian Quarters of the Old City, while Israel retains full sovereignty over the Jewish and Armenian Quarters. Palestinians would have functional jurisdiction in the internal neighbourhoods of East Jerusalem; Musrarah, Wadi Al-joz, Sheikh Jarrah, Ras al-Amoud, Al-Tour, Al-Suwwanneh, and Salah El-Din Street and there would be a possibility of extending Palestinian sovereignty to the external neighbourhoods of East Jerusalem (Hanieh 2001, pp. 94-5).

When it comes to the rights of the Jerusalemites remaining under Israeli sovereignty, the most contemplated was the provision of voting rights in municipal elections for Palestinians living inside Jerusalem municipal borders, who were to be given a choice of either staying under Israeli control or becoming citizens in the

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[123] Signed right after the resumption of the Beilin-Abu-Mazen understandings, the *Beilin-Eitan* Agreement is said to have presented the most flexible Israeli position on Jerusalem (Jewish Virtual Library n.d.; *see also* Foundation for Middle East Peace n.d.).

Palestinian Authority.[124] An explicit example of such a position was given by Uri Savir who was one of the architects of the Oslo Agreements and who was adamant not to discuss any form of national rights in Jerusalem considering that it would entail Israel's recognition of the Palestinian right to statehood (Abbas 1995, p. 163). Paradoxically, while Palestinian negotiators continued to stress the political nature of the Jerusalem issue on the negotiation agenda, Israel continued to restrict the discussion to religious aspects, especially with regards to the Old City and which resulted in directing the negotiations toward a complex symbolic jurisdiction over parts of the Al-Aqsa Mosque (Agha and Malley 2002, p. 14; Hanieh 2001, pp. 95-6).[125] As a matter of fact, even symbolic jurisdiction as a principle has continuously been undermined given Israel's continued attempts to impose its policy of temporal and spatial division of jurisdiction inside the Al-Aqsa Mosque. The temporal division is meant to customize the time for Moslems to enter Al-Aqsa Mosque and divide it between them and the Jews, while spatial division signifies the allocation of parts and areas of the Al-Aqsa Mosque with plans to build synagogues and temples inside the Mosque (Women for Palestine 2017).

When it comes to Israeli territorial policies in Jerusalem, it is worth pointing at the Allon Plan for the West Bank, which was formulated post-Six Day War and which has been known to have set the framework for the Israeli vision of the Palestinian territories to this date (for a good explanation of the Allon Plan, see PASSIA. n.d.). As has been mentioned in the previous chapter, although the Plan was never officially adopted by the Israeli government at the time; it is known to have reflected Rabin's settlement policy in the West Bank, whose impact is evident today". The plan stated the retaining of Jerusalem as a unified city with a focus on never ceding any sovereignty to the Palestinians" (Kimmerling 2009, p. 287). Likewise, Netanyahu's
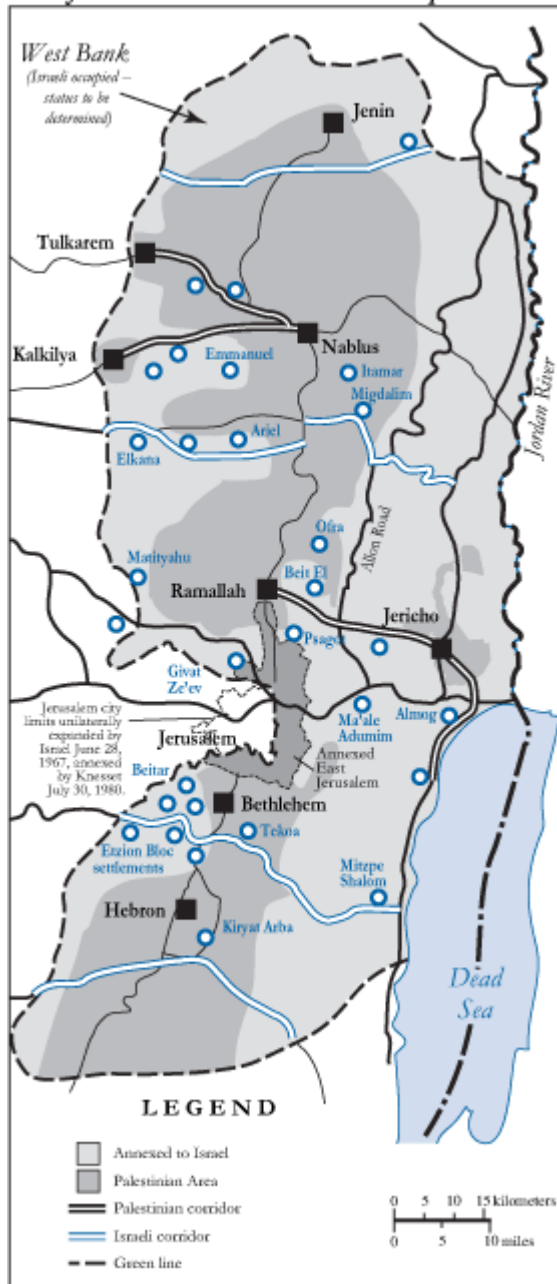
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[124] It is noteworthy to mention that this position bodes well with the ongoing Israeli policies currently evolving with regards to Palestinians residing outside the wall, especially in the case of Kufur Aqab. There are serious concerns that they may lose their ID's in a complex series of policies and regulations to deal with municipal affairs (see Dumper 2008b, p. 24; Dumper and Pullan 2010). Dumper and Pullan's prediction about the removal of the population of East Jerusalem ten years ago is now materializes gradually and incrementally through a steady policy of creeping annexation (Dumper and Pullan 2010, p 14).

[125] There is consensus over the narrative regarding the failure of the 2000 Camp David Accords that the reason was the disagreement on the issue of Al-Aqsa or Haram El-Sharif. Agha and Malley's account reduced the conflict to a religious conflict rather than a political one (Agha and Malley 2002, p. 14). Conversing with one of the main Palestinian negotiators at Camp David 2000, he dismissed Agha and Malley's account with unwavering discontent (Participant 67, September 2018). See Hanieh (2001, pp. 95-6).

Allon Plus Plan saw the retention of some 60 percent of the West Bank, resulting in what seems to be the completion of 'Greater Jerusalem' and the process of ensuring exclusive Israeli sovereignty in the city including Jewish settlements.[126] "The Plan calls for the Israeli annexation of the West Bank leaving the remainder of the territory in three or four non-contiguous cantons, all of which are crisscrossed by Israeli highways" (cf. Foundation for Middle East Peace 1995; NPR 1997). As such, the Plan jeopardizes Palestinian aspirations of having the city as future capital or even have a territorially contiguous area in the West Bank.

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[126] See Map 13: Allon plus map 1995.

Map 13: Allon plus map 1995.

Moreover, there is ample evidence and research pointing to a link between Israel's initial vision of how to deal with the territorial aspect of West Bank settlements and its aim of Judaizing the city (Tilley 2013, p. 17). To explain the term Judaization, Zink (2009) maintains that "since its inception in 1948, Israel has sought to transform the physical and demographic landscape of Jerusalem to correspond with the Zionist vision of a united and fundamentally Jewish Jerusalem under Israeli sovereignty". While much of this was accomplished through the violent expulsion of Arab residents during the wars of 1948 and 1967, the Judaization of Jerusalem equally relied on

measures taken during times of 'peace': the strategic extension of Jerusalem's municipal boundaries, bureaucratic and legal restrictions on Palestinian land use, disenfranchisement of Jerusalem residents, the expansion of settlements in 'Greater Jerusalem' and the construction of the Separation Wall (Zink 2009, p. 122). To ensure Israel's exclusive territoriality in the city, Israel has been using a series of policies and government actions that employ demography for the sake of geography ensuring that there is "*maximum Jews and minimum Palestinians*" (Arafeh 2016; Jabarin 2016; Ofir 2016; Tafakji 2018, p. 189). To this effect, Israel's policies have two aspects: The first relates to consolidating its control over the territory, and the second relates to its governance structure vis-à-vis the administration of the Palestinians who remained in the city after the 1967 war.

When it comes to the consolidation of Israel's territorial control, it is not the intention of this research to recount Israeli policies, since they have been extensively tackled by several human rights organizations, such as B'tselem, Ir Amin and others. However, it is essential to note that the current territorial and demographic situation in the city is the result of a process of Israeli decision-making, mechanisms, forces and influences that come together in an incremental way (El-Gendy 2000, p. 44). It is the sum of these parts (Dajani 2017, pp. 51, 55) that characterize the current context. In this respect, it may be necessary to point to the latest Israeli thinking and policies regarding the city. The below illustration shows the extent of Israeli policies vis-a-vis East Jerusalem and its residents. An additional map also shows Israeli settlements around occupied East Jerusalem.

EAST JERUSALEM
December 2018 | OCHA

KEY CONCERNS

Around 320,000 Palestinians currently reside in East Jerusalem, in addition to over 210,000 Israeli settlers who reside in the settlements which have been constructed and expanded since 1967, contrary to international law. Approximately 4.5 million Palestinians from the remainder of the occupied Palestinian territory (oPt) are prohibited from residing in East Jerusalem and, with certain age exceptions, cannot enter the city without Israeli-issued permits, which are difficult to obtain. Those who obtain permits can only use three of the 13 checkpoints along the Barrier. During Fridays and Ramadan, tens of thousands of Palestinians from the remainder of the West Bank are allowed to access Jerusalem for worship.

Residency, Planning, Zoning & Demolitions

Zoned for Green Areas and Public Infrastructure 15.48 km²

Expropriated for Israeli Settlements 24.50 km²

Zoning in East Jerusalem
- 22%
- 35%
- 30%
- 13%

Unplanned Areas 21.35 km²

Zoned for Palestinian Construction 9.18 km²

Due to inadequate planning, and extreme difficulty in obtaining building permits, Palestinian residents of East Jerusalem face a serious shortage in housing, leaving residents with no choice other than to build structures 'illegally' and risk demolition.

Over **14,600** Palestinians have had their Jerusalem residency revoked by the Israeli authorities, since 1967 due to their lack of a secure legal residency status.

At least **33%** of all Palestinian homes in East Jerusalem lack building permits.

Only **13%** of East Jerusalem is zoned for Palestinian construction, much of which is already built up.

Over **1,700** houses and other structures in East Jerusalem have been demolished since 2000. Over the last 10 years, nearly 7,000 people have been dispalaced or affected as a result.

Over **100,000** residents are at potential risk of displacement

Barrier

In East Jerusalem, the Barrier divides Palestinian neighbourhoods from each other and from the urban centre, resulting in diminished services, increasing lawlessness, impeded access and uncertain residency status.

Over **130,000** Jerusalem ID holders are walled out from the urban centre.

Approximately **1,400** West Bank residents in 17 communities have been placed on the 'Jerusalem' side of the Barrier, but are denied residency and access to work and services in East Jerusalem.

East Jerusalem Eviction Summary by Community

Approximately 200 Palestinian households in East Jerusalem are at risk of forced displacement due to eviction cases filed against them, mostly by Israeli settler organizations. The Old City, Silwan and Sheikh Jarrah are the most affected neighbourhoods.

	Structures	Households	Palestinians	Children)
Beit Hanina	2	4	23	9
Old City - Al Khalidiya & Al Qirami	4	11	44	18
Old City - Aqbat As Saraya	1	6	24	10
Old City - Burj Al Laqlaq	1	3	6	2
Ras Al 'Amud	1	2	12	3
Sheikh Jarrah - Um Haron	11	33	128	47
Sheikh Jarrah - Karm Al Ja'ouni	9	26	104	30
- Sheikh Jarrah	3	8	27	7
Silwan - Batn Al Hawa	20	85	397	205
Silwan - Wadi Hilweh	3	5	24	10
Beit Safafa	14	16	88	50
Total	69	199	877	391

Data Source: OCHA 2016 field survey

UN position on East Jerusalem

Israel's annexation of East Jerusalem is not recognized by the international community. The UN Security Council has declared in numerous resolutions (inter alia, resolutions 252, 267, 471, 476 & 478) that all legislative measures and actions taken by Israel to alter the character and status of Jerusalem are null and void. The legal situation in the West Bank, including East Jerusalem, remains one of belligerent military occupation.
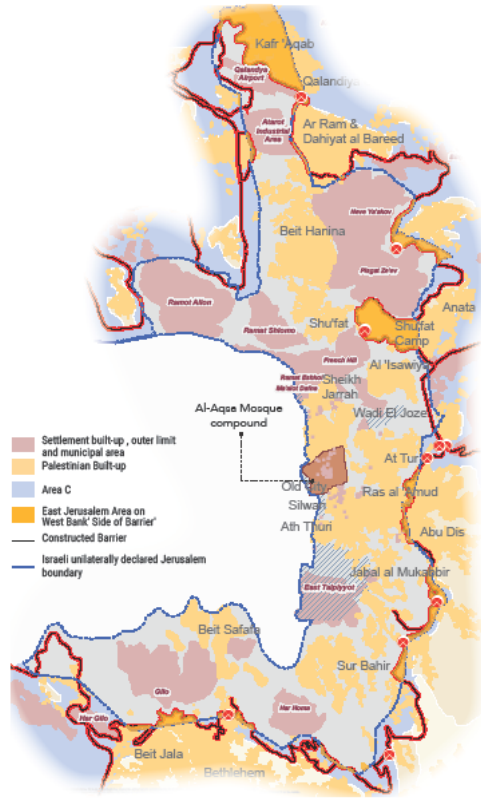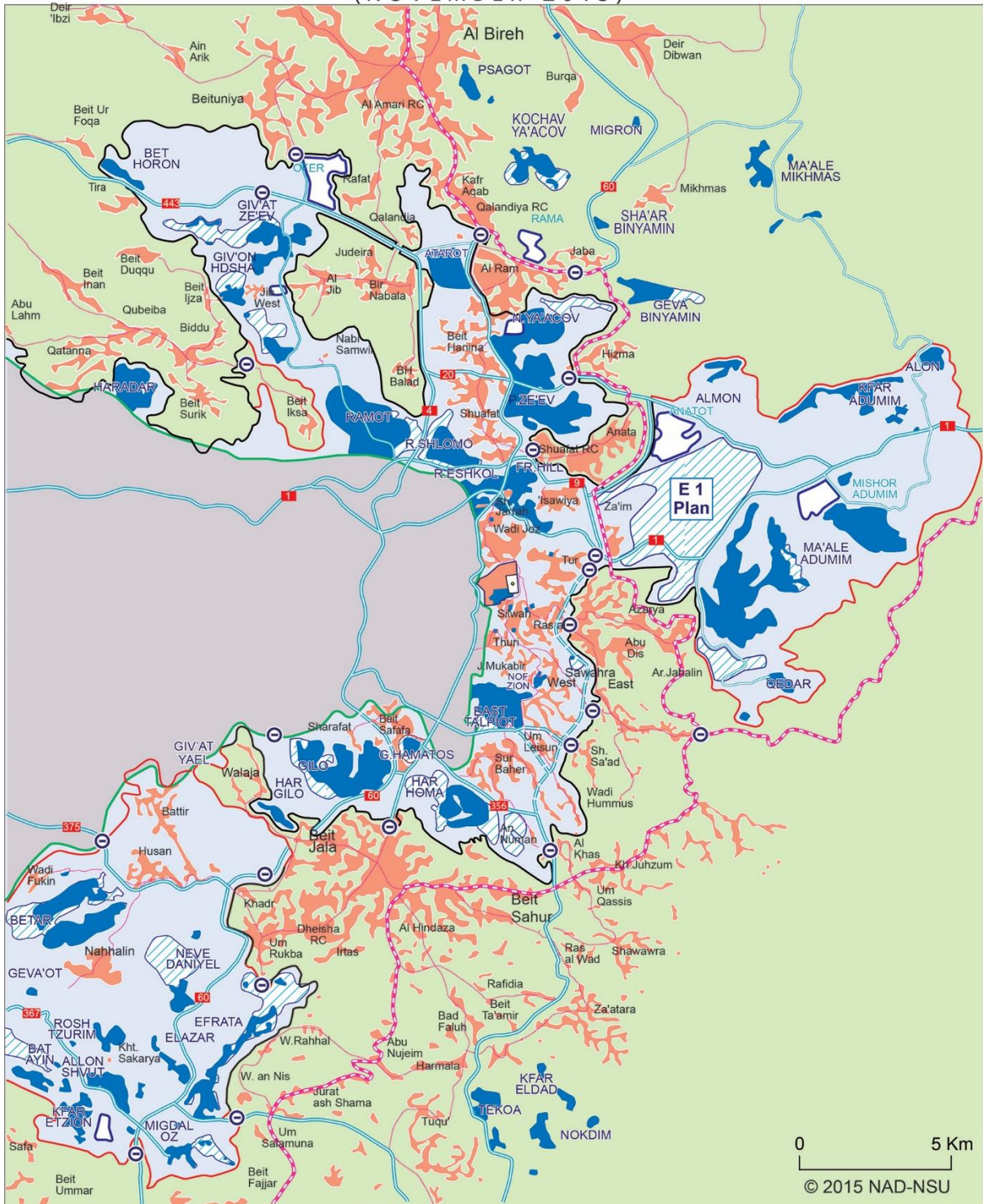
East Jerusalem

- Settlement built-up , outer limit and municipal area
- Palestinian Built-up
- Area C
- East Jerusalem Area on West Bank' Side of Barrier'
- Constructed Barrier
- Israeli unilaterally declared Jerusalem boundary

Kafr 'Aqab
Qalandiya Airport
Qalandiya
Atarot Industrial Area
Ar Ram & Dahiyat al Bareed
Neve Ya'akov
Beit Hanina
Pisgat Ze'ev
Ramot Allon
Ramat Shlomo
Shu'fat
Anata
French Hill
Shu'fat Camp
Ramat Eshkol Mt Scopus
Al 'Isawiya
Sheikh Jarrah
Wadi El Joze
Al-Aqsa Mosque compound
At Tur
Old City
Silwan
Ras al 'Amud
Ath Thuri
Abu Dis
Jabal al Mukabbir
Beit Safafa
Sur Bahir
Gilo
Har Homa
Beit Jala
Beit Safafa
Har Gilo
Bethlehem

25

Illustration 4: East Jerusalem—OCHA

ISRAELI SETTLEMENT ENTERPRISE AROUND OCCUPIED EAST JERUSALEM
(NOVEMBER 2015)

Legend:

— 1967 Boundary ("Green Line")

Palestinian city, town, village or neighborhood

Palestinian territory west / east of the Wall

Israeli-proposed "alternative" Palestinian road link

Israeli settlement built-up area

Planned settlement expansion

Israeli military base

⊖ Israeli check points

The Wall
- completed or under construction
- planned

Israeli settler / bypass road
- existing
- planned or under construction

© 2015 NAD-NSU

0   5 Km

Map 14: Israeli Settlement Enterprise Around Occupied East Jerusalem—NAD/PLO

Moreover, the intention of the Israeli government now is to modify the definition of sovereignty in the city by differentiating between the Palestinians Jerusalemites who live inside the Separation Wall and those who live outside it. Policy debate and legislative process take place currently with the aim of reconfiguring Israeli demographic domination inside the borders of Greater Jerusalem. The intention is to expand the jurisdiction of the settlements of Maale Adumim, Gush Etzion, Efrat, Givat Ze'ev, Beitar Illit, and Mevaseret Zion and at the same time to push Palestinian neighbourhoods that have become outside the Separation Wall such as Kufur Aqab and Shuufat and that are considered as *no man's land* outside the city's municipal boundaries. The new direction of Israeli policy envisages having almost 140,000 Palestinian Jerusalemites "continue to be under Israeli sovereignty but not under the city council of Jerusalem" so as to ensure Israeli demographic supremacy in the city (Shragai 2019).

In line with Israeli territorial and demographic policies, Israel's adversity to any Palestinian political and administrative presence intensified, especially after the outbreak of the second Intifada in 2000. This being said, it is essential to note that this position toward official Palestinian presence in the city, namely the PLO, is in violation of the two assurance letters to President Arafat—the first being that of James Baker during the Madrid Talks in 1991 (Al-Muqtafi n.d.) and the second being that of Holst that promised an Israeli commitment to not prejudice the status of Palestinian institutions in the city (Israel Ministry of Foreign Affairs 1993).[127]

When it comes to Israeli administrative policies in the city and their application, it should be noted that they started long before the signing of the Oslo Agreements. Such policies aimed at changing the demographics, revocation or denying of residency rights, changing Arab into Jewish zones, building Jewish settlements, the West Bank wall, purchase of Arab homes by Jews, demolition of Palestinian homes and replacing Arabic place names with Hebrew names. To highlight Israel's intention to isolate the city from the West Bank, immediately after the launch of the 1991 Madrid Conference, Israel imposed a closure system on the city that entailed a complex process of

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[127] In this letter from Peres to Holst, Peres promised not to harm Palestinian economic, social and religious institutions while acknowledging their significant role in serving the Palestinian population in Jerusalem. This letter has been referred to several times by late President Arafat whenever he was advocating against Israeli measures in the city.

attaining permits for non-Jerusalemites to enter the city. This process started by preventing West Bankers from travelling with their cars to the city or even cross it to travel from the north to the south of the West Bank and vice versa and ended with denying West Bankers entry without a special permit. This policy manifests Israel's consistent intention to pre-empt any possibility, even in the minds of the ordinary Palestinians, that East Jerusalem would be the future capital of the state of Palestine (Participant 23, prominent Palestinian thinker, 2018).

Although the Oslo Agreements initially allowed a marginal PLO presence in Jerusalem, it disregarded completely any institutional presence of the self-governing authority. Not allowing the Palestinian Authority to operate in the city signified the difficulty to contemplate a possibility to extend its powers and responsibilities to East Jerusalem. To substantiate this point, it is essential to note that continuous Israeli pressure against Palestinian institutions in the city led to the forced closure of several institutions including the Orient House in 2001. This resulted in the eventual migration of several Jerusalemite institutions to Ramallah, including many NGOs that used to play a crucial role in providing services to Jerusalemites, including education, health and youth-related activities.

Given this background, the main question is what it currently means to have Jerusalem as the capital city of the Palestinian state-to-be. Many Palestinians believe that Israel's occupation of the city and its policies remain illegal under international law; therefore nothing is definitive until there is a final resolution of the conflict (Participant 3, prominent Fatah leader, ex-Prime Minister, one of the principal negotiators of the Oslo Agreements, 2018; Participant 31, veteran Fatah member, ex-official at the President's Office, 2018; Participant 39, veteran politician, PLO member and ex-Minister, 2018; Participant 67, negotiator, 2000 Camp David Accords, 2018). However, the following section tries to explore the validity of this belief through an examination of the Palestinian Authority's capacity to assert its authority against the odds of the *de facto* reality on the ground and retain its claim on the city as its future capital.

6.2. Palestinian Authority policy on state-building in Jerusalem: Before, during and after Fayyad.

It is conventional wisdom that a country's capital entails the measure of its sovereignty, strength and legitimacy. The capital city is usually the seat of government and most

institutions that symbolize sovereignty, such as parliament, the supreme court and sovereign ministries such as ministries of interior, defence and foreign affairs. In the case of the Palestinian Authority, the fact that the Oslo Agreement deferred the issue of Jerusalem to the permanent status negotiations, influenced its capacity to consolidate itself as a central authority in the eyes of the Jerusalemites, on the one side, and its ability to counter Israeli measures in the city, on the other.

Besides, there have been enormous challenges facing the Palestinian leadership in establishing representative and responsive political and executive institutions that can advance its claim to the city and counter the Israeli government's *de facto* sovereignty and creeping annexation. As a matter of fact, the biggest dilemma facing the Palestinian Authority in Jerusalem is that the city is considered occupied and annexed at the same time (Lustick 1997, pp. 34-45). Thus making it difficult to balance between the need to defy the occupation and at the same time to integrate Jerusalemites in its state-building project. For, while Israel claims that its annexation of East Jerusalem has been only an administrative act and is based on a purely technical measure to provide equal administrative services to all residents (Benvenisti and Zamir 1995, p. 307; Benvenisti 1995, p. 204), conferring the status of *permanent residents* to Jerusalemites has created an anomaly with regards to the relationship of occupying forces and the population under occupation. For, an act of occupation is distinguished from an act of annexation by its intended temporary nature, hence not incurring changes on the territory or the population, an act of annexation entails conferring citizenship rights to the population in the territory being annexed (Benvenisti 2004, p. xvi; Edelstein 2004, p. 47, 59; Stirk 2009, p. 44). As a result, the *de facto* Israeli annexation of Jerusalem is considered different from the territorial occupation of the West Bank and Gaza. This being said, the unusual nature of the Israeli occupation in the city has had a detrimental impact on the relationship of Jerusalemites with the Palestinian Authority since its establishment in 1994.

The following section examines the positioning of the issue of Jerusalem within the various Palestinian Authority plans, ostensibly centred around the establishment of the state of Palestine in the West Bank and Gaza with Jerusalem as its capital. It is divided into three parts: The first part deals with the Palestinian Authority's approach since its establishment in 1995 up to 2009; the second deals with the Fayyad governments and the consecutive governments working within the permissibility of the

Oslo limitations; and the third deals with the parallel institutional structures created at the political level to compensate for the limitations of the Palestinian Authority's permissible action in Jerusalem.

To begin with, it can be said that the early years after the signing of the Oslo Agreements (1995-2000) when prospects for a permanent status agreement were still positive, late President Arafat felt motivated to attempt the imposition of "*facts on the ground*". Arafat's approach was to expand the Palestinian Authority's jurisdiction beyond what was permissible by the Oslo Agreements (Participant 31, veteran Fatah member, ex-official – President's Office, 2018).[128] As an example, it started with the establishment of the very first governing institutions of the Palestinian Authority in Al-Ram or Dahyet el-Barid in the vicinity of East Jerusalem's municipal borders as a way to be as geographically close to Jerusalem as possible. The Palestinian Economic Council for Development and Reconstruction (PECDAR), the first institution of the self-governing authority was established in Al-Ram in 1994 and was followed by the establishment of the Ministry of Trade & Economy in 1995. Likewise, there were attempts to establish sovereign institutions such as the Palestinian Legislative Council (PLC) in the village of Abu Dis, which is a village in the Jerusalem Governorate and bordering Jerusalem. However, the construction of the PLC building was soon abandoned once Palestinians realized that it could become the alternative capital.[129] It should be noted that expanding the Palestinian Authority's institutions in Ramallah started to take effect later on the basis of temporariness in anticipation of establishing permanent government institutions in the capital once there is a permanent peace agreement with Israel.

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[128] This comment was made by several interview participants critical of President Arafat's way of doing business. They contend that the late President Arafat "used to believe that he can deal with the Israelis the same way as he used to deal with Arab leaders", when it came to describing his efforts to instate Palestinian presence in Jerusalem despite the nature of the signed Agreements with Israel, hence missing on an important cultural differentiation relating to Israeli governmentality. This position has also been reported by Denis Ross (2005) in *The missing peace: The inside story of the fight for Middle East peace* often explaining the gap between Palestinian expectations of the nature of the limited self-rule and what Israel envisions (and the signed agreements). An interesting comment to Palestinian negotiators summarized Ross's attitude regarding Arafat by saying: "Did he not understand the DoP?" (Ross 2005, p. 123). Likewise, this same issue has been often referred to by Edward Said who repeatedly pointed at the failure of the Palestinian leadership to understand the Israeli mentality (Said 1995b).

[129] It should be noted that there are indications that the Trump Administration's famous 'Deal of the Century' entails offering the village of Abu Dis as the permanent capital of the State of Palestine with a bridge ensuring the passage of Moslems to the Al-Aqsa Mosque.

Another example has been the issuance of the Presidential decision to move the Shari'a Appeal Court to Jerusalem (Al-Quds) in 1995, despite the fact that the Oslo Agreements did not allow any official Palestinian presence in the city. The decision stipulated that the Shari'a Appeal Court would be temporarily based in Nablus, Ramallah and Hebron.[130] Consequently, since 1995 to this date, there have been 46 presidential and Cabinet decisions regarding Jerusalem (Al-Muqtafi n.d.). Reviewing the list of such decisions, we can understand the bearing of political uncertainty of the peace process on the Palestinian Authority's institutional *modus operandi* in the city. Table 1 below shows how the Palestinian Authority mainly responded to Israeli territorial and demographical policies.

Laws	Presidential Decrees	Presidential Decisions	Council of Ministers Decisions
The Law of the Capital no (4) 2002. (Considered a Basic Law) and issued by the Head of the Executive Committee of the PLO (28/9/2002).	Decree no (5) 2002 to establish the Higher Commission for Jerusalem Affairs.	Decision no (380) 2006: Establishment of a "Special Committee to survey, document and defend Jerusalem properties. (signed by President Mahmoud Abbas).	Decision no (6) 2003: Follow-up on issues of Jerusalem, settlements and the apartheid Separation Wall.
Law no (8) 2004: Establishment of a compensation fund to remove the traces of Israeli aggression.	Decree no (9) 2010: Integration of the Jerusalem Unit in the President's Cabinet and the Islamic and Christian Association for the support of Jerusalem to be under the National Popular Conference for Jerusalem	Decision no (269) 2007: Formation of a national committee to survey damages resulting from the apartheid Separation Wall in the northern governorates	Decision no (7) 2003: Establishment of a functional unit to follow-up Jerusalem issues at the PMO to coordinate between ministries and the Jerusalem Presidential Committee.
	Decree no (1) 2011: Formation of the National Higher Committee for Jerusalem.	Decision no (119) 2007: On the National Popular Conference for Jerusalem	Decision no (48) 2005: Endorsement of recommendations of the Permanent Ministerial Committee on Jerusalem (12/5/2005).
	Decree no (2) 2012: Reformulation of the Jerusalem municipality (Amana).	Decision no (96) 2013: Formation of a special committee for the Jerusalem Fund.	Decision no (69) 2005: Endorsement of the recommendations of the Jerusalem permanent ministerial committee to pay the due to support Jerusalem institutions.

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[130] Upon the establishment of the Palestinian Authority in 1995, most offices and ministries were temporarily rented during the transitional period. Naturally, the Palestinian Authority expanded over time and, hence, it reconsidered its policy of renting temporary buildings and initiated the construction of several ministerial buildings in Ramallah, which took effect during the first Fayyad government in 2007. As a result, what was supposed to be the temporary seat of the Palestinian Authority in Ramallah became permanent.

	Decree no (20) 2013: Establishment of the Jerusalem Fund with its permanent headquarters in the city of Jerusalem.		Decision no (83) 2007: Formation of a committee to present a vision for Jerusalem as the capital of Arab Culture.
	Decree no (46) 2014: Establishment of a 'Commission for the resistance of the wall and settlements'.		
	Decree no (3) 2015: Establishment of the higher national committee to follow-up with the International Criminal Court (ICC).		

For instance, the ratification of the Law of the Capital no (4) 2002 was "in response to an Israeli initiative to prevent negotiation on the issue of Jerusalem" and entailed the reconfirmation of Jerusalem as the capital city of the state of Palestine and as the permanent headquarters of the government (Participant 32, legal expert, ex-official at Palestinian Legislative Council, 2018).[131] The Presidential decree no (5) 2002 regarding the establishment of the 'Higher commission for Jerusalem affairs' was issued in response to the deteriorating conditions of the city after the erection of the Separation Wall in 2002. It stipulated the establishment of an independent budget for Jerusalem and the establishment of the Commission's headquarters in the Orient House.[132]

The establishment of the position of the Prime Minister made it possible to track the Palestinian Authority's decisions on Jerusalem. In this sense, it can be said that the first wave of Cabinet decisions date from the government of Ahmed Qurei (Abu Ala) 2003-2006. They were mainly in response to the imminent loss of territory resulting from the erection of the Separation Wall and intensification of settlement activities in Jerusalem.[133] Qurei appointed a minister of State in charge of Jerusalem affairs and established several institutional set-ups including the Standing Ministerial Committee for Jerusalem Affairs, the Jerusalem Unit in the Prime Minister's Office and

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[131] See Appendix 6: Presidential and Cabinet decisions on Jerusalem

[132] Ibid.

[133] Ibid.

the Higher Committee for Jerusalem (Palestine Cabinet Secretariat 2009). The Jerusalem Unit in the Prime Minister's Office was established upon the Council of Ministers' Decision no (7) 2003 to follow-up on Jerusalem issues and to coordination with the respective ministries and the Jerusalem Presidential Committee. Additionally, the Cabinet took several decisions to help with the recovery of the city after the Al-Aqsa Intifada and initiated laws as well as directives for the Ministry of Finance to prioritize financial allocations toward Jerusalem in accordance with Law no (8) 2004 that stipulated the establishment of a compensation fund in order "to remove the traces of Israeli aggression".[134] The act aimed at supporting people affected by the Al-Aqsa Intifada. The fund's main headquarters is in Jerusalem with the possibility of having branches in other governorates. The fund's resources come from: "What the Ministry of Finance allocates from the public budgets, from donations and any other resources the Council decides to accept" (Participant 37, economist, 2018). The most crucial point in this law is the article about the Palestinian Authority keeping "its right to demand the Israeli side for compensation resulting from the damages of the Israeli aggression".

We should note that after the advent of the Hamas government in April 2006 until the June 2007 takeover of Gaza, there were no particular decisions on Jerusalem registered in public government documents. One of the reasons may be due to the fact that there were international constraints on the Hamas government and its political stance regarding Israel. To compensate for the limitations on the Hamas government and in an effort to retake direct responsibility for Jerusalem as a political issue, the Presidency issued several decrees and decisions. Among the most significant are those relating to territorial issues as a response to intensifying Israeli settlement activities in the city and its surroundings, like the presidential decision no (380) 2006 for the establishment of a 'special Committee to Survey, document and defend Jerusalem properties'.[135] However, despite the committee's strategic significance to the Palestinian territorial claim on the city, it is not clear whether it was established, or whether other institutions have the respective archive information and database on Palestinian land and property in Jerusalem. Besides, although there are abundant institutions that can be in charge of this task, such as the Arab Studies Society or the

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[134] Ibid.

[135] Ibid.

Ministry of Local Government, the delegation of the task to a committee that is mainly a group of people that lack an institutional basis makes it difficult to detect a clear prioritizing by the political leadership when it comes to creating adequate and sustainable institutions that deal with such a sensitive issue.

This being said, Khalil Tafakji, who directs the Arab Studies Society previously part of the Orient House, claims to have this database. The Negotiations Support Unit of the Negotiation Affairs Department of the PLO does not seem to have this information, since it does not fall within its mandate (Participant 13, a senior policy expert on Jerusalem/PLO, 2018). In a telephone conversation with the Director of the newly inaugurated Museum of Yasser Arafat, he stated that the Museum has archival documents on all land-related issues in Palestine including Jerusalem and that the Museum's management is in the process of organizing them. Surprisingly, it seems that neither the Palestinian Land Authority nor the Land and Water Settlement Commission has any activity related to the territorial aspect of Jerusalem neither before the Fayyad Statehood Plan nor after.[136] Clearly, both authorities are shaped by the limitations on the functional jurisdiction of the Palestinian Authority. However, what characterizes their work is that their initial focus is mainly on facilitating investment and local administration rather than on surveying and documenting Palestinian property rights in Jerusalem, in a similar way to the activities being carried out by the Land and Water Commission in Area C (Participant 38, veteran politician, PLO member, 2017). This being said, it is not clear with the latter actually registers land that is being expropriated in Area C or Jerusalem so that documents are kept to make the case for the Palestinian claim to the territory. The ongoing efforts about territorial changes in the city are mainly carried out by UN organizations such as OCHA and some Palestinian and Israeli non-governmental organizations, such as Ir Amim and B'tselem who keep track of continuous Israeli violations of human rights, house demolitions and land expropriation in the city. Likewise, it seems that to this date, there has not been a real investment in establishing a national system to protect Christian and Moslem Waqf land in Jerusalem, which has been under continuous threat since

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[136] It is important to note that the Palestinian Land Authority was established by a Presidential decree in 2002 and the Palestinian Land and Water Settlement Commission was established by decree in 2016 (for further information, see Palestinian Land Authority n.d.).

1948.[137] Most of the work regarding the territorial aspect in the city is carried out by Palestinian NGOs, such as the Arab Studies Society and the Welfare Association though mainly surveying Waqf land in the Old City (Tamari 2018, p. 490). There is no available information about East Jerusalem as claimed by the Palestinian leadership; East Jerusalem faces a multiplicity of challenges amongst which is the illegal sale of land and properties in the city. Take as an example of the sale of land belonging to the Orthodox Patriarchate and another dubious land sale in the Old City that led to a ministerial committee to investigate the issue.[138]

Amidst such challenges, transformation in the Palestinian government necessitated a renewed political discourse about the confirmation of fundamental Palestinian principles including the preservation of Jerusalem as the capital of the Palestinian state. In what could be characterized as the second wave of the Palestinian Authority's intervention in Jerusalem, political rhetoric about the city regained momentum with the advent of the Fayyad governments and the launch of the Statehood Plan 2009-2011. In a speech given near Ramallah, Fayyad proclaimed historic Jerusalem, an Arab capital whose sovereignty must be complete. He declared that "control of the city must be granted to a future Palestinian state" and that "the future of the national project and the future of a comprehensive peace in the region are both dependent on protecting Jerusalem, its status, its history and Palestinian rights in the city" (Miskin 2009). Consequently, the Palestinian Reform and Development Plan (PRDP), the statehood programme and the following government plans continuously reaffirmed the prominence of Jerusalem on the national agenda (PNA 2008, 2009). The following section tries to understand whether the Fayyad Plan actually provided a different approach toward the city in line with the elevated political discourse of the Prime Minister and his Plan while reiterating the inevitability of Palestinian statehood by the end of 2011.

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[137] Waqf land is usually known as an inalienable charitable endowment under Islamic law. It usually entails the inability to use such territory supposedly gifted to God (see Awqaf.SA. n.d.).

[138] E.g., Palestine Cabinet Secretariat 2018. The case of Palestinians from Jerusalem implicated for selling property—a privately owned house close to the Al-Aqsa Mosque—in the Old City has been occupying a wide range of discussion in the Palestinian media and social media during the month of September-October 2018. This is only an example of the challenges facing the Palestinian Authority to preserve its claim on the city including land and property as has been declared one of the areas of mandate of the Ministry of Jerusalem Affairs (see also Tomeh 2018; Estrin 2017; Eisinbud 2017).

In this respect, it is essential to look at the exact utterances of the Palestinian Authority about Jerusalem. We unpack two examples from the 2009 Statehood Plan here. The first reiterates the central role Jerusalem plays in the Palestinian Authority's vision of the state of Palestine, and the second can be found in the explicit mandate provided for the Ministry of Jerusalem Affairs. When it comes to the vision of statehood, the Plan stated, "Our Vision of the State of Palestine is an independent Arab state with full sovereignty over the West Bank and the Gaza Strip on the 1967 borders, with Jerusalem as its capital. Palestine, the cradle of civilization and of the three monotheistic religions, will shine as a beacon of humanitarian values and religious tolerance across the world" (PNA 2009, p. 6). When it comes to the mandate of the Ministry of Jerusalem Affairs, the Plan states that

> "the Ministry of Jerusalem Affairs would coordinate and cooperate with the relevant PNA ministries and governmental agencies, having a number of objectives that include the preservation of the Arab identity of Jerusalem as the eternal capital of the Palestinian people and prevent attempts to alter its demographic character and cultural landmarks through 1) Lobbying Arab and international support for Jerusalem; 2) Maintaining Jerusalem as a top priority on the government's agenda and highlighting its predicament in the media; 3) Launching programs to promote the steadfastness of Jerusalemites and that includes: a. strengthening Palestinian institutions in Jerusalem, providing financial support to help them deliver services to citizens, b. providing necessary legal support for Jerusalem inhabitants to enable them to confront Israeli policies and measures, including house demolitions and withdrawal of ID cards, c. providing necessary engineering expertise to prepare and submit structural plans for houses under threat of demolition and for zoning of unclassified land to convert them into residential areas, d. Providing urgent aid to evicted families, e. developing programs to address drug addiction and consolidate social cohesion in the city, f. providing support to housing projects in Jerusalem, g. in cooperation with relevant PNA institutions, providing support to secure basic educational needs, including construction of classrooms, improvement of the educational environment, and provision of adequate income for teachers, h. providing support to the commercial and tourism sectors in Jerusalem by offering loan facilities and i. restoring closed commercial

premises and developing a program to provide funds for SMEs" (PNA 2009, p. 29).

It must be noted that other than the stated vision and mandate of the Ministry of Jerusalem Affairs, it has been difficult to find public records on Cabinet decisions about Jerusalem during the period of 2007-11 of both the 12th and 13th governments headed by Salam Fayyad (Palestine Cabinet Secretariat n.d.).[139] Besides, there are strong claims that the 13th government (the period of the 2009-11 Statehood Plan) did not have a strategic vision for Jerusalem or even the intention to allocate funds for the city's emerging hardship (Participant 2, prominent Fatah leader, ex-Prime Minister and one of the principal negotiators of the Oslo Agreements, 2017).

Notwithstanding, the Cabinet Secretariat prepared a comprehensive report in Autumn 2007 that warned of the absence of an official Palestinian strategy in the city and the receding possibilities of maintaining it as the capital of the state of Palestine (Cabinet Secretariat General 2007). Although the report recommended a government approach to supporting resilience and steadfastness, it lacked suggestions for practical and programmatic intervention in the city. In this respect, it is also important to note that the Jerusalem Ministerial Standing Committee and its sub-committees did not meet at all during the 13th government (2009-11)[140] thus confirming to sceptics that the Palestinian Authority and the Fayyad government's did not match their political discourse with plans for the city (Participant 28, prominent businessman, ex-minister during Qurei government, 2018).

As a result, Fayyad's work in Jerusalem is subject to diverging opinions. From one side, it was seen as overly ambitious without much clarity on how to transform

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[139] The study dealt with the government approaches during its first year through analysis of the content of issues it dealt with in its weekly Cabinet meetings. It was based on the analysis of the government's commitment to implement its programme of 'Ending the Occupation and Establishing the State' while reinstating actual authority in the Gaza Strip and supporting Jerusalem. The researcher used a random selection of a number of Cabinet meetings and reviewed the minutes of 60 Cabinet meetings. She found that the security aspect predominated the government agenda comprising 25 percent of the Cabinet meeting agenda, while political issues comprised only 19 percent. In this review, it was clear that none of the issues were related to Jerusalem or even Area C or the Gaza Strip for that matter.

[140] Ibid. The Jerusalem Ministerial Standing Committee was re-established on 20 May 2009. The report states that a Higher Committee to manage the Jerusalem file has been established as an alternative for the Standing Ministerial Committee on Jerusalem and suggested that it is activated and be presided by a Secretary for the latter committee. Besides, sub-committees included the Higher Committee for the Management of the Jerusalem file, the Committee for the Follow-up on the Legal, Architectural and Technical Affairs in the Jerusalem Governorate.

political rhetoric into a firm policy and permanent institutional structures in defiance of the occupation as proclaimed by his Plan, especially given the fact that his Minister of Jerusalem Affairs resigned soon after the inauguration of the 13th government (Participant 2, Fatah leader, ex-minister for Jerusalem, 2017; Participant 28, prominent businessman, ex-minister during Qurei government, 2018).

As a matter of fact, the discrepancy of the political discourse with the objectives stated in the national development plans and allocated budgets before, during and after the Fayyad 13th government reflects the limitations of what the Palestinian Authority can do in the city given that it has been prohibited to have direct functional responsibilities. As we have seen from the mandate of the Ministry of Jerusalem Affairs, the maximum that the Palestinian Authority can do is to provide support for the resilience of Jerusalemites, whilst trying to mitigate persistent Israeli territorial and demographic policies. In this respect, it is essential to note that the focus on the Fayyad Plan in the case of Jerusalem provides an indicative review rather than a precise evaluation of the particular period of the Statehood Plan 2009-11. For, the context within which the Palestinian Authority was working in relation to Jerusalem has not changed, and it even became more difficult as a result of Israel's intensifying settlement activities within and around the city — thus making any territorial concessions almost impossible or even an improvement in Palestinian socio-economic conditions unattainable (ICG 2012a, p. ii). This makes the assessment of the Plan even more complicated since the Palestinian Authority faces a mixture of challenges beyond its direct capacity, which include *inter alia* its inability to consolidate its institutional presence in the city and the confusing nature of the relationship with the Jerusalemites since they do not fall within its direct responsibility. Nonetheless and at least indicated by the political rhetoric used, the Palestinian Authority assumed the political responsibility to liberate Jerusalem and to maintain the resilience of its people in the face of the Israeli demographic and geographic policies aimed at diminishing any possibility for a future Palestinian territorial sovereignty in the city.

This being said, it should be noted that on the other side, however, Fayyad's Statehood Plan and his own charismatic personality were seen as a positive step to reinvigorate donors' interest in providing support for resilience in the city (Participant 11, ex-senior official during Fayyad government, 2018; Participant 21, ex-senior official, 2019). Participant 52 who is a veteran development expert from Jerusalem

maintained that Fayyad's interest in supporting resilience in the city prompted development practitioners to think creatively about how to overcome Israeli restrictions on development work in the city. The concept of "doable projects" enabled the implementation of several development projects under Israeli rules and regulations similar to the work approach adopted in Area C, though moving beyond humanitarian assistance in the case of Jerusalem (Participant 52, veteran development practitioner in international organization, 2018). The respective interview participant explained that Fayyad broke the taboo to work explicitly in Jerusalem and managed to break the self-imposed restraint of the Palestinian Authority during the early years of its establishment to implement projects in the city. The concept of 'doable projects' posits on trying to find ways within the Israeli system and municipal laws, rules and regulations to advance development projects and not only suffice with humanitarian intervention.

For instance, building a school requires a multi-faceted operation that includes planning and zoning, construction plans and permits, funding, community approval, institutional coordination and sustainable investment. By approaching the needs in Jerusalem from within the Jerusalem municipality's administrative system, the interview participant concluded that "it is possible to implement projects despite the fact that it remains a controversial act". Participant 52 added that "this approach stems out of necessity rather than out of a recognition of the Israeli occupation". This being said, Palestinian official intervention in Jerusalem can be perceived as a recognition of the Israeli occupation, from one side and also as dispensing Israel from its direct responsibilities toward the population under occupation on the other. This perception puts the Palestinian Authority in an awkward position vis-à-vis its national and moral responsibility toward Jerusalemites, especially that it is prohibited to work in the city. In a way, this has resulted in a 'governance vacuum' in the city, especially after the outbreak of the second Intifada, the closure of the Orient House and the death of Faisal Husseini. Hence, there is a strong perception among Jerusalemites that they were left in their own misery without leadership or much-structured intervention by the Palestinian Authority (Participant 47, activist and head of Palestinian NGO, 2018).

Yet, consecutive Palestinian governments continued to focus on resilience in Jerusalem, although it is not clear how exactly this is being undertaken. For instance, as the mandate of the Ministry of Jerusalem Affairs indicates, its main focus is to

support resilience in the city (Palestine Cabinet Secretariat 2016, pp. 2, 55); thus it focuses only on supporting resilience through advocacy, monitoring Israeli violations and mitigating their impact on Jerusalemites and their national identity. Such a role resembles that of human rights organizations rather than a ministry with a policy-making mandate.

To illuminate our understanding regarding the controversies surrounding the Palestinian Authority's intervention in Jerusalem, the following section highlights three key sectors: housing, health and education. Looking at these sectors from the perspective of what the Palestinian Authority could or could not have done given the context of the occupation is intended to show the challenges facing the political and executive leadership in intervening in the city. For instance, the study tackled the three sectors from two perspectives: a policy perspective focusing on how and if the Palestinian Authority could have integrated Jerusalem into its development plans presumably targeted at the creation of the *de facto* state; and a budgetary perspective focusing on whether there have been budgetary allocations for Jerusalem given the challenges facing the overall financial sustainability of the Palestinian Authority. Such challenges include, among other things, the Palestinian Authority's dependence on external support for its development projects and on tax remittances controlled by the occupation authority.

When it comes to the housing sector, it should be noted first that the increasingly entrenched settlement projects and strict housing conditions push the Palestinians outside of the city (Dumper 1992, p. 40; Falah 2003, p. 179), making it difficult to contemplate the possibility to reverse Israeli policies in case of a political solution to be negotiated (Dumper 1993, p. 78; ICG 2012a). Still, the housing sector is deemed essential for preserving territory. The Israeli settlement policy is a strong example for the success of determined housing policies in gaining territorial control. In the case of the Palestinian Authority, while it does not have the political power to include the housing sector into its national policies, the housing problem persists, and along with it, there are constant calls for quick, substantial and sustainable interventions. Building houses in Jerusalem not only would reinforce the resilience of the people on the land but also "would win back the hearts of the Jerusalemites and renew their confidence in the Ramallah political leadership" (ICG 2012a, p. ii; Participant 13, a senior policy expert on Jerusalem/PLO, 2018). In reality, the housing

crisis in East Jerusalem and the Old City has been intensifying the migration of Jerusalemites to areas outside of what is considered within the Jerusalem municipality, such as Shuufat and Kufur Aqab. Jerusalem residents of these areas risk the possibility of losing their residency rights in East Jerusalem given the ongoing Israeli policies to reconfigure the Jerusalem municipality's borders along with its rules and regulations vis-à-vis the residents of those areas. As an example, "Arab construction in East Jerusalem is constrained in a variety of ways. Over one-third of East Jerusalem's total territory has been expropriated for Israeli settlements which are illegal under international law (OCHA n.d.), while only 13 percent of the land—much of which is already built-up has been zoned for Palestinian construction (ICG 2012a, p. 15; Participant 61, senior official, Jerusalem Governorate, 2018).

In East Jerusalem as in Area C of the West Bank, a restrictive Israeli planning regime makes it virtually impossible for Palestinians to obtain building permits, impeding the development of adequate housing, infrastructure and livelihoods (Ibid.). Nonetheless, as an example of the discrepancy between the political rhetoric and actual policies of the Palestinian Authority, although the mandate of the Ministry of Jerusalem Affairs entails support for housing project, there is no record in the Statehood Plan indicating the initiation of affordable housing projects in the city as a way to ensure the resilience of the population. This being said, it is known that the housing problem is directly linked to the demographic battle in the city and is one of the main reasons why Palestinian Jerusalemites have been building in the area of Kufr Aqab and Kalandia which are areas that might potentially be excised (Al-Jazeera News 2019). This being said, we should not forget the significant role of Palestinian civil society in taking the lead in the housing sector in Jerusalem, "known to have been vibrant and always thinking ahead of its political leadership" (Participant 43, ex-policy advisor, Negotiations Support Unit of the PLO, 2018).

In the absence of official housing policy, the Palestinian Housing Council (PHC) continues to provide solutions for the multi-faceted housing challenges in the city (Palestinian Housing Council 2018). It was established in 1991 as a non-profit organization to find solutions for the housing crisis in East Jerusalem. The Council is the only institution working for the housing sector in the city and was able to raise USD 168m from various donors among which the largest are the European Union, the Islamic Development Bank and USAID. For instance, the Council's programme

supported more than 7,000 families via the restoration of old houses in the Old City. Moreover, it is essential to note that there exists considerable private investment in the housing sector in the city, such as in Beit Safafa, a Palestinian neighbourhood situated within the boundaries of Jerusalem municipality. However, such investment is driven by economic rationale rather than a targeted government policy in response to the housing crisis in the city.

On the positive side, it is also important to note the significance of community housing projects initiated by the Christian churches in Beit Hanina. It is said that these projects made it possible to preserve Palestinian presence in the territory along the main road from East Jerusalem to Ramallah. The two main projects for affordable housing implemented by the Catholic church through the Franciscans and the Catholic-Orthodox church enabled at least 200 to 300 Christian families to keep living in the city. This example indicates that if there is an intention to have a housing policy and strategy, there is a chance to counter Israeli policies in the city rather than deal with their outcomes, as has been the case of the work by the Ministry of Jerusalem Affairs and the Jerusalem Governorate (Participant 54, veteran health development expert from Jerusalem, 2018).

On the contrary, although the Palestinian Investment Fund (PIF), a Palestinian Authority investment arm established in 2003, states that its vision "is to assist in the realization of a sovereign and prosperous Palestinian state…" (PIF 2018), its actions in Jerusalem are not commensurate with its statements denying its political intentions to invest in the city. Instead, in a somewhat reticent and self-contradictory manner, its CEO Mohammed Mustafa claims "that the PIF's focus on investment in Jerusalem does not necessarily have a political objective, but rather it is intended to help the city's citizens to achieve a better life, to preserve the Arab character of Jerusalem and support the resilient people".[141] This example shows the contradiction between the Palestinian Authority's political rhetoric regarding the city and what it intends or can do. The PIF is a large semi-official private sector entity established by the Palestinian

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[141] While the PIF started to invest in the tourism and service sectors including the Jerusalem District Electricity Company (JDECO), it did not envisage a large-scale housing project in Jerusalem. For example, the PIF invests in a large Commercial Center in the city but not a large housing project (PIF 2017). JDECO is an interesting example of a company deemed to be of national pride, while 95 percent of its product is purchased from Israel and the rest from Jordan. Although it is considered as a national project, it is only a distribution company subject to Israel's control (Jerusalem District Electricity Company (JEDCO) 2018).

Authority to bolster Palestinian economic independence and resilience, however, its actual plans do not envisage investment in a large scale affordable housing project that could have a significant impact on maintaining the population's resilience in the city, in reviving the city's economy and supporting employment for the young. Ironically, the famous RAWABI housing/neighborhood project that was implemented in Area C was endorsed by the Fayyad government during the first Palestine Investment Conference (PIC) in 2010. At the same time, the PIC was supposed to attract investment in support of the Statehood Plan. However, it did not include any indication—other than the political reference to the city as the aspired future capital of the state of Palestine—for the promotion of investment in Jerusalem (Palestine Investment Conference 2010a).[142]

This being said, it should be noted that there is a general argument that investment in the housing sector in Jerusalem is expensive, takes long-term legal action, and the return on investment is long-term. But that does not change the general perception of many Jerusalemites regarding the Palestinian Authority's 'disinterestedness' in investing in the city. As an example, people find it strange that the PIF does not invest in enhancing the tourism sector in Jerusalem, despite the fact that there are 1,400 hotel rooms authorized by the Israeli authorities to be built in the Eastern part of the city (Participant 47, Palestinian activist and head of Palestinian NGO in Jerusalem, 2018). It is difficult to determine the motives of the Palestinian Authority vis-à-vis Jerusalem, especially the seeming disconnect between political rhetoric and actual policies on the ground. Many compare Palestinian policies with Israeli policies aimed at consolidating Israeli presence in the city (Participant 47, 2018; Participant 49, activist, member of a prominent Jerusalem family, 2019). An example of such Israeli policies has been that of Teddy Kolleck, the mayor of Jerusalem municipality in 1966 who established the Jerusalem Fund and whose primary purpose was to finance projects that the municipality could not and would not finance (Sharansky 1987, p. 11). At the time when Fayyad had very high credibility with the donor community, it is not clear whether he initiated housing projects in the city or

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[142] In two sections dedicated to the tourism sector and the construction and housing sector, there was no reference to the needs or the housing crisis in Jerusalem and the potential for investment in Jerusalem. The comprehensive business publication compiling a group of investment opportunities did not include any investment opportunity in Jerusalem or even the Gaza Strip for that matter.

even envisaged fundraising for future strategic housing projects. Contrary to the overwhelming perception of the impact of Fayyad's neo-liberal policies that resulted in a construction boom in the city of Ramallah, it is evident that his Statehood Plan did not envisage a similar scheme for Jerusalem. It must be said that the fact that the Palestinian Authority is not allowed to work in Jerusalem and the restrictions imposed on the donor community to invest in real and sustainable development in the city is to be taken into account.

When it comes to the health sector, the fact that Jerusalem hospitals are under Israeli rule influences the cohesion of the Palestinian health system (Participant 54, veteran health and development expert from Jerusalem, 2018). The hospitals' role vis-à-vis the Palestinian Authority is restricted to the provision of services rather than being part of the national health strategy despite their significance as tertiary referral centres for Palestinians from the West Bank and Gaza.[143] To compensate for the absence of a government body to supervise them, Palestinian hospitals established the East Jerusalem Network for Quality. The Network's role, however, is restricted to coordination and advocacy without much focus on policy issues (Shemionek 2010). Notwithstanding, in the case of the health sector, the Palestinian Authority's political rhetoric does not seem to be consistent with the integration of Jerusalem health institutions into the state-building project. For instance, with the recent crisis caused by the withdrawal of USAID financial support to Jerusalem hospitals in the summer of 2018, the key role of Jerusalem hospitals to Palestinian sovereignty is on the forefront again. Paradoxically, while one minister advocates the Palestinian Authority's role in sustaining Jerusalem hospitals as part of the national health sector policy (Palestine TV 2018), another ex-minister who served during the Fayyad government was adamant that Jerusalem was never part of the Palestinian Authority's health sectoral planning. Instead, he added, Jerusalem hospitals were considered only as service providers. A respective interviewee explained that the Palestinian Authority does not include Jerusalem in its national planning policies nor in the official budgets, since it is considered occupied and the responsibility for the health sector lies with the occupation authorities (Participant 12, ex-minister, Fayyad government, 2018). This incident shows the confusion between the political discourse and reality; namely the

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[143] Ibid. 70 percent of the Ministry of Health referrals are directed to Jerusalem hospitals.

limitations on the Palestinian Authority actions in the city, on the one side, and the lack of a specific official position regarding those limitations, on the other.

The case of the education sector in East Jerusalem is not different from the two other sectors. However, given the fact that the Palestinian Authority can use its national curriculum in private and religious schools in Jerusalem, there is a constant battle with the occupation authorities to prove sovereignty in the education sector. For, controlling the curriculum entails influencing a whole generation's connection to the land, history, shared values and vision for the future (Participant 54, veteran health development expert from Jerusalem, 2018). Not only that, there seems to be a consensus over what 'Israelization or Judaization' of the city means.[144] Israelization is used to refer to the imposition of Israeli laws, way of life and education curriculum, thus encouraging more Jerusalemites to apply for Israeli citizenship. Judaization may entail the Israeli policies targeted at changing the demographic and geographic characteristics of East Jerusalem; Judaization may include policies targeted at the revocation and denial of residency rights as well as transforming Arab neighbourhoods into Jewish ones, building Jewish settlements, building the Separation Wall, purchasing of Palestinian homes, demolition of Palestinian houses and replacing Arabic place names with Hebrew names. As an example, part of the Israelization process in Jerusalem has been the imposition of Israeli curricula in public schools and preventing or restricting the Palestinian Authority curriculum in private schools. In an interview with an Ex-Palestinian Minister of Education during the Fayyad government, the interviewee explained the challenges facing the Palestinian Authority to instate the Palestinian curriculum in Jerusalem private schools. The Palestinian Authority is presumably allowed to use its national curriculum in Jerusalem private schools. However, the Israeli authorities censor history and geography books and cut all reference to Palestinian narrative (Participant 24, ex-minister during Fayyad government, 2018).

Such challenges are not often known to the general public. The challenge of instating a Palestinian narrative is seen as way more significant than the need to fundraise for the construction of schools or adding classes (Participant 24, ex-minister during Fayyad government, 2018). It should be noted that before the establishment of

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[144] For the meaning of Israelization, see Hasson 2012. For a thorough analysis on this issue, see Ir-amim 2017.

the Palestinian Authority, Palestinian schools in East Jerusalem were applying the Jordanian curriculum as was the case in the rest of the West Bank and Gaza. The Palestinian Authority has been working on nationalizing the curriculum to enhance its sovereignty in devising national policies. However, although as an occupying power Israel does not have the right to impose its policies on national education, it has been using a matrix of coercive policies to influence education in East Jerusalem in a twofold direction, the first is to delegitimize any effort to enhance Palestinian presence in the city, and the second is to influence the direction and identity of the new generation as part of its Israelization policy.

As a matter fact, the Palestinian Authority faces a dual challenge in this respect, the first is Israeli censorship of the content of educational books, and the second is the donors' self-restraint in complying with Israeli restrictions on the way they use their funding. Apparently, the Israeli authorities allow the application of Palestinian history textbooks, though they remove pages from the books that narrate the history of the city, including reference to the Israeli occupation (Participant 24, ex-minister during Fayyad government, 2018). On another note, a Palestinian scientist actively involved in the modernization of the Palestinian curriculum, explained the pressure that the Palestinian Ministry of Education and Higher Education faces to counter conditional external funding for the curriculum, resulting in the Minister's decision to dismiss external funds as a sign to prove national sovereignty in policymaking (Participant 5, civil society leader from Jerusalem, 2018). Like the two aforementioned sectors, there is no official budget allocated to the education sector in Jerusalem, which makes it difficult to envisage that there has been an official vision as to how to counter ongoing Israeli policies in the city.[145] Besides, international support for Jerusalem has never been part of the government state-building project, but instead has always been channelled outside of the official budget and directly from the donors to Palestinian NGOs or International Organizations working in the city (Participant 21, ex-senior official, 2019; Participant 24, ex-minister during Fayyad government, 2018).

Conceivably, the donors operating in the occupied Palestinian territories are bound by Israeli laws, rules and procedures, and the limitations set by the Oslo Agreements on the functional permissibility of the Palestinian Authority. And although

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[145] See Table 1: Palestinian Budget Allocations for Jerusalem.

the three sectors, housing, health and education, are crucial to consolidating the claim on the city, enhance the resilience of its residents, mitigate the influence of the overriding Israeli policies and most importantly protect the national identity from being eroded in the midst of an existential struggle (Participant 54, veteran health and development expert from Jerusalem, 2018), they do not fall within the mainstream national development plans and budgets, mostly funded by the donors. To compensate for this limitation, donors and international organizations provided support outside the operational framework for assistance to the Palestinian Authority and implemented projects in the city through non-government players. As a result, according to a veteran development-practitioner, there is a fading interest on the part of the Palestinian Authority in focusing on projects in Jerusalem, giving away the responsibility to counter Israeli measures to other sectors than the government for reasons of limited jurisdiction and limited resources. More importantly, the interest within the highest policy-making institutions in being genuinely involved in setting policies diminishes. The interviewee further opined that the role of the Prime Minister's Office in the post-Fayyad era has thus become more procedural than a policy driver. This has resulted in transforming policy coordination and cross-sectoral integration of projects and priorities in Jerusalem at the national level into a formality (Participant 52, veteran development practitioner in international organizations, 2018).

Consequently, the limitation on the activities of the donors in Jerusalem resulted in their work, taking a direction that is not necessarily developmental or holistic. As a result, it could not be considered as part of the national state-building endeavour taking place mainly in Areas A and B in the West Bank. The donors' intervention in Jerusalem primarily aims at "a symbolic presence" in the city without much teeth to transform Palestinian social conditions and thus influence the resilience of its inhabitants (Participant 10, European diplomat, 2018). Moreover, donors' reports became more oriented toward Israeli violations and their impact on the various sectors, without much focus on their capacity to offer more than recommendations to the international community and sometimes to Israel and the Palestinian Authority regarding potential violations to human rights or policy issues.[146]

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[146] On the issue of financial support, see European Commission 2016. For examples on the how UN agencies treat the housing, health and education sectors, see UN-HABITAT. On the issue of the health sector, see WHO 2018. On the education sector, see UNESCO 2014.

Having said this; it becomes difficult to have accurate data about the role of the consecutive Palestinian governments in Jerusalem knowing that the Palestinian Authority was not allowed to function in East Jerusalem in the first place.[147] The only data that one can refer to is government development plans and budgets, government progress reports and insights obtained by interview participants. As an example, information on projects implemented in Jerusalem is not explicit, since even international aid to the city is not expressly reported. Looking at sample documents of the Ad Hoc Liaison Committee (AHLC) that reports on aid to the Palestinian people, there is no data on financial or development support to East Jerusalem (Local Aid Coordination Secretariat (LACS) 2017).[148] The absence of such data does not necessarily mean that donors or international development agencies do not provide support to the city. However, it signifies the off-limits spheres of intervention allowed to the international community, on the one side, and the self-restraint and compliance with the limitations set by the Oslo Agreements on the other. The underlying political reality is that "control over the delivery and use of foreign aid by international donors and Palestinian recipients is mediated through the Israeli occupation" (Barsalou 2003). On one side, the UN agencies' intervention in the city is subject to Israeli laws and regulations as an occupying power,[149] on the other side, it is confined by the operational framework of the Oslo Agreements delineating Palestinian functional jurisdiction mainly in the West Bank and Gaza and not in Jerusalem. A very recent

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[147] Part of the reason for not publishing accurate data on project implementation in Jerusalem is the need to be discrete so as not to provoke an Israeli reaction. However, it is a known fact that no institution can implement any work without knowledge and mostly approval of either the municipality or the state. Though, throughout my conversations with people working in Jerusalem, I could detect the determination of institutions as well as individuals working in them to defy the strict municipal measures to limit Palestinian housing expansion in the Old City. A restoration engineer who has been working with the Taawon (a Palestinian NGO called the Welfare Association) recounted the dialectic process of defying Israeli rules and regulations when it comes to restoration of houses. She said "we specifically expand spaces for the houses we restore, even if we know that eventually, the municipality will order the residents to demolish parts that are not approved, but we believe that this will help the residents to live better, and we tell them, that we will come back and help you rebuild again". Thus, there seems to be an unending resilient moral across the board that sometimes exceeds the stated policy of the Palestinian Authority.

[148] According to LACS official website, the AHLC chaired by Norway was established in 1993 and is "a 15-member committee that serves as the principal policy level coordination mechanism for development assistance to the Palestinian people".

[149] Action Plan: Operationalizing the UN Engagement Strategy in Jerusalem, version 30 2016. Annex 1: UN Engagement with the Israeli Authorities on East Jerusalem. December 2016. page 9. The note recognizes that despite the fact that Israel's annexation of the city is illegal, in order to implement projects, the UN has to deal with the respective Israeli occupation authorities. (p.s.) this is an internal document that I had access to through a UN staff member.

example of this limitation is made evident in the most recent reports of UN agencies to the AHLC meeting in New York on 27 September 2018 (UNSCO 2018).[150]

When it comes to the status of those sectors in the Palestinian budget, despite the heightened political rhetoric in all Palestinian national development plans (NDPs) about Jerusalem as the capital city of the Palestinian state-to-be, and the various presidential decrees and Cabinet decisions about enhancing the resilience of Jerusalemites and mitigating the gravity of Israeli policies, consecutive government budgets did not follow suit. Reviewing a sample of the Palestinian Authority's annual budget allocation for Jerusalem is quite telling about the rationale behind the support for the city and its residents (Participant 37, economist, 2018).[151] Participant 37, who is a prominent economic researcher in Ramallah, noted that the allocation for Jerusalem was insignificant compared to the other sectors and was only introduced in 2016, though at a minimum level (Misyef 2018).[152] Besides, we have seen that the budgetary allocations of both the Ministry and the Governorate are quite telling of the nature of support that they provide to Jerusalemites. Table 1 on Palestinian Budget Allocations to Jerusalem indicates that most allocations since 2010, in both the Ministry of Jerusalem Affairs and the Jerusalem Governorate, are directed toward salaries and wages and operational costs; whereas investment in development is almost non-existent.

The respective interviewee noted that "historically, Jerusalem was not dealt with in the budget policy. Instead, it was always dealt with as a responsibility centre with allocations directed according to the evolving needs of Palestinian institutions other than ministries that present their needs in the government development programmes". He further added that, for instance, "in the 2016 budget, there have been 53 centres of responsibility among of which two are designated for the Ministry and the Governorate of Jerusalem Affairs. As an example, in 2016, only 4.7 million NIS was allocated to the governorate and 58 million NIS to the Ministry. As an example, what

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[150] As a matter of fact, the Remarks of the Under-Secretary-General Rosemary A. DiCarlo, at the Meeting of the Ad Hoc Liaison Committee (AHLC) in New York, 27 September 2018, did not have any direct or indirect mentioning of the issues pertaining to Jerusalem. See also the World Bank report to the Ad Hoc Liaison Committee in March 2018 (World Bank 2018).

[151] See Table 1: Palestinian Budget Allocations for Jerusalem.

[152] It is important to note that it was not possible to have any public record of the Palestinian Authority's budget allocation for Jerusalem earlier than 2007, which is when the Palestinian Authority's began to publish its annual budget.

draws attention in the 2016 budget has been the covering of a large number of employees at the lowest echelons of the civil service which may be attributed to the policy of supporting resilience through disguised unemployment on the one side and ensuring political allegiance of Jerusalemites" on the other.[153] Moreover, the bulk of the ministry's budget is allocated to cover the cost of medical transfers to Jerusalem hospitals and does not cover any development projects (Participant 37, economist, 2018; Participant 65, ex-official responsible for the Jerusalem file at the President's Office, 2018).

Presumably, Jerusalemites have high expectations of the leadership to be proactive in Jerusalem, though some proposals do not seem realistic given the operational context of the Palestinian Authority. To illustrate this dilemma, there were two proposals by ex-Ministers of Economy in the Palestinian Authority. The first Minister suggested the need to allocating resources to the Jerusalem budget in proportion to the size of the population (Participant 8, ex-minister of economy, 2018). The second Minister suggested the adoption of creative policies, such as the allocation of a monthly contribution to be deducted from civil service salaries, which was done for the electrification of the Palestinian countryside in 2004 (Participant 28, prominent businessman, ex-minister during Qurei government, 2018). There are two challenges posed by the implementation of such suggestions. The first is the fact that Jerusalemites do not fall under the tax jurisdiction of the Palestinian Authority; hence, it is challenging to maintain this policy in the long run. The second relates to the fact that there is a new donor policy aiming at gradually reducing the reliance of the Palestinian Authority on international budget support (Participant 37, economist, 2018). This puts the Palestinian Authority at odds with its actual capacity to deliver on its political promises and responsibility toward the Jerusalemites. Notwithstanding, it seems that there is an insufficient appreciation of the complexity of the restraints on the Palestinian Authority's activity in the city, on the one side, and failure of the leadership to explain the nature of the Oslo Agreements 25 years after the establishment of the Palestinian Authority, on the other.

This being said, we should note that there is no shortage of development plans for Jerusalem designed outside the government structure. Since 2002, there were three multi-sector plans for East Jerusalem that were first initiated by the Orient House

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[153] See Table 1: Palestinian Budget Allocations for Jerusalem.

and the President's Office (MSR 2002; SMDP 2010; SSDPJ 2018). The common denominator of these plans is the prominence of the Jerusalem issue and its centrality for the Palestinian state. However, the variation within each lies in the political leadership's changing approach as a result of the evolving political situation. This, in turn, influenced the prospects of retaining the claim on the city to continue to be the capital of the state of Palestine (MSR 2002, p. 19).[154] It should also be noted that most plans for Jerusalem were designed separately from national development plans initially formulated to cover the areas of the limited self-rule in the West Bank and Gaza. As a result, the Palestinian Authority's approach toward the city has changed over the past two decades. It can be said that the approach started with a cautious stance about the peace process during the 1990s (MSR 2002, pp. 1-2), moved toward a focus on resilience and steadfastness as a way to "provide the foundation for Jerusalem to become the capital of the future state of Palestine" in the post-second Intifada ear and Fayyad period (SMDP 2010, pp. xv-xvi), and resumed with rights-based advocacy and focus on both the religious aspect and international law, thus transforming the Palestinian Authority's work approach to resemble a human rights organization rather than a state (SSDPJ 2018, pp. 11-15).[155]

What is quite telling about those plans is the lack of reference as to how they can be part of the state-building project or can advance the political claim on the city. As an example, although they pointed to a lack of synergy with the national government planning, they were formulated outside of the executive level of the Palestinian Authority. It was only during the Fayyad 13th government that there were attempts to synchronize planning, coordination with the ministries and budgeting. (Participant 65, ex-official dealing with the Jerusalem file at the President's Office, 2018). However, to this date, there is no evidence of the inclusion of Jerusalem issues within sectors deemed crucial for the sovereignty over the city. As such is the lack of

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[154] This plan has been the first official and comprehensive plan for Jerusalem and was published after the collapse of the 2000 Camp David Accords and the outbreak of the second uprising. The plan's philosophy was premised on the basis of two different scenarios: the possibility of a "continuation of the status quo with a continued Israeli control over the city"; and "the achievement of more peaceful conditions and outlook for a settlement".
[155] The current plan is focused on a re-emphasis of the legitimacy of the PLO as the political reference for work in the city. It re-iterates the Arab Palestinian identity of Jerusalem and calls for material and moral support to the people of the city. However, the most significant part is that it attempts to re-internationalize the issue of Jerusalem especially after having lost faith in a negotiated settlement with Israel. Unlike the previous plans focusing on a developmental aspect, this plan calls for the implementation of the UN Security Council Resolutions relating to the status of the city.

linkage of such plans with the need to establish the basis for independent institutions such as the Jerusalem District Electricity Company Ltd. or a Land Survey Authority for Jerusalem deemed as an essential symbol of sovereign institutions.[156] According to a Jerusalemite veteran politician, although the Jerusalem multi-sector plans offer extensive analysis of the context including information on the various sectors, they do not exceed being background documents that have been periodically updated without much focus on the city's borders or on investment in projects that are crucial for retaining territorial sovereignty (Participant 66, activist, journalist from Jerusalem, 2018). They are mainly project-oriented and turned into "strategic multi-sector development plans dependent on donor funding" (Arafeh 2018, p. 26). Lacking a sustainable institutional basis and financial resources (SSDPJ 2018, pp. 144, 155),[157] these sectoral plans do not seem to convince the Jerusalem general public of the seriousness of the Palestinian Authority in supporting the city and its residents.

This being said, it is important to point to the many sporadic efforts to establish institutional structures for the Palestinian Authority's work in the city. For, while the Orient House was a *de facto* political centre representing the PLO during the 1980s and the 1990s, Faisal Husseini's death and the closure of the Orient House in the early 2000s meant that there was a need to rehouse the Jerusalem file in the Palestinian Authority. As we have seen in the previous sections, with the establishment of the position of the Prime Minister, there were attempts to establish an institutional set-up dedicated to the Jerusalem file. However, such attempts ended with the elections of the Hamas government that became subject to political and financial sanctions by the Middle East Quartet established to follow-up on the 2002 Road Map for Peace.

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[156] As an example, "the Jerusalem Electricity Company is the largest employer in East Jerusalem with almost 550 workers and is considered a national pride. It is the main electricity provider for the Eastern part of Jerusalem and 25 percent of the West Bank." It is noteworthy to mention that more than 90 percent of its electricity is bought from the Israeli Electricity Company, and the Israeli government determines prices and connection fees (Jerusalem District Electricity Company Ltd. 2018).

[157] The SSDPJ 2018-22 is presumed to institutionalize the work at the President's Office. However, the unit is comprised of a small team and hiring depends on having external funds. It is also noteworthy to mention that in general, the European Commission finances the studies and UNDP provides support for capacity building including hiring staff. Only the most recent multi-sector plan referred to financial figures (USD 425,000,000 over 5 years) required to support the city with efforts to reach out to external donors from the Arab, Islamic and international community making the Palestinian Authority become a beneficiary rather than a driver of activities and intervention in the city. Despite the fact that the Law of the Capital 4/2002, article (3) gives a special priority to the city as a development area 1 and stipulates that "a special share of the general budget be annually allocated to the city in addition to setting public and private investment promotion programmes and plans (See Appendix 6: Presidential and Cabinet decisions on Jerusalem).

Consequently, those efforts often resulted in improvised modes of governances and multilayered institutional structures.[158] Institutions comprised of a political layer at the level of the PLO established two additional reference points. The first being the National Popular Conference for Jerusalem under the aegis of the PLO. The National Popular Conference was established in 2008 and became the direct reference point for all the work related to Jerusalem, including the management of the Jerusalem National Fund.[159] The second is the Jerusalem Affairs Department established in 2009 along with the re-establishment of the Jerusalem Municipality (Amanat Al-Quds) in accordance with Presidential Decree no (2) 2012.[160] It should be noted that all these institutions were established in parallel with administrative structures in the Palestinian government introducing yet another institutional layer of governance, such as the Ministry of Jerusalem Affairs and the Jerusalem Governorate as well as the Unit of Jerusalem Affairs at the President's Office in 2005.

When it comes to the Jerusalem Governorate, it was assigned responsibilities congruent with those of other governorates in the West Bank, such as law and order and socio-economic security. However, because of the lack of sovereignty, especially in the areas within the Jerusalem municipality and inside the Separation Wall, it was to perform such tasks. When it comes to the Jerusalem Ministry's tasks, as we have seen, they are broad in nature and focused on supporting the resilience of the Jerusalem population against settlement policies, land confiscation and forced evacuation from residential areas or homes. In addition, the Ministry provides financial

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[158] There is a Palestinian popular expression "if you want to kill an issue, create a committee" and that is equivalent to the expression "death by Committee". The creation of multiple reference points and committees has made official work malleable, incoherent, non-productive and difficult to account for due to multi-faceted institutional and financial decisions, hence influencing the Palestinian Authority's legitimacy and credibility in Jerusalem.

[159] The National Popular Conference for Jerusalem, established by Presidential Decree in 2008, convened 500 personalities from Jerusalem and resulted in a General Secretariat of 21 people. There is no evidence of a functional institutional set-up. Though the decree stipulated the establishment of the Jerusalem Fund, it took the Palestinian Authority three years to operationalize it. Decision no (96) 2013 stipulated the formation of a special committee for the Jerusalem Fund. Its members include former Prime Minister Ahmad Qurei, Mohammed Ishtayeh, Munib Masri and Sari Nusseibeh. The Committee is assigned the task of completing the establishment of the Jerusalem Fund and the preparation of the required bylaws for its work to be endorsed by the Head of the Executive Committee of the PLO. The Committee is assigned the preparation and calling for the first Founding Conference of the Fund. Another Decree no (20) 2013 stipulated the establishment of the Jerusalem Fund with its permanent headquarters in the city of Jerusalem. The Fund has the right to establish offices and other branches inside and outside of Palestine. See Appendix 6: Presidential and Cabinet decisions on Jerusalem.

[160] See Appendix 6: Presidential and Cabinet decisions on Jerusalem.

compensation to people facing house demolition, supports the acquisition of construction permits and architectural plans, deals with legal issues pertaining to home demolition cases, pays penalties for construction without permits and provides humanitarian and social support. However, the discontinuity of the Ministry for Jerusalem in the government structure since the establishment of the post of Prime Minister in 2002 weakened the government intervention in Jerusalem compared to other sectors. For instance, after the resignation of the Minister of Jerusalem Affairs in 2007, Fayyad assumed the responsibility for the file until the President later appointed a Husseini family member to serve both as Minister and Governor for Jerusalem making the division of labour between the ministry and the governorate difficult. The Ministry and Governorate have their headquarters in Al-Ram in the same premises where PECDAR used to operate in 1994. Ironically, having asked a number of Jerusalemites whether they knew where the premises of the Ministry/ Governorate are or what their respective mandate is, the majority did not have any clue about these institutions although their primary mandate is to focus on the provision of resilience support to Jerusalemites.

With regards to the Jerusalem Unit at the President's Office, it's initial task was the preparation of the sectoral strategic plan for Jerusalem (SMDP 2011-2013);[161] it was reinstated again at the President's Office in 2017 with the task of updating the Jerusalem sectoral plans, which culminated in preparing the Strategic Sectoral Development Plan for Jerusalem (SSDJP) 2018-22. The positioning of the Jerusalem Unit in the President's Office is supposed to provide an institutional base with the "political and financial power" to intervene in the city (Participant 65, ex-official responsible for the Jerusalem file at the President's Office, 2018).

In conclusion, although a number of the interview participants, which included politicians and ex-ministers, believe that Jerusalem was not excluded from the Palestinian state-building scheme especially from an economic point of view (Participant 65, ex-official responsible for the Jerusalem file at the President's Office,

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[161] The Unit provided support to Jerusalemites suffering from the Israeli policies of home demolition and those who had to pay penalties for building without construction permits and extended support to youth organizations and small projects. According to interview participant no 65, the Unit received its budget from the European Union independently of the budget of the Palestinian Authority. Eventually, the Unit was moved from the President's Office to the General Secretariat of the National Popular Conference with the aim of unifying reference points for work in Jerusalem.

2018; Participant 58, politician and head of a political party, 2018; Participant 24, ex-minister during Fayyad government, 2018), they recognize the gravity of the conditions impinging on the Palestinian Authority's intervention in the city. On the other end of the spectrum, there is the argument that even though the Palestinian Authority lacks sovereignty in East Jerusalem and works in a hostile environment (Participant 40, ex-minister in several governments and one of the founders of the Technical Committees at the Orient House, 2018), it should continue to establish strong and capable institutions and formulate adequate policies despite plausible scepticism regarding the prospects of their implementation. Proponents of this position contend that there is a need to follow a strategy of "take and ask for more" and not hold on to a strategy of "either have everything or nothing", hence the need for the continuation of the struggle to achieve national aspirations irrespective of its form (Participant 13, senior policy expert on Jerusalem/PLO 2018; Participant 47, activist and head of Palestinian NGO in Jerusalem, 2018; Participant 40, ex-minister in several governments and one of the founders of the Technical Committees at the Orient House, 2018; Participant 55, official at the Ministry of Interior, 2017). Given the controversial nature of institutional intervention in Jerusalem and the limitations to direct interventions of the Palestinian Authority in the sense of a central government responsible for the well-being of its citizens and their protection, the following section examines the notion of resilience and steadfastness as a substitute approach to preserve both the people on the land and the claim on the city as the capital of the future state-to-be.

6.3.1. Resilience and steadfastness as an approach to state-building under occupation

The earlier chapter on Area C analyzed resilience as a policy approach to enhance the Palestinians' capacity to resist Israeli occupation policies, stay on the land and protect their political territorial claim. However, this policy proved problematic in the sense that it did not provide solutions against what seems to be an imminent Israeli annexation of the West Bank. Whilst a similar policy approach was followed in the case of Jerusalem, there is a need to understand what it actually means and entails for the Jerusalemites, on the one side, and the future of the city, on the other. In this respect, it might be essential to understand the underlying assumption of the Palestinian Authority in adopting this policy in Jerusalem; how it implemented it, and whether it was different from the one it adopted for Area C. It might also be apt to see

whether such a policy is sustainable given the external factors influencing it. Most importantly, the question that is required to be examined concerns the implications of the policy on retaining the city as the capital of a future state of Palestine, while considering the overriding context of Israeli territorial and demographic policies in the city.

As we have seen in the previous section, Palestinian intervention in the city was sporadic and unsustainable despite the continuous political rhetoric stressing the centrality of the city to Palestinian national aspirations. The only reference to resilience in Jerusalem in the Statehood Plan was through the confirmation of the mandate of the Ministry of Jerusalem Affairs (PNA 2009, p. 29). And yet, Fayyad continuously reiterated that "enhancing the resilience of the Palestinian people" is not just a slogan even after he left office in 2013 (Salam Fayyad 2013). His political rhetoric focused on the resilience of the people through the strengthening and empowering of Palestinian institutions providing a context that aims at enhancing the citizens to remain on their land and persevere in the face of the occupation, on the path to ending it (Future for Palestine 2013).

Having said this, it is noteworthy to mention that other than finding reference to 'resilience' in political rhetoric and discourse around Palestinian National Development Plans including the Fayyad Statehood Plan, it was not possible to find an official definition of resilience, its purpose and how it is supposed to be undertaken, and whether it is a temporary tactic or a permanent strategy. Likewise, it was not easy to find enough literature on the impact of resilience policies on Palestinian state-building efforts and claim for statehood. This might be due to the fact that the field of research, in general, is still evolving, especially when it comes to scholarly research on the relationship between resilience and governance as well as resilience and state-building (Chandler 2016a; 2016b; 2014; 2013; 2012).

This being said, it seems that in the case of Jerusalem, resilience becomes a way of life. In other words, it means the capacity to cope with a reality in which the mere existence of people and their land is constantly being challenged. In this sense, enhancing the resilience of Jerusalemites becomes a form of "resistance by existence" (Dhaher 2014, p. 121). As we have also noted in Chapter five on Area C, it can also be considered as a "desire to avoid a second ethnic cleansing beyond what can be

seen as "the capacity for successful adaptation in the face of disturbance, stress, or adversity (Kimmerling 2003, p. 15; Norris et al. 2008, p. 130). Indeed, perhaps the difference of resilience and steadfastness (*sumud)* between Jerusalem and Area C is that in the case of Jerusalem, it takes a form that is beyond resilience against territorial annexation. It becomes a form of an existential struggle related to the national, religious, political and cultural identity that was side-stepped by overriding factors governing the current state of affairs in the city and most likely it's future—thus making resilience a multi-faceted challenge regarding the institutional, individual and political existence in the city.

For instance, from an institutional perspective, the PLO and later the Palestinian Authority struggled to keep some sort of institutional presence in the city, but to no avail. Most of the Palestinian representative institutions, such as Amanat Al Quds, the Jerusalem Chamber of Commerce and the Orient House, were closed despite the many international assurances about the preservation of Palestinian institutions in Jerusalem (Al-Muqtafi n.d.; Israel Ministry of Foreign Affairs 1993).[162] Whereas at the individual level, the resilience of the people and their land has been the most challenging endeavour. Israel's policies of engineering the minimum level of Palestinians and maximum level of Jews in their project of a 'Greater Jerusalem' is a direct threat to the mere existence of the people. The current Israeli policies targeting the transformation of the 'sovereignty' of Kufr Aqab in which 140,000 Jerusalemites reside and pushing them out of the city's municipality is a clear example of the gravity of the situation and the sheer impossibility to reverse it. This actually indicates "Israel's plans to entrench its annexation of East Jerusalem and its seeming policy of excising Palestinian areas of East Jerusalem (Al-Jazeera News 2019).

There is strong evidence that the Palestinian Authority's consecutive Palestinian governments in the West Bank (before, during and after Fayyad) continued to stress resilience in Jerusalem. The mode of intervention was embedded in the mandate of the Ministry of Jerusalem Affairs since 2009, the Jerusalem Governorate and other official institutions created to deal with Jerusalem affairs (PNA 2009, p. 29).

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[162] In this letter from Peres to Holst, Peres promised not to harm Palestinian economic, social and religious institutions while acknowledging their significant role in serving the Palestinian population in Jerusalem. This letter has been referred to several times by late President Arafat, whenever he was advocating against Israeli measures in the city.

However, in most cases, political rhetoric was not matched by actual plans and budgets; the role of the institutions mentioned above was rather focused on monitoring and mitigating the damage caused by Israeli occupation's policies than to have a long-term policy-making mandate that could transform the relations of power in the city (Palestine Cabinet Secretariat 206, pp. 2-55; Palestine Cabinet Secretariat 2018).

It should be noted that it has been difficult to find exact information on how the Fayyad Plan's resilience approach made an impact on retaining the city or its people— the challenges are overwhelming—perhaps the 2012 ICG reports on Jerusalem are indicative of the inability of the Palestinian Authority to counter Israeli measures (including that of the Fayyad Plan) (ICG 2012a, b), but one needs to be realistic about the incompatibility between the occupation's institutional structures and capacities, and those of the Palestinian Authority.

Nevertheless, seen from a positive perspective, supporting Jerusalemites who suffer from the occupation's policies can be significant to enhance their endurance and maintain their presence on the land. The problem, however, is the seeming permanence of the occupation and unlikely occurrence of future Israeli territorial concessions. This adds to the problematic nature of supporting resilience since it can quickly become an adaptation to the difficulties of life under occupation rather than provide a solution to end such hardship (Ryan 2015, p. 299). Besides, in this context, the Palestinian Authority's intervention to enhance the resilience of Jerusalemites does not guarantee the success in retaining the claim on the city as the capital of the state of Palestine or the certainty of its Palestinian inhabitants' rights to reside in it while awaiting a permanent solution. Looking at how the 'Greater Jerusalem' project progressed, it is easy to doubt the feasibility of the Palestinian Authority's intervention in the long run.[163] The 'Greater Jerusalem' plan remains a tool to encourage Jewish settlement in the eastern part of the city as a reflection of the Israeli strategy of 'Judaization' of the city including its eastern part since 1967. However, this development plan that included the urbanization of Arab neighbourhoods and presumably the need to meet the enormous demand for residential building by the Arab population favours Israeli settlements over Palestinian territorial claims to the city (Chiodelli 2012, p. 15). With the continuation of Israel's annexation policy to transform both geography and demography (ARIJ 2018), the intervention of the Palestinian

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[163] See Map 12: Greater Jerusalem-2015.

Authority can barely mitigate the impact of these policies on the population rather than to challenge them. As a result, the occupation and its policies have become the standard way of life for Jerusalemites, and it seems that the people tend to co-opt with the *status quo* in the absence of an alternative or a more feasible option provided by their national leadership.

In addition to this problem, there are other factors that make the support of resilience problematic, primarily because its sustainability depends on external factors, not within the remit of the Palestinian Authority. One such factor is the dependence on external funding. For, knowing that the Palestinian Authority is subject to the limitations of the Oslo Agreements, there is no guarantee that its financial foundation will be stable or even that external funding will be constant. As an example, donors' direct budget support to the Palestinian Authority has declined over the past five years by a hefty 58 percent—from USD 1 billion in 2013 to only USD 461 million in 2018 (Samhouri 2019). Besides, there are numerous incidents that make it difficult to envisage the stability of financial support without a link to regional and global political agendas, as has been evident by the latest US decision to withdraw its financial support to UNRWA (US Department of State 2018).

Seen from another perspective, the risks of a continued policy of supporting resilience and steadfastness without changing the *status quo* are aggravated given a seemingly growing international consensus that Jerusalem is a matter of "*fait accompli*" and, hence, support is mostly symbolic rather than strategic (Participant 10, European diplomat, 2018). In this sense, it is hard to contemplate a more realistic scenario regarding the Palestinian claim to the city, especially since arguments for its political future may seem unattainable. The problem became apparent when observing the Palestinian Authority's political rhetoric and continued efforts to support the city and its residents—namely that there is a sense of despair amongst the highest political echelons in the Palestinian leadership. They claim that the Israeli policies in Jerusalem "are way beyond the capacity of the Palestinian Authority" (Participant 3, prominent Fatah leader, ex-Prime Minister, one of the principal negotiators of the Oslo Agreements, 2018). This type of claim begs the question of the purpose of enhancing resilience in the first place if it is not meant to support the Palestinian statehood project. In light of the mentioned despair, the following section reviews the implications the lack of territorial sovereignty has on the Authority's capacity to retain its claim on the

city, act as the legitimate central authority as well as preserve Palestinian national identity and nationhood.

6.4. Implications of the lack of territorial sovereignty

Despite the constant political reminder of the struggle to retain Jerusalem as the capital of the state of Palestine, the Palestinian Authority's state-building policy, in general, did not succeed in countering the unilateral Israeli policies in Jerusalem. And although it tried to compensate for its lack of territorial and functional sovereignty in the city by creating alternative modes of governance, it could not mitigate the acceleration of the Israeli occupation's territorial and demographic policies against the city and its Palestinian population. According to the ICG,

> [Israel has consolidated its control over the eastern part of the city while creating three relatively concentric belts of Jewish presence. Some of these areas are outside Jerusalem's expanded municipal boundaries, though all fall on the western side of the planned route of the West Bank Separation Barrier that Israel began constructing in 2002. The outer belt, which circumscribes a purported Greater Jerusalem, comprises three 'fingers' of suburban settlement, each of which extends roughly 10 km from the city's municipal boundaries into the West Bank: Givat Zeev in the north, Maale Adumim in the east, and Gush Etzion in the south. All are in the process of being incorporated into the State of Israel. The middle belt is comprised mainly of large residential settlements within the municipal boundaries, and that was amongst the first settlements built in Jerusalem in the late 1960/70, and that includes Givat Ha Mitzvah, Maalot Dafna, Ramat Eshkol and the French Hill. It was later expanded in the 1970/1980s to a ring of neighbourhoods comprising Yaacov, Gilo, East Talpiot, Ramot Alon and Pisgat Zeev that were established with the intention of encircling the Jewish and Arab city centres. In addition, despite the Oslo peace process, two additional settlements were added; Ramat Shlomo in the north and Har Homa in the south leaving a small gap in the east between Mount Scopus and Jabel Mukabir as the only significant opening to the West Bank. The inner belt encircles the Old City and its surrounding basin and includes the revered historical and holy sites. The prime agent of settlement activity is not the government, but settler groups, including non-governmental organizations] (ICG 2012a, pp. 7, 8).

As a result, there is growing evidence that renders unrealizable the Palestinian aspiration to have East Jerusalem as the capital of the future Palestinian state. This also includes the previously negotiated possibility of having the village of Abu Dis in the outskirts of East Jerusalem become the capital, and although there are speculations that it is part of the US proposal for the 'Deal of the Century', the fact that its land is mostly in Area C also means that it faces potential *de facto* annexation. Besides, the ongoing attempts to demolish the Khan Al-Ahmar village implies the likely success of Israel to implement its project for 'Greater Jerusalem', which has been part of its policies and masterplans, such as that of Jerusalem vision 2010-50.[164]

Nonetheless, there seems to be a gap between the political discourse of the Palestinian Authority and what can be done on the ground. In reality, many Jerusalemites believe that the PLO has betrayed Jerusalem and its people (Participant 59, Palestinian politician, Fatah member from Jerusalem, 2018), despite the confirmation of PLO veterans that they did not (Participant 67, Palestinian negotiator, 2000 Camp David Accords, 2018; for the PLO position on Jerusalem, see Hanieh 2001). However, it is a fact that the PLO—without public consultation—though under an unusual situation of imbalance of power accepted to postpone the question of Jerusalem to an indefinite end game (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018). The Palestinian leadership at the time made the concession in good faith and in anticipation of achieving a bigger objective, namely the establishing of the state on every liberated inch Palestinian soil (UNISPAL 1988, Annex III). Ironically, under the current situation, territorial boundaries of Jerusalem that Palestinians identify as part of their fundamental rights are no longer the same.[165] Having deferred the issue of Jerusalem did not mean that Israel would stand still and not try altering geography (Participant 41, civil society activist, expert in international law and international humanitarian law, 2018; Participant 47, activist and head of Jerusalem-based NGO, 2018). Since the signing of the Oslo Agreements, Israel succeeded in extending its municipal boundaries beyond the 1967 Green Line,

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[164] For a summary of the plan, see Jerusalem 5800—Global Metropolic Group. n.d. In particular, see the maps on pages 6 to 9, which particularly show the extension of the map through the West Bank, and how it cuts through the area which clearly shows that even in the minds of the Israeli private sector, Area C in the West Bank is part of the territorial vicinity of Greater Jerusalem.

[165] See Map 11: Israeli Settlement Enterprise Around East Jerusalem-NAD/PLO.

intensified its bureaucratic and legal restrictions on Palestinian land use, marginalized Jerusalem residents, expanded its settlements in 'Greater Jerusalem', and constructed the Separation Wall" (Zinc 2009, p. 122). All the while, the political discourse of the Palestinian leadership regarding Jerusalem remained constant, though "without much teeth to the gear" (Lustick 2002, p. 206).

Clearly, the central authority in Ramallah has been unable to provide solutions to related problems facing the Jerusalemites living under Israeli occupation's rules and regulations. The forced absence of the Palestinian Authority and the *modus operandi* of its restrained intervention resulted in multi-faceted challenges. As the previous section pointed out, it is clear that as a reaction to the course of events surrounding the stalled peace process, the resilience and steadfastness approach of the Palestinian Authority restricted its role to advocacy and humanitarian support, rather than to become a player with a robust policy for statehood. Preserving the presence of Jerusalemites in the city, as they face the occupant's effective policies, has become an enduring undertaking, yet without much effect so as to retain the political claim on the city or its territory. It evolved into an endeavour to be borne individually rather than nationally (Participant 47, activist and head of a Jerusalem based NGO, 2018).

Moreover, the forced absence of the Palestinian Authority and its inability to reproduce political leadership that could compensate for the loss of its institutional presence in the city challenged its capacity to foster a social contract with the Jerusalemites. This challenge has had consequences for the legitimacy of the Palestinian Authority in the eyes of the Jerusalemites, who feel that they were left alone to counter Israeli annexation policies and protect their rights to the territory on an individual basis (Ju'ubeh 2015, pp. 18-19; The Legal Center for Arab Minority Rights in Israel (ADALAH) 2018; for a comprehensive review of Israeli policies in this regard, see B'tselem 1995; also Peace Now 2018). For instance, Jerusalemites feel that they alone have the responsibility to secure their religious sites and property from expropriation and annexation (Participant 2, prominent Fatah leader and ex-minister for Jerusalem, 2017; Participant 5, prominent civil society leader from Jerusalem,

2018; Participant 49, Palestinian activist, a member of a prominent Jerusalem family, 2018).[166]

Consequently, protecting Palestinian property rights in East Jerusalem has become more difficult with accelerated Israeli policies targeting both private and Waqf land. As a matter of fact, land ownership in East Jerusalem suffers from a multiplicity of problems that have played against the Palestinian residents of the city. Problems include the capacity to counter Israeli policies related to the expropriation of unregistered land and annexing it to the municipal borders. Historically, much of the privately owned land in East Jerusalem is characterized by multiple ownership with many owners residing abroad, therefore making it difficult to officially register the land in the Israeli land registry. What adds to this problem is the hesitancy of the Jerusalemites to register land, for fear of taxation, language problems and lack of knowledge of Israeli laws and policies. Unregistered land allows the "Custodian for Abandoned Properties to expropriate it for public use purposes" (Jiryis 1981, p. 84).

It is crucial to keep in mind that the PLO's official position prohibited Jerusalemites from dealing with the occupation authority including the Jerusalem municipality, as this is deemed a direct recognition of Israel's illegal sovereignty over the city. For instance, Jerusalemites in the Beit Hanina area have become more fearful of the loss of their land, especially after the enactment of the Regulation Law or what is called the 'regularization law' passed in February 2017. In a 'Round Table Discussion on the Decision of the Israeli Occupation Authorities to Settle Land in Occupied Jerusalem' at the Al-Quds University in Jerusalem on 17 July 2018, the debate focused on the demand for the Palestinian Authority to provide political guidance as to how to deal with the dilemma the Jerusalemites face in order to protect their property and also their presence in the city. However, the Palestinian Authority cannot provide specific guidance to the people to register their land in the Israeli registry, because this would entail the recognition of the *de facto* Israeli occupation of East Jerusalem. At the same time, the Palestinian Authority is unable to prevent the Jerusalemites from individually registering their land in order to protect their property rights in the city. As a result, Jerusalemites are left to their own devices to fix their problems individually. This situation puts their relationship with the Ramallah

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[166] For a thorough analysis on the background of Israeli acquisition of religious land in the Old City, see Chapter 6 'The Politics of Religion in the Holy City' pp. 161-206 in Dumper 199

leadership at odds, because of its inability to provide them with feasible solutions to protect their land and, therefore, to maintain their resilience in the city.

On another note, although the Palestinian Authority has tried to compensate for its forced absence by establishing alternative modes of governance in the form of committees and commissions, the fact that committee and commission membership is almost exclusively comprised of Jerusalemites reduced the Jerusalem issue to the level of a local problem that required solutions at the local level rather than the national level (Participant 44, senior official, Ministry of Interior, 2018). Besides, the multiplicity of institutional reference points made it difficult for Jerusalemites to identify with a single one and, consequently, hold it accountable for successes and failures in responding to the people's needs. This makes it challenging to have inclusive, transparent and accountable work mechanisms (Participant 12, ex-minister of economy, 2018). The absence of the Palestinian central authority in Jerusalem provided space for other influence groups that have proven of more direct relevance to the daily lives of the Jerusalemites and, hence, influence the latter's relationship with the Palestinian Authority. One of those groups is the Awqaf establishment, which is directly related to the Jordanian government and the different Christian establishments in the Old City. All exert influence that directly and indirectly undermines the relevance of the central authority in Ramallah.[167]

Understandably, the Palestinian Authority's absence from Jerusalem was forced and was not a matter of choice; however, it resulted in unintended consequences for the Palestinian Authority's legitimacy in the eyes of the Jerusalemites. The problematic situation resulted in having Jerusalemites shy away from being concerned with macro politics and more focused on their day-to-day survival under the adversity of occupation policies (Participant 47, activist and head of a Jerusalem based NGO, 2018). For, unlike the situation prior to the establishment of the Palestinian Authority, in which legitimacy depended on the resistance-related record of Palestinian leadership, legitimacy of the central political leadership—if it may

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[167] It is important to point to the recent competition between Jordan and Saudi Arabia for control of guardianship over the Al-Aqsa Mosque. See Al-Monitor—The Pulse of the Middle East 2018. Other players include Morocco via its king's capacity as chairman of Al Quds (Jerusalem) Committee of the Organization of the Islamic Cooperation. For a thorough understanding of Jerusalem religious reality, see Dumper 1997, pp. 160-206.

be said—is measured by the extent to which it can uphold its political rhetoric in protecting the fundamental national principles, including having the city as the capital of the state of Palestine as well as protecting the people and their territory from external threat (Participant 47, activist and head of a Jerusalem-based NGO, 2018). This complicated and unusual state-citizen relationship, or in better words Palestinian Authority-Jerusalemite relationship, puts Jerusalemites at odds with the notion of statehood, on the one side, and the credibility of the Palestinian Authority on the other. Under the current circumstances, Jerusalemites feel stateless as an effect caused by the deprivation of the lowest expectation citizens can have towards their central authority beyond the provision of services, such as health, education and the rule of law (Participant 2, prominent Fatah leader and ex-minister for Jerusalem, 2017; Participant 5, prominent civil society leader from Jerusalem, 2018; Participant 49, activist, a member of a prominent Jerusalem family, 2018).

There are two incidents that illustrate Jerusalemites' identification with national issues, which deserve attention. The first incident is related to their success in thwarting Israeli government's attempts to extend its sovereignty to Al-Aqsa in June 2017, in which they demonstrated its centrality to their identity and existence. The second incident, however, is related to the Jerusalemites reaction upon the inauguration of the US Embassy in Jerusalem, in which they did not express the same passion as in the case of the Al-Aqsa. This indicates that they turned away from identifying their existence in the city with the political discourse of the Ramallah leadership (Participant 5, prominent civil society leader from Jerusalem, 2018). Such a reaction is not new, since, historically, there was a relatively low turnout of Jerusalemites at national elections at both occasions in 1996 and 2006, which reflects how they distanced themselves from the Palestinian Authority and its politics. In the 1996 national elections only 200 out of 2,984 Palestinians registered to vote at the post office had shown up, and there was anger amongst many refusing to vote based on their refusal to hold national elections under occupation (Schemann 1996), whereas in 2006, only 6 percent of eligible voters took part (Cohen 2013, p. 126). Feeling stateless may also explain the "rising trend in recent years of Palestinian permanent residents of East Jerusalem applying for obtaining Israeli citizenship as a way to overcome threats targeting their mere existence in the city and hence protect their rights including residence and property (Barakat 2012).

This being said, Dumper (2013) maintains that "Palestinian residents remain attached to the Palestinian nationalist cause, refuse to accept the sequestration of their land and property by Israeli bodies, and continue to demand Jerusalem as their putative national capital despite Israeli policies and ineffective Palestinian rule" (Dumper 2013, p. 1251). However, in the absence of a competent central authority in Jerusalem, it is important to point to the challenges national identity and the collective feeling of nationhood face. One such challenge is that the city and its residents were historically separated from the rest of the West Bank and Gaza. The special status given to the city in the Partition Plan specifying it as *corpus separatum* preceded the geographic fragmentation as per the Oslo Agreements and the erection of the Separation Wall, all were creating a fragmented type of identity for the Jerusalemites. Jerusalemites are often referred to as Makdeseein (مقدسيين), as a separate community with connotations of being favoured especially after the 1967 annexation of the city, for the mere fact that while they had not the full rights of citizens, they enjoyed individual rights that put them in a better situation than their compatriots in the West Bank and Gaza. In a way and as a result, this geographic particularity influenced the state of mind of both Jerusalemites and the rest of the Palestinians in the West Bank and Gaza and the way they perceive the issue of Jerusalem. It transformed Palestinian society into localized and isolated communities that are politically, culturally, socially and economically alienated. As a result, Jerusalemites' self-identity with the notion of the nation-state or the *de facto* state in Ramallah requires attention.

As a matter of fact, this localization of Palestinian communities intensified and produced grave consequences for the Palestinian social fabric and national cohesion (Participant 2, prominent Fatah leader, ex-minister for Jerusalem, 2017; Participant 29, prominent Jerusalem figure, lawyer, 2018; Participant 33, international development practitioner, 2018). It is not only that it had an impact on preventing national interaction within the country namely, the West Bank, Gaza and Jerusalem, but also within the West Bank cities itself, and within the West Bank and Gaza. Due to closure policies, the Separation Wall and national division between the West Bank Authority and that of Gaza, Palestinians are pre-occupied with their survival within a particular geographic area without affording to worry about national threats. As such, though popular demonstrations keep taking place whenever there is an intensification of Israeli provocation against Palestinians be it in Jerusalem or elsewhere, they have

become sporadic and non-regular as expressions of popular dissent against the occupation. For instance, demonstrations intensify when there is a war on Gaza or when Israel attempted to install electronic gates in Al-Aqsa Mosque, however, life is resumed in the other cities not directly affected by military action such as that of the city of Ramallah as described by Barthe (2011).

As a result, Jerusalem is not only a divided city based on ethnicity between the Israelis and the Palestinians but rather a city on its own, also isolated from its Palestinian surrounding. In this sense, defining the relationship between the Jerusalemites and the central authority in Ramallah is not a straightforward enterprise, but rather points to a complex and multi-layered one. The concept of a social contract between the Palestinian Authority and Jerusalemites is confused, as it does not fit the mainstream association of state-citizen relationship revolving around the provision of services, such as health, education and the rule of law, which parenthetically are being provided by the occupation authorities.[168] The expectations Jerusalemites have of the Palestinian Authority are of a different nature and focus on political emancipation (Participant 49, activist, a member of a prominent Palestinian family, 2018). As a result, under the current circumstances, Jerusalemites' sense of citizenship suffers from a dual complexity.

Whereas, geographically, Israel applied its sovereignty after having annexed the city, though it did not accord Jerusalemites full citizenship. Therefore, Jerusalemites do not feel part of the Israeli cohort and feel less privileged than the rest of the Israeli citizens of the city (Gaith 2018). Paradoxically, despite the many challenges they face, having access to certain social privileges that are not enjoyed by Palestinians living in the West Bank and Gaza puts Jerusalemites at odds with their Palestinian compatriots (Ronen 2017; for detail on Jerusalem residency, see Jerusalem Community Advocacy Network (JCAN) n.d.). For instance, proclaiming Jerusalem citizens as 'permanent residents' warranted them certain benefits denied to Palestinians in the West Bank and the Gaza Strip. This status differentiated Jerusalemites from their Palestinian compatriots despite the challenging restrictions

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[168] It is a known fact that Palestinian health and education institutions operating in Jerusalem provide a share of the services to Jerusalemites, however, they remain unofficial, for their operational framework is related to charity organizations although they are treated as service providers by the Palestinian Authority.

on their right to residency in the city as exemplified by Israel's ID revocation policy [169] or their equal access to municipal services or even their right to participate in the Israeli national elections. Palestinians who hold a Jerusalem ID card have freedom of movement within Israel and the West Bank, whereas Palestinians living in the West Bank and Gaza have to have special permits to access the city and Israel as well as travel between the West Bank and Gaza since they would need to travel through Israel. Other benefits that Jerusalemites have include access to services including social pension, health insurance and education. One anecdote is quite telling of the way Jerusalemites feel about having access to better services than those provided in the West Bank. It finds manifestation in the attitude of a former Minister in the Palestinian Authority, who is a Jerusalem resident. During the interview, the Minister unrelentingly praised the efficiency of the Israeli health and social system in comparison to health services in the West Bank. The thing that does not seem to be in sync with the Minister's advocacy of the work of the Palestinian Authority in Jerusalem and commitment to the political discourse of the Palestinian Authority to support Jerusalem and its institutions.

Given this background, ordinary people in Jerusalem experience a complex reality and complex alienation of identity they have to go through on a daily basis. The interviews held with Palestinians from Jerusalem as well as from the rest of the West Bank and Gaza revealed a strong feeling of estrangement regarding their connection to the rest of the West Bank and Gaza, and vice versa. For instance, while the post-Oslo Jerusalemites were immersed in their existential struggle in the city feeling disconnected from the state-building project, the post-Oslo generation in the West Bank and Gaza does not have a tangible experience of Jerusalem as a city or as a potential capital for that matter. Consequently, although Jerusalem remains a sensitive issue in the national consciousness, the current forced separation has its toll on the Palestinian collective awareness and nationhood, and questions the Palestinian Authority's capacity to reinvigorate the Jerusalemites sense of belonging to the state-

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[169] As 'permanent residents', they were provided with a travel document 'laissez-passer' that is not a national passport and that needs to be approved by the Ministry of Interior every time a Jerusalemite needs to travel outside of the country, hence, this equals dealing with indigenous citizens as foreigners, who also become subject to an ID revocation, if they do not prove residency in the city for a number of years. For more insight on this issue, see Center for the Defense of the Individual (hamoked). 2013.

building enterprise, nationhood and shared values (Kayali 2018; Salameh 2018, p. 213).

Obviously, there is a strong relationship between territoriality and nationalism. For, "territory continues to be an essential part of the process through which national identity is formed and constructed" (Newman 2001, p. 235). The forced geographic separation of Jerusalem from its Palestinian surrounding had detrimental consequences for national cohesion and the Palestinian national identity in the city. For, despite the ongoing attention to the problem among Palestinian officials and academics with both pointing at the need to exert more efforts to enhance the Palestinian national identity and social cohesion, others depict the identity problem as one of lacking will to counter Israelization policies intended to remove the city and its Palestinian inhabitants from the national fabric (Participant 29, prominent Jerusalem figure, lawyer, 2018; Participant 66, activist, journalist from Jerusalem, 2018).[170]

Besides, challenges facing Jerusalemites and how they identify with the Palestinian Authority indicate that the problem does not only lie in the absence of a nation-wide democratic process or the inability to reinvigorate a local democratic process to elect representatives, whether at the Amanat Al-Quds or the Jerusalem Chamber of Commerce level. There has been ongoing internal debate over the issue of reinvigorating the Jerusalem municipality. While some see it as an additional layer of reference, though without much leverage on the actual delivery of services to the citizens beyond what should be delivered by the Israeli Jerusalem municipality, others see it as an essential institution due to its symbolic value (Participant 49, activist, a member of a prominent Jerusalem family, 2018). There is also another view that values the significance of Amanat AlQuds beyond symbolism, as it can facilitate coordination and mobilization of development programmes and health services to a large part of the Jerusalem community, which is deprived of services from the municipality or the state (Participant 52, veteran development practitioner in

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[170] It is worthwhile mentioning that there seems to be a reinvigoration of Palestinian Authority action to promote inclusive national cohesion through advocacy and awareness. There are also independent civil efforts to emphasize the role of national culture as a way to reassert Palestinian national identity in Jerusalem. This is an area worthwhile to be researched further as an expression of non-violent resistance and civil action for resilience and steadfastness. On the other hand, evidently, there is a need for further studies on this aspect in the case of Jerusalem including opinion polls on the choice between living under the Palestinian Authority or the State of Israel, despite the fact that it might be politically risky.

international organization, 2018).[171] The problem, however, lies in the absence of a specific political direction at the national level and the precise position of the Palestinian Authority about the future of the city (Participant 2, prominent Fatah leader, ex-minister for Jerusalem, 2017; Participant 28, prominent businessman and ex-minister during Qurei government, 2018; Participant 29, prominent Jerusalem figure, lawyer, 2018).

Given this outcome, it is essential to consider the difficulty of combining the state-building project with national liberation. The fact that Jerusalem is not under the direct responsibility of the self-governing authority automatically excluded the Jerusalemites from the state-building enterprise, which mainly took place in the West Bank, and all its associated benefits.[172] And although the Palestinian Authority endeavoured to create alternative modes of governance to compensate for its inability to be physically present in the city, its efforts did not help in nurturing a sense of connection between the central authority and the residents of its future capital. As an example, the People's confidence in Salam Fayyad's government in 2010 was relatively low with approximately 30 percent saying that they had quite a lot of or a great deal of confidence in it, compared to 2009 were almost 44 percent. This shows that the population in both the West Bank, Jerusalem and Gaza lost trust in the government and its state-building project (Tiltnes, Pedersen, Sønsterudbråten, and Liu 2011, p. 5). Needless to say that resilience, as we have explained, is a long-term Palestinian concept. Despite the fact that there has been a continued discourse on supporting resilience (Mustafa 2018), it is not only that building resilience requires a holistic approach to maintain the resilience of the people in their territory (UNDP 2016, pp. 2-6); instead, it requires dealing with the root causes of the problem.

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[171] For more insight on Amanat al-Quds, see Salem 2018. On the issue of holding elections in the Palestinian Chamber of Commerce, it is clear that the Palestinian Authority is overly self-censored as not to take any action that violates its permissible functions under the Oslo Agreements. A prominent Jerusalemite businessman counted the many attempts to convince the current Minister of National Economy to convene elections for a new board of directors for the Chamber though without success.

[172] For instance, having had several discussions with Bank Managers in Ramallah, they explained that Jerusalemites are unable to have access to housing mortgage loans as is the case in the West Bank, since the Palestinian Authority does not have any legal jurisdiction over them, and there has not been any type of transitional arrangements in the Oslo Agreements regarding their day-to-day affairs. It is only recently that a slightly revised policy among a couple of banks operating in the Palestinian Authority areas allows the extension of housing mortgage loans to Jerusalemites. However, procedures remain difficult and require rigorous conditions unlike those available for West Bank employees, who have access to loans, if they prove that they are officially employed and direct their salaries to the bank providing the loan.

Conclusion

Counting the challenges and the setbacks, the diverging opinions regarding the future of the city remain to be validated in future. While there are proponents who argue that Palestinian sovereignty in the city is impossible (Participant 15, expert in international law, official at the Palestinian Authority, 2018), others believe that the conflict is not over yet, and the Palestinian Authority did not sign off on Jerusalem (Participant 3, prominent Fatah leader, ex-Prime Minister and one of the principal negotiators of the Oslo Agreements, 2018; Participant 67, ex-negotiator, 2000 Camp David Accords, 2018). However, it will be a challenge to see, if, by any chance, there would be the international will to force a solution that would result in a Palestinian state on the borders of 1967 with East Jerusalem as its capital. Although this may no longer be feasible (Dumper 2014, p. 214), but in case it does—which is most unlikely in the near future—it theoretically means that the *de facto* reality on the ground needs to be reversed, which is also unlikely to happen. For, in addition to the apparently *'irreversible facts on the ground'*, there seems to be a new mindset governing most actors in the conflict to accept what has become a *'fait accompli'* and to encourage the Palestinians to accept the new reality and "move on with building the Palestinian state in Area A", which means that it will be a state without East Jerusalem (Participant 10, European diplomat, 2018).

This being said, the seemingly unattainable solution is naturally the result of many intertwined factors that are in incremental interplay and resulted in the materialization of Israel's exclusive territorial sovereignty in the city. Dumper (2014) discussed the prospects for peace in Jerusalem and concluded at the time of the publication of his book that "an agreement over the city in the near future is highly unlikely" (Dumper 2014, p. 212). Nothing much has changed since then, except that there is a seeming confirmation of Israel having closed the circle with the near *de facto* annexation of the West Bank including the Jerusalem settlements. This new reality favours Israeli territorial control and demographic balance in the city over that of the Palestinian. Additionally, with the US recognition of the city as Israel's eternal and united capital, in the absence of any prospect for bilateral negotiations or any enforcement of international law against Israel's occupation of the city, there does not seem much hope for the fulfilment of Palestinian statehood aspirations.

As discussed in chapter three on contextualizing Palestinian statehood as well as in section two of this chapter, the issue of Jerusalem *per se* has always been off-limits in the Israeli mind. Hanieh (2001) summarized the Israeli position in a straightforward and direct way. He explained that negotiations over Jerusalem were transformed into an Israeli confirmation of the religious righteousness of Israel to complete sovereignty over the city, thus excluding any political or legal right and claim over East Jerusalem including the Old City. Explaining the Israeli position, Hanieh adds that

> "there were three factors that appear to have guided Israel's concept of a solution on Jerusalem: 1. Israel's insistence on sovereignty over the Haram al-Sharif was a constant in all the proposals put forward with some sort of custody of the Haram for the State of Palestine. 2. Ideally, Israel would like a Jerusalem without its Arab inhabitants. To this end, harsh living conditions would be created to encourage them to leave. 3. While talks focused on an open city, the actual Israeli and U.S. proposals involved fragmentation and division (Hanieh 2001, pp. 83-84). [173]

As a matter of fact, even those proposals may not remain valid in view of the accelerating *de facto* annexation of the city and Israel's ongoing legislation that employ Israel's own vision of sovereignty in the city. As such are Israel's policies to transform the concept of sovereignty over quarters such as Shu'fat and Kufur Aqab that they pushed them outside of the municipal borders of Jerusalem. These policies seem to confirm one of the arguments put forward in chapter three regarding the fallacy of the assumption of the two-state solution given the Israeli vision of the nature and substance of the Palestinian entity. Territorial sovereignty is something out of the question for Israel, and under the current context, it does not seem logical even to say that things might change in case of a transformation of power relations to the benefit

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[173] Hanieh (2001, pp. 83-4) further added that "different systems would apply to different neighbourhoods: for example, the rules that would apply to the Christian Quarter would not apply to Wadi al-Joz; what would apply in Suwwana would not apply in the Armenian Quarter. Moreover, a form of functional "self-rule" was proposed for specific neighborhoods (to be defined by Israel) near the Old City, which could include Shaykh Jarrah, Suwwana, al-Tur, Salah al-Din Street, Damascus Gate, Ras al-Amud, and Silwan, along with complete or partial Palestinian sovereignty over less central neighborhoods such as Issawiyya, Shuafat, Bayt Hanina, Qalandia, Turi, Um Tuba, West Sawahara, Kufr Aqab, Semiramis—neighborhoods that in any case were not part of pre-1967 Jerusalem. A "special regime"—to be spelt out later—would apply to the Old City, where a "sovereign compound" for President Arafat and his administration would be near the Haram.

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of the Palestinians. The most that the Israelis envisage is limited self-rule with devolved functional responsibilities in the West Bank, which is the actual situation of the *de facto* Palestinian self-rule based in Ramallah. It is not clear, however, what the future is of the residents of East Jerusalem, who comprise almost 40 percent of the current demography within the municipal boundaries of the city. Given this background, the question that remains to be asked is the position of Jerusalem in the Palestinian Authority's state-building enterprise, now and in the future as well as the alternative scenarios for its status in the absence of a territorial compromise. Obviously, other than political rhetoric, neither the Fayyad Plan nor consecutive governments' plans proposed alternative scenarios or visions of how to retain the claim on the city.

Notwithstanding, the difference between the Israeli and Palestinian sides' position regarding Jerusalem is that in the case of Israel, "the declarative policy preceded actual transformation of the *facts on the ground*, and thus has been turned into reality" (Said 2011, p. 57). While, in the case of Palestine, there has been a constant political discourse regarding the claim on having the city as the capital of the state of Palestine, though it has been challenging to turn it into reality. Nevertheless, Palestinian political discourse continues without modification with a state-building policy based on resilience and steadfastness that does not seem to be useful, whether from a territorial perspective or for the consolidation of the relationship between the Palestinian Authority and Jerusalemites. Scepticism about the future was expressed by a number of participants interviewed about the issue of Jerusalem. To them, what counts is not intentions but conclusions (Participant 1, political scientist - Annajah University, 2017; Participant 70, social scientist and political activist, 2018). In between these two opposites, there are calls for a more realistic discourse and change of narrative that match reality, though without forsaking commitment to fundamental national principles (Participant 13, a senior policy expert on Jerusalem/PLO, 2018).

CHAPTER SEVEN: CONCLUSION

Introduction

This thesis aimed to examine those factors that influence state-building under occupation as a path to statehood with an emphasis on the case of Palestine. To be more precise, the current thesis's primary objective is to assess the extent to which the Palestinian Authority's approach to state-building has advanced the case for statehood, or lack thereof. Though, it may seem easy to have an immediate answer to such a question from an ontological point of view; epistemologically, it has not been an easy task. The reason for the epistemological challenges has been the dominant view that indeed, the Palestinians have been undertaking a state-building process while still under occupation. Living in the city of Ramallah may give the impression that Palestine is a liberated country. The city is home to the *de facto* seat of the Palestinian Authority, which expands institutionally and prospers economically, yet it assumes a political and cultural identity different from the rest of the Palestinian cities in the West Bank, Jerusalem and the Gaza Strip. However, a simple check reveals a somewhat different reality: when one decides to attempt to enter Jerusalem via the Qalandia checkpoint, which separates Ramallah from East Jerusalem or decides to travel abroad via Jordan. Then, what seems to be a pretty world of relative independence in 16 small square kilometres and holding the Ramallah Dream (Barthe 2011) fades away. This happens when one realizes that the occupation is present in every aspect of the lives of the Palestinians. It did not go away with the emergence of the Palestinian Authority; on the contrary, it seems more permanent, unabated and far more aggressive.

The dichotomy between reality and appearances necessitated an inquiry into the meaning of the Palestinian entity established in 1995 as a result of the Oslo Agreements. To better understand what this Palestinian Authority means, it had to be compared to a standard model of the state by reviewing theories of the state and by analyzing what the state means and what it encompasses internationally and domestically. This is why the thesis leveraged the Westphalian-Weberian model of the state to understand the meaning of Palestinian state-building in the absence of sovereignty.

Moreover, to better understand the nature of the Palestinian Authority, it was necessary to contextualize it. This meant that it was essential to put the Palestinian quest for statehood into perspective. This undertaking involved looking back into the history of events influencing the Palestinian quest for statehood, especially since the 1947 UN Partition Plan, which is deemed to be the foundational design of the two-state solution. Indeed, it took the Palestinian leadership almost three decades to come to terms with political realities and follow a pragmatic path in order to save what can be saved of the historic land of Palestine. The 1967 war and the following UN Resolutions became the determining factor upon which the Palestinians contemplated the acceptance of Israel's victory and its territorial expansion beyond the Partition Plan. Nonetheless, Palestine never ceased to be the Palestinian homeland all through the past 70 years; a Palestinian national identity was forged upon the aspiration of establishing a national state, even on a smaller part of the original homeland.

At the same time, the Israeli vision of a Jewish homeland was implemented incrementally and persistently. The difference between both parties with regard to sharing the territory was that while the party whose territory was occupied twice in 1948 and 1967 was willing to make peace with the occupier and accept a nation-state on 22 percent of historic Palestine, the victor's vision of territorial exclusivity reinforced by a settler-colonial ideology was turned into a reality of seemingly '*irreversible facts on the ground'*, thus shifting the balance of power into its favour. While Israel's policies continued unabated, the Palestinians resorted to international law and universal human rights as a shield to protect what they deemed as their right to self-determination and statehood on parts of their homeland. However, although the Palestine-Israel conflict has occupied the United Nations for the past 70 years, the international community did not interfere to enforce any of the ceaselessly violated international laws. Whether intentionally or unintentionally, by entering bilateral negotiations about their statehood with the occupying force the Palestinians jeopardized their claim under international law in exchange for a bilateral arrangement with Israel. As a result, the Palestinians have been in constant negotiations with their occupier since 1995, though from a weak position without an international shield to protect their claim to self-determination and territorial sovereignty. It is worth mentioning that the long process of negotiations reflected the power asymmetry between the two parties to the conflict. What the Palestinians thought would be their

right, the Israelis saw as a favour that they bestowed upon the Palestinians. And even though Israel recognized the PLO as the sole representative of the Palestinian people; in reality, however, it was a representation limited to the supervision of parts of the Palestinian people in fragmented parts of the West Bank and the Gaza Strip without Jerusalem. This incomplete recognition served the occupation's intentions that were not coincidental but instead the result of a long-established ideology aiming at maximum territory with minimum people. The maximum that the superior party could envisage was a limited self-governing authority with functional responsibilities for the Palestinians residing in parts of the West Bank and Gaza Strip excluding Jerusalem.

This concluding chapter is divided into three main sections that discuss three issues relating to the main findings of this study. The first section provides a summary of the main findings of the thesis, primarily focused on answering the overarching question about the extent to which the Palestinian Authority's state-building policy approach has helped advance Palestinian statehood; the second section highlights the implications of the Palestinian state-building process for Palestinian statehood. The third and last section discusses the theoretical implications of the notion of state-building under occupation and points at the limitations of the undertaken research as well as the potential direction of future research.

7.1. To which extent has Palestinian state-building approach helped end the occupation and establish the state?

Before discussing the extent to which the Palestinian Authority's state-building approach, including the Fayyad Plan, helped end the occupation and establish the state, we need to marshal those aspects that shaped the assumptions behind the policy. The first aspect relates to the fact that the trajectory of Palestinian state-building was based on a series of flawed assumptions that shaped the approach to state-building. The foundational assumption of the Palestinian leadership was that it was possible to embark on state formation and state building before resuming state-making. The argument was that state-building could be coupled with a continued struggle for national liberation whilst being in the homeland. As a result, the price for recognizing the PLO and establishing the self-governing authority was to give up the right to resisting the occupation. In this way, the Palestinian leadership gave up its initial project of state-making, namely to establish the state upon attaining complete

independence. Accepting to work under the aegis of the occupation made it difficult to revert back to revolutionary positions. Not only that, by agreeing to a transitional agreement that did not entail a clear end game, whether intentionally or unintentionally, the PLO forfeited the Palestinian right to self-determination, forfeited the application of the right of return and the right to territorial sovereignty as the basis upon which the Palestinians would establish their nation-state. In the Palestinian mindset bringing back the revolution to take place in the homeland was the first step toward the establishment of the Palestinian state.

This being said, it should be noted that the PLO's fundamental assumption of combining state-building and state making could have been possible under different conditions; take scenarios of post-colonial state formation, where the colonizing entity undertook to devolve power and statehood in a gradual manner, and when decolonized countries or new states undertook the establishment or the strengthening of institutions of the sovereign state following independence (Glassner 1989). In other words, the establishment of the Palestinian Authority in accordance with the Oslo Agreements did not entail a decolonization process. Theoretically, a decolonization process involves the dismantling of colonial empires established globally prior to World War I. Besides, the United Nations Special Committee on Decolonization stated that in the process of decolonization, there is no alternative for the colonizer but to allow a process of self-determination (UNGA 1960).[174] This is a point that has not been recognized by Israel nor been part of the Oslo Agreements that provided the foundation for the establishment of the Palestinian Authority.

By examining the Palestinian case, empirical evidence showed that it is challenging to carry out state-building under occupation and that the concept as it stands is flawed to start with (Participant 1, political scientist – Annajah University, 2017). Moreover, empirically, statehood is the mere antithesis of occupation. For, statehood entails the condition of being a state, and a state becomes a state, once it gains international recognition and legitimacy for its sovereignty. A military occupation, however, is defined as the "effective provisional control by an absolute ruling power over a territory, which is not under the formal sovereignty of that entity, without the violation of the actual sovereign" (Benvenisti 2004, p. xvi; Roberts 1990, p. 47). Having

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[174] See also, the UN Special Committee on Decolonization. Available at: https://www.un.org/en/decolonization/specialcommittee.shtml [Accessed 1 June 2019].

mentioned these two facts, a re-analysis of historical documents and scholarly accounts of the origins of the Israeli-Palestinian conflict indicated that there is a broad consensus amongst political scientists that what characterizes the Israeli occupation is its settler-colonial nature. This makes it a complicated issue and plays against the realization of the Palestinian legal claim to the 1967 territory. Empirical evidence has shown that the process of state-building under occupation did not end the occupation. What we currently have is a situation of seemingly permanent occupation. From the occupier's perspective, the maximum that could have been done to solve the conflict was a limited self-governing authority over the people only and not the territory. While Israel has retained exclusive *de facto* sovereignty, the Palestinian Authority accepted to undertake specific functions, state-like functions, while it is not a state.

Besides, a contextual analysis of the Palestinian quest for statehood showed that there is a great contradiction in the conventional assumption that UNSC Resolution 242 would lead to the two-state solution and that in fact, the real two-state solution was embedded in the 1947 UNGA Resolution 181 called the Partition Plan. The assumption that the Oslo Agreements based on the UNSC Resolution 242 would lead to the establishment of an independent Palestinian state was shown to be problematic. After all, neither the UNSC Resolution 242 promised a Palestinian state nor the Oslo Agreements provided the infrastructure for the presumably transitional self-governing authority to evolve into a state. Besides, the fact that the Oslo Agreements were not a decolonization process meant that they are not part of a process to end the occupation and devolve statehood to the Palestinian entity. Evidenced by the direct reading of the Declaration of Principles, the nature of the Palestinian Authority did not entail any form of territorial sovereignty. Hence, embarking on a state-building policy and postulating that the state was an eventual outcome of the Oslo Agreements and what was required to have ready institutions was yet another flawed assumption. The fact that the PLO deferred the negotiations over most sovereignty-related issues to the permanent status negotiations, namely, Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbours did not mean that negotiations would lead to an agreement on such issues. Besides, it may have been the case that such issues should not have been subjected to bilateral negotiations in the first place had the agreements been based on international law and entailed mutual arrangements for

the complete withdrawal of the occupation. Transforming legally-based issues related to the right to self-determination into political issues subject to negotiations did not play out favourably for the Palestinian party.

Therefore, the assumption that a territorially independent Palestinian state would emerge from within the Oslo Agreements was yet another flawed assumption. An Analysis of official and subsequent unofficial negotiations related to the permanent status negotiations pointed to the maximum concession Israel was willing to grant: a borderless demilitarized state with all the large settlement blocs in the West Bank and Jerusalem remaining under Israeli sovereignty, without Jerusalem as the capital of the state of Palestine and without the recognition of the right of return of Palestinian refugees.

In this respect, empirical evidence showed that we are talking about something that is very different from a state. When compared to the standard model of the modern state that we have introduced as the Westphalian-Weberian model, the nature and substance of the Palestinian entity created under the Oslo Agreements do not seem to have the essential attributes of a state, namely territorial sovereignty. Not only that, based on the observation of the course of events in the post-Oslo period, there are no realistic prospects for the Palestinian Authority to evolve into the aspired nation-state in the West Bank and Gaza with Jerusalem as its capital. The below table shows that what we are talking about is not a state.

Westphalian state	Palestinian Authority	Weberian state	Palestinian Authority
Sovereignty/ internal and external/territorial	Absent—no control of the borders, no exclusive control of internal affairs De facto sovereignty is the occupation	Central government/ authority	Absent—no effective government - central authority is the occupation—two sub-authorities under occupation De facto source of authority is the Israeli Civil Administration
Territorial sovereignty	Absent—no control	Defined territory	Absent—Israel has unilaterally redefined the 1967 borders on the basis of fait accompli
		Legitimacy	Absent—legitimacy upon security performance/occupation Besides no national elections—two *de facto* Palestinian Authorities

			whose legitimacy has become contested
Non-intervention/ recognition and international legitimacy / equality among nations	Implicit recognition / Vadimir 2013b. / International system unwilling to intervene to end the occupation	Monopoly on the use of violence/ legitimacy	Absent—no effective monopoly on the use of violence—the occupation is the supreme holder of the monopoly on the use of violence

Undeniably, Westphalian sovereignty or state sovereignty is the principle in international law according to which each state has exclusive sovereignty over its territory. It also means that nothing should authorize intervention in matters primarily within the domestic jurisdiction of any state. A Westphalian state supports the existence of the Weberian state, whose main constituents are a central government in a defined territory that holds a monopoly on the legitimate use of violence. Together, these elements characterize the modern nation-state. In this respect, the accentuation of the notion of territorial sovereignty to examine the Palestine case was intended to show that as a concept and as a reality, the state does not exist and does not appear to materialize in the near future.

Besides, the discussion over the determinants of statehood and the application of the Westphalian-Weberian model of the state to understand the limitations on Palestinian state-building efforts in Area C and Jerusalem was intended to showcase what it means to have a state or an entity act as the central political body in charge of a national population though without having territorial sovereignty. Krasner's (2007) identification of the interplay between internal and external domestic sovereignty can best explain the intricacies of governing in the absence of the state, supposedly to have supreme and absolute sovereignty over the territory and the people. Guided by this reasoning, the principle of sovereignty and recognized statehood remain at the heart of the international system. Nation-states are to be recognized under international law, so that their sovereignty, territorial integrity, and non-interference in their internal affairs are respected and also guaranteed. This type of recognition and legitimacy is the pre-requisite for the central authority to act within a defined territory and therefore, to hold the legitimate monopoly on the use of violence. A lack of territorial sovereignty makes it problematic to understand the essence of a state or an entity acting as a state, its *raison d'être,* its role vis-à-vis its people and for sure its legitimacy. This being said, it is essential to note that what characterizes the

Palestinian case is the fact that although Palestine is recognized by international law, its recognition remains incomplete as long as Israel continues to occupy its territory and as long as the international community is not ready to interfere on the basis of Chapter VII United Nations Charter. Despite the fact that recent political developments give rise to cautious optimism about Palestine's independence given that an overwhelming majority of countries (138 out of 193) have granted Palestine a non-member state status in the UN (Pogodda and Richmond 2015, p. 890), this recognition remains an implicit confirmation of statehood without much effect (Vidmar 2013b, pp. 10-21).

The second aspect that shaped the policy of state-building is the approach to create *de facto* statehood despite the limitations of the Oslo Agreements and the consequent challenges of a lack of territorial sovereignty. Since its inception, the Palestinian Authority has been engaged in a continuous state-building enterprise, despite the fact that the Oslo Agreements did not explicitly promise to establish an independent Palestinian state. This state-building endeavour was based on the assumption that coupling of state-building with a continuous struggle for national liberation could work. The characteristic of this policy was guided by the belief that by creating facts on the ground, the Palestinian state could be an inescapable *de facto* reality despite the limitations of the Oslo Agreements. As a result, the Palestinian Authority's approach relied on expanding its institutional structure and creating Ministries with functions that were not allowed under the Oslo Agreements.

However, we saw that this approach failed to impose the state or even institutions deemed politically symbolic when it came to the issue of Jerusalem. The creation of multiple political institutions could not fill the void of the 2001 closure of the Orient House or even retain the claim on Jerusalem as the capital of the aspired state. Besides, the creation of hybrid forms of governance in the form of consortiums of international organizations and the private sector to compensate for the inability of the Palestinian Authority to operate in Area C could not retain the claim on the territorial sovereignty in almost 60 percent of the West Bank with Israel's imminent annexation. In reality, the Palestinian Authority could not expand its role beyond what was permissible in the Oslo Agreements. Instead and in relation to its pre-ordained role as a self-governing authority, it has been engaged in a continuous process of negotiating statehood on the basis of its security performance. Indeed, one can argue that the

principle of exchanging 'land for peace' was what guided the Palestinian leadership to accept to be judged upon its security performance. Yet, this gambit was rather unsuccessful in transforming the occupation's ideology about the possible sharing of territory.

Moreover, although this negotiation took different forms during the past twenty-five years, namely before, during and after the Fayyad Statehood Plan, it was based on the same rationale: negotiating statehood and self-determination along with efforts to prove governability. In theory, from the Israeli perspective, Palestinian governability depended on the Palestinian Authority's security performance. Evidently, however, the latter is an almost impossible mission given the continued Israeli occupation characterized by a settler-colonial ideology. As a result, the Palestinian Authority shifted its policy discourse of state-building toward resilience and steadfastness, as we have seen in the trajectory of the consecutive national development plans from 2011 to this date. This policy discourse not only entailed the Palestinian Authority's resolve to preserve the resilience and steadfastness of the people on the land but also the need to maintain and preserve the institutional structures of the Palestinian Authority. Regardless of all the limitations and shortcomings of the Oslo Agreements, this authority is still deemed as a national achievement despite those factors preventing its evolution into a full-fledged state. The ultimate result though was the maintaining of the *status quo*: Instead of defying the occupation, the Palestinian presumed state-building as proclaimed in the Fayyad Plan ended up surviving the occupation.

The overriding reality of the occupation showed that there had been a disconnect between the Palestinian Authority's political discourse and what it can do on the ground. For, despite the fact that state-building policy was undertaken to establish a state on the 1967 borders in the West Bank, Jerusalem and Gaza, it had served to maintain the *status quo*, namely the occupation, if not enhance it. When the final result of strengthening the security apparatus was not to protect the people from the occupation's policies or even put an end to the occupation, it was difficult to justify the purpose of state-building. By the same token, as the empirical chapters indicated, even with the focus on resilience policy as a sign of defiance against the occupation, the final outcome did not result in anything but a continuous effort to mitigate occupation policies rather than put an end to them. Since the launch of the resilience

programmes in Area C in 2009, only five out of 113 planning and zoning projects have been accepted by the Israeli Civil Administration. Moreover, it is evident that Israel's creeping annexation of the West Bank is on the way to be formalized, despite the condemnation of the international community.

In the end, the approach to state-building policy did not transform power asymmetries and mobilized the international community to take up its responsibilities, as had been anticipated by Fayyad. All these developments required the assessment of the validity of such a policy approach initially based on a series of flawed assumptions, starting with the soundness of the two-state solution, the principle of 'land for peace' and ending with the Oslo Agreements and the Road Map for Peace. On top of that, the assumption that enhancing the performance of Palestinian institutions as a prerequisite for statehood proved to be flawed, since a state was not in sight to start with and existing institutions were not designed to evolve into state institutions. However, despite the administrative division of the West Bank and the prohibition of any functional jurisdiction in Jerusalem, the Palestinian Authority assumed moral and national responsibility for the population in those areas (including Gaza after the Hamas takeover in 2007). This puts it at odds politically and practically. Having said this, it is essential to envisage the challenges posed for an entity that is meant to act as a state in a context characterized by the absence of territorial sovereignty or even functional jurisdiction for that matter. To better understand those challenges, the following section recounts the conceptual background of the meaning of a central authority in a sovereign state as well as notions of the monopoly on the use of violence, legitimacy and nationhood.

When it comes to the challenges facing the central authority, it can be said that in the absence of territorial sovereignty, definitions of such a central authority might look different than the straightforward definition in the model of the Weberian state. Weber defines the state as "a human community that successfully claims the monopoly of the legitimate use of physical force within the territory" (Weber 1919, p. 78). In this respect, the superiority of the state over any form of other organization means that it should be governed by a single power, in which the central government is the ultimate power (Hooghe 2001, p. 40). In this sense, the central government may wish to choose to delegate or devolve certain powers and responsibilities to local

governments or to sub-national states. It may create (or abolish) administrative divisions (sub-national units) (World Atlas n.d.).

The vast majority of states in the world have central governments to administer their territory with capital as the central city that hosts the seat of government and features the state's administrative, political, economic, cultural and strategic power. It is the state with its central government, the container of the territory and the nation that preserve the rights of the people and tends to their well-being (Taylor 1994, p. 194). A stable central government consolidates the powers of the state both internally and externally. Theoretically, the state is a political organization of society or the body politic, or more narrowly, the institution of government (Encyclopædia Britannica n.d.). It usually holds the responsibility for law and order, security and practices law enforcement within its territory, the area of jurisdiction or geographic boundaries. In this sense, it has a combined role in maintaining internal and external sovereignty.

From a territorial perspective, Palestine is a *de jure* state (Al-Zoughbi 2015, p. 162) that claims to have borders with Jordan and Israel in the West Bank, and Egypt and Israel in the Gaza Strip with East Jerusalem as its capital. The current status of the 'State of Palestine' is a self-governing authority under occupation, which corresponds to a form of an administrative sub-entity under the *de facto* sovereignty of the occupation. In this sense, the Palestinian Authority does not have any control, neither over the borders nor what it thinks is its rightful territory under international law. Even when it comes to the Palestinian Authority's full administrative responsibility in Area A, the occupation acts as the absolute sovereign. For instance, "the occupation's High Court of Justice has given the green light to demolish 17 large buildings in East Jerusalem which are in Area A under the administrative control of the Palestinian Authority, a ruling Palestinians say sets a precedent that will enable the demolition of thousands of buildings in the West Bank" (Hasson 2019).[175]

Yet, this type of action by the occupation authority does not stop the continuation of the Palestinians claim to self-determination and therefore their right to establish their territorial state on the borders / territory occupied by Israel in the Six-

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[175] According to the source, these buildings are in the Wadi Hummus neighbourhood which is located on the edge of Sur Baher, in Southeast Jerusalem. Unlike the rest of the village, this neighbourhood lies beyond the city's municipal boundaries, in the West Bank. Most of the area it occupies is designated as part of Area A—i.e., under the control of the Palestinian Authority (Hasson 2019). As a matter of fact, while editing this thesis, Israel has actually demolished those buildings on Monday 22 July 2019.

Day War in 1967. In the meanwhile, Israel not only denies that it is illegally occupying Palestinian territories, it considers the Palestinian Authority a sub-authority under Israeli sovereignty. Empirically, the occupation's authority remains the ultimate sovereign and not only that, and it remains the source of authority that governs the functional aspect of the Palestinian Authority. The moment that the Palestinian Authority deviated from its pre-ordained role during the second Intifada, the occupation's message was that its role should not be taken for granted, and it could be dispensed of. At the end of the day, the expected security role was the basis for the contractual arrangements between both sides (Participant 15, expert in international law and a prominent official of the Palestinian Authority, 2017; Participant 16, political analyst and head of a policy think tank, 2018; Participant 35, leader of a political party, 2018; Participant 63, senior Fatah member, senior official, Ministry of Local Government, 2017).[176]

To understand the findings of the implications the lack of territorial sovereignty has on the Palestinian Authority's role in maintaining the monopoly on the use of violence, it is essential first to be clear about its conceptual meaning, and how it relates to the Palestinian experience in reality. In this respect, it can be said that Weber's reductionist definition of the state as "the human community that successfully claims the monopoly of the legitimate use of violence within a given territory", shaped the essence of the state in its modern characterization and oriented the interpretation of several transformations of its role in terms of its internal and external sovereignty. Indeed, we have to keep in mind Weber's insistence on the notion of monopoly as a fundamental characteristic of statehood (Parsons 1964, p. 154). We also have to recall the significance of such a monopoly in the absence of territorial sovereignty. In this sense, it is no surprise that from a Foucauldian perspective of the *raison d'état*, we can understand the role of the state in protecting the territory and the population as a manifestation of the notion of Westphalian sovereignty (Foucault 2008b, pp. 285-310).

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[176] What is quite interesting here is that even the most senior Fatah officials, veterans such as participants 15 and 65 that have been involved in the first Intifada as well as in the establishment of the Palestinian Authority, are convinced of the nature of the Oslo Accords as a security package that allowed the return of the Palestinian leadership to the homeland. However, they only say this in closed meetings and continue to resume their functions within the Palestinian ministries. The difference between the other two participants 16 and 35 is that they explicitly talk about the security arrangements. Despite the many calls for the Palestinian Authority to cancel "the security coordination" with Israel, it does not seem that the Palestinian Authority is ready to open this issue and discuss it publicly with the Palestinians living in the West Bank and Gaza. Many attribute the consolidation of such a role to Fayyadism (Tartir 2015).

At the same time, there is an agreement amongst scholars over the need for the state to have exclusive power to safeguard social welfare and the interests of its citizens (Grechenig and Kolmar 2014, pp. 5-23).

Although this research did not focus on the notion of security, however, to understand the anomaly of the role of the Palestinian Authority under the Oslo Agreements, it was essential to examine the notion of the monopoly on the use of violence in the standard model of the state. It was also important to highlight it in view of our perception that state-building theories in relation to Palestine have not given much attention to the implications of the lack of sovereignty. For, most analyses drew on discussing the efficiency and capacity aspect and not necessarily the challenges facing the Palestinian security role under the Oslo Agreements versus the need for a national security doctrine (Saidy 2014). A national security doctrine would entail the definition of the state's role as the guarantor of the state's existence with functions like safeguarding territorial integrity, controlling its borders and protecting the state and its people from external threats.

The above leads to the questioning of the state's political legitimacy or its *raison d'état*, as Foucault reminded us. As a matter of fact, this sentence has been used recurrently throughout this thesis to indicate the significance of the dichotomy of the role of the Palestinian Authority as prescribed in the Oslo Agreements and its perceived role as the extension of the state-building project and the need to protect the people's lives and property. Indeed, this raises the pressing question of "whose security" the Palestinian security has been capacitated to serve (Tartir 2017c). Manifestly, the investment of the two major donors (the EU and the US) in supporting the Palestinian Authority's capacity in the security sector was guided by their view of the Palestinian security as a means to confront and prevent the emergence of any danger to Israel (Saidy 2014, p. 102). At the end of the day, irrespective of the enormous investment in the security sector that has amounted to almost one third (26 percent) of the 2013 Palestinian budget reaching almost 1€ billion and employing up to 44 percent of a total of 145, 000 civil servants, there is a need to answer how a "world-class security sector" would safeguard the people from continuous external assaults (Tartir 2014).

Still, this investment seems like a natural investment from the perspective of the new generation in the Palestinian security apparatus (Participant 44, senior

Palestinian official, Ministry of Interior, 2018).[177] However, on the other side, it puts the Palestinian Authority at odds with its expected role when one follows its state-building agenda. Comparing the investment into the security sector with investment in other sectors deemed essential for the resilience of the Palestinian society or the protection of its population (Tartir 2015: contentious economics) indicates the schism in the people's perception of the Palestinian Authority. This is especially true, when the Israeli occupation authority expropriates territory in the West Bank, demolishes homes in Jerusalem and conducts massive attacks on the population in Gaza. Those were the most pressing concerns that we could detect from the many interviews conducted with security officials and political analysts. This being said, the investment in building the capacity of the security sector seems to have been the most sustained from an institutional perspective despite the ups and downs in Palestinian-Israeli relations during the past few years. Therefore, the question underlying this thesis is about the purpose of state-building, if the objective is not to build a state that can guarantee the protection of the people and their land from external threats.

When it comes to the notion of legitimacy, we need first to be reminded that a state's legitimacy is directly linked to the state's sovereignty. For, the state is the embodiment of the will of a political community. Therefore, the delegation of authority to the state comes with expectations from the people that it acts on their behalf (Krehoff 2008, p. 285). Theoretically, a state's legitimacy has been linked to its ability to have adequate public institutions performing functions, such as service delivery, taxation and social protection systems, on the one side, and a degree of representation, accountability and an ability to garner legitimacy and a right to rule as the highest political authority, on the other (Haidar 2010, p. 9; OECD 2008). In a Westphalian-Weberian state, the legitimacy of the state versus its citizens cannot be complete unless the state is formally a state, namely having international recognition that it is part of the international state system. Internal and external sovereignty are two interlinked aspects that give the state its legitimacy to act on behalf of its people. This is the type of electoral legitimacy that is usually happening in existing states, where

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[177] Participant 44 who is a senior official at the Ministry of Interior and who can be seen as the product of the new security generation or what has been pointed at as the 'new man' being trained by the Dayton security ideology. This official represents a new generation of the Palestinian security sector, which has been trained by the most prestigious international institutions and adopted a security ideology more in line with the regional and global security doctrine of fighting terrorism. Such a generation sees that collaborating with Israel to fight terrorism is in the Palestinian interest and puts the Palestinian side at par with the occupation's authority.

the state is expected to ensure non-intervention from external states as well as the provision of services including protection of territory and people.

This being said, it may be the case that the notion of legitimacy falls within the category of "essentially contested concepts" since it seems that there is no 'perfect state' enjoying absolute sovereignty and therefore absolute legitimacy (Gallie 1956, p. 169). This is why we can understand the anomalous situation of Palestinian governance in the absence of territorial sovereignty when we compare it with other situations of limited statehood or limited governance. Under such circumstances, there are challenges influencing the capacity of the central authority to retain effective control and therefore its legitimacy in a given area (Börzel and Risse 2010, p. 113; Krehoff 2008, p. 283). Looking at the outcome of the empirical chapters on Area C and Jerusalem, we concluded that territorial sovereignty or the lack of, for that matter, directly influences the effectiveness of the Palestinian Authority to assume its role vis-à-vis the people and therefore to justify its legitimacy. Analysis has shown that it was challenging to have a clear notion of political legitimacy when compared to the normative legitimacy of a sovereign state. As an example, while the Palestinian Authority's legitimacy is contested from the perspective of Jerusalemites, their expectations from the Palestinian Authority are beyond the standard state-citizen relationship. They expect moral and political support as well as better directions on how to counter Israeli policies and persist in the city.

If taken literally, the legitimacy of any political authority should depend on the extent to which it can deliver on its promises to the people. The Oslo legitimacy relates to the Palestinian Authority's preordained functions in a context of limited self-governance, namely service provisions along with a security role to prevent violent action against Israel (Abu-Helal 2014; Munayyer 2018). This unusual setting renders the Palestinian Authority's legitimacy problematic when it comes to its relationship with the Palestinian citizens in the West Bank, Jerusalem and Gaza.

Indeed, regardless of how the Palestinian Authority functioned itself, the Oslo Agreements themselves created the grounds for a crisis of legitimization. (Gordon 2008, p. 177). What started to be historical/ revolutionary legitimacy earned on the basis of an expectation that the Oslo Agreements would be a stepping stone towards statehood turned out to a situation characterized by a crisis of sustainability and

legitimacy (Munayyer 2018). The dilemma the Palestinian Authority finds itself in is to keep what is considered to be a national achievement and its legitimacy in an extremely challenging context of continuing occupation. The terms of the social contract initially agreed upon in the 1996 elections had changed, when the people realized that statehood is denied and prevented. The basis of the legitimation process upon which the Palestinian Authority had been established, namely the delivery of national liberation (Shikaki 1996, p. 5), faded away, resulting in a decrease of legitimacy, as public opinion polls indicate. The 1996 elections in the West Bank and Gaza were the first delegation of authority in what seemed to be a combination of state-building and national liberation. The legitimation that happened at the time was not only based on popular electoral legitimacy, but instead, it was the combination of revolutionary and electoral legitimacy (Participant 31, veteran Fatah member, an ex-Palestinian official at the President's Office, 2018).

Eventually, the status of no peace and no war, at least in the case of the Palestinian Authority in the West Bank has aggravated this legitimacy/ sustainability dilemma (Munayyer 2018). Despite the indications of unlikely attainment of national liberation at least in the short term, the Palestinian Authority's policy is to persevere and maintain its structures. This is how the sustainability aspect overshadows the legitimacy aspect. As a matter of fact, given the continued political rupture between the Hamas *de facto* government and the Ramallah government, it seems that both prioritize the sustainability of their own structures. The legitimacy crisis shows that the Palestinian public declines to grant confidence to the Palestinian Authority. As a matter of fact, two-thirds of the Palestinian public believe that the Palestinian Authority is not doing all it can to protect Palestinians against settlers' terrorism and have come to view it as a burden calling for it to be dismantled and a return to armed Intifada. Indeed, the persistence of the Palestinian Authority in its current form and its continued cooperation with Israel despite the failure to bring about the aspired state has led to a kind of cynicism. This cynicism resulted in declining public support for the two-state solution, with 78 percent saying that the chances of a Palestinian state being established in the next five years are slim to nil (PCPSR 2015; Scheindlin 2015).

The sustainability crisis led to a situation in which it is impossible to gain legitimacy from two sides; presumably, the PLO/ PA had its recognition and legitimacy from Israel, the actual source of authority to deliver specific functions without territorial

sovereignty. Out of its political and moral obligations to the population residing in areas that do not even come within its functional jurisdiction, the Palestinian Authority accepted to take up this responsibility, although it has been unable to be effective, thus losing the trust in its ability to provide protection and well-being. This has been the main predicament of the Palestinian Authority throughout the past twenty-five years of its establishment.

It can be argued that the consequences of such a predicament have been quite detrimental for Palestinian statehood. For, it could be easily inferred that the Palestinian Authority presumed that it could combine state-building with national liberation strategies, which turned out to be counterproductive vis-à-vis the attainment of Palestinian statehood. We can infer that there has been a typical pattern that governed the Palestinian Authority throughout its establishment. It points towards the gradual transformation of abandoning violent means as a way to resist the occupation and as a way to gain legitimacy from external parties rather than internal citizens. In this respect, we need to be reminded of the conditions upon which the PLO has been recognized as the legitimate representative of the Palestinian people, a recognition that entailed concessions and a complete abandonment of violence. Therefore, the sustainability of the Palestinian Authority was contingent on Israel's legitimation of its performance. A performance that has also been subject to the approval of the international community, whose support of the Palestinian Authority was based on its ability to perform on the security front. Therefore, the pattern of having the Palestinian Authority concede to such external legitimation is what has been detrimental to its legitimacy in the eyes of the Palestinian population. Besides, what is paradoxical about this external legitimacy is the fact that the party sought to provide it (the occupation authority) is deemed illegitimate under international law. Earning external legitimacy has been the main reason behind the Palestinian Authority's concessions, including Fayyad's self-imposed conditional statehood. Not far from such concessions, even Hamas, the *de facto* authority in Gaza, became part of this series of efforts to gain external legitimacy rather than earn it domestically. The security role that the Palestinian Authority has undertaken by itself is somewhat similar to Hamas' gradual transformation to be accepted as a moderate partner for peace. The problem is that the quest for this type of legitimacy would never lead to statehood. On the contrary, it has led to more schism in the Palestinian political priorities with an impossible mission

of combining internal and external legitimacy in the context of a seemingly unrealizable statehood.

When it comes to the implications of the lack of territorial sovereignty on the notion of nationhood, we need first to understand what is meant here. Evidently, notions and definitions of nationalism, national identity and nationhood evolved with different variations since the 19th century; but three definitions are useful to describe the issue of a Palestinian sense of nationhood. Conceptually, nationhood is understood as the reflection of Weber's "community of sentiment", Andersson's "imagined community" or Gellner's "political principle which holds that the political and the national unit should be congruent" (Andersson 1983, 429; Gellner 1983, p. 1; Weber, p. 172). In this respect, it is essential that the notion of nationhood is directly linked to the notion of self-determination and a people's identification with the homeland and their sense of belonging to a national cause. This has been evident in the evolution of the Palestinian identity, especially as a response to the Zionist movement and the influx of Jewish immigrants to the country. This has also come to be associated with a Palestinian sense for their political rights or denial of their identity after their displacement and the occupation of their land (Khalidi, Rashid 1997, Introduction; Schultz 1999, p. vii).

However, when discussing the notion of nationhood in the case of Palestine, the interest here lies in the extent to which the Palestinian Authority's state-building policy approach maintained a sense of collective belonging to the country and the leadership in the midst of continued occupation and geographic and political fragmentation. This being said, this is not a thorough discussion of how the Palestinian national identity developed or progressed after having attained recognition by Israel, but rather a reminder of the findings of the empirical chapters pointing to the implications of state-building in the absence of territorial sovereignty. The chapter on Jerusalem showed that the notion of nationhood gets distorted as a result of intentional Israeli policies of geographic and political fragmentation. However, one can argue that despite the limitations on the Palestinian Authority's action in areas that do not fall within its functional jurisdiction, it could be possible to design policies that mitigate the sense of estrangement, especially in Jerusalem, as has been advocated by a number of Palestinian scholars and interview participants from the city (Dhaher 2014; Ju'ubeh 2015; Participant 2, prominent Fatah leader, ex-minister for Jerusalem, 2017;

Participant 13, senior policy expert on Jerusalem/PLO, 2018; Participant 47, activist and head of Jerusalem-based NGO, 2018; Participant 49, activist, a member of a prominent Palestinian family, 2018; Participant 52, veteran development practitioner in international organizations, 2018).[178]

We give two examples that can exemplify this complicated situation. We saw in Chapter six on Jerusalem a widespread feeling among Jerusalemites of being stateless. This is quite understandable given that they feel that they have been left to their own detriment to face Israeli policies against their mere existence in the city; leaderless and without much direction from the Palestinian Authority, their sense of collective identity becomes more localized than nationalized. The problem is that whether intentionally or unintentionally, Jerusalemites have been left out of the state-building enterprise and its presumed benefits. In a way, this exclusion has also been felt by the people in the Gaza Strip. The Gazans feel that they have been intentionally abandoned to the extent that they have lost faith in the intentions of the Ramallah Authority regarding its political commitment to maintain political unity and territorial integrity between the West Bank and the Gaza Strip (Participant 1, political scientist, Annajah University, 2017; Participant 69, veteran activist, 2018).[179] In a way, the ordinary people have become prey to the political polarization between the Ramallah Authority and the Hamas Authority, which may lead to an imminent separation not only between the two political authorities but between the two territorial areas, presumably comprising the main parts of the aspired Palestinian state on the 1967 borders.

Besides, we need to admit that it is not only the geographic separation that played a role in disrupting a sense of nationhood and belonging to the idea of the Palestinian Authority as the symbol of national achievement and as the personification of a future state but also the international community's punishment of Gaza's *de facto* authority. Concentrating the state-building benefits in the West Bank at the expense

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[178] What is quite remarkable, when discussing the notion of nationhood with the interviewees was the concern of the younger generation actively working in Jerusalem about the frustration of Jerusalemites with the Palestinian Authority. The common denominator of these participants is that they are actively trying to defy the occupation's policies in the city by creative modes of intervention, such as working within the municipality's system. They are activists and development practitioners and their success in creating what they consider as incremental facts on the ground proves their point of the insufficient role that the Palestinian Authority plays to maintain the resilience of Jerusalemites in their city.

[179] Both participants are prominent Palestinian intellectuals who believe that the Palestinian Authority has been intentionally heading for an imminent separation between the West Bank and Gaza as a result of the intransigent position of both Hamas and Fatah leadership regarding the resumption of national unity.

of Gaza made the people wary of the leadership's policies and intentions vis-à-vis territorial and political unity between (Participant 16, political analyst and head of a policy think tank, 2018). In a way, the diminishing sense of nationhood among Jerusalemites and Gazans is a result of the forced geographic bantustanization in the West Bank and Gaza. However, it has reduced national issues to a type of localized concern to the extent that the people living in Ramallah or Jerusalem or Gaza have become indifferent to whatever is happening in other cities as long as they can go to work and move on with their lives. As a result, the risks around preserving a sense of nationhood may not be limited to the consequences of the occupation's policies and denial of the right to self-determination, but rather to the failure of the Palestinian Authority to pay attention to the diminishing faith in its leadership and its presumed role as the central authority (Andersson 1983, p. 429).

Objectively speaking, one of the problems leading to such a situation is that the central authority is concentrated in Ramallah and, therefore, due to Israeli closure policies, cannot reach Jerusalem and Gaza. Consequently, such an impediment weakens the ability of the Palestinian Authority to influence a variety of issues that touch the day-to-day life of Palestinians. However, one might also argue that territorial contiguity is not necessarily the most critical factor in the effectiveness of the central authority, as there are cases where certain parts of a country may not link to the mainland area such as French Martinique. The complexity of the Palestinian case is the fact that there seems to be a sort of surrender to the overwhelming situation resulting from Israeli policies to the extent that the leadership feels that such a situation is beyond the capacity of the Palestinian Authority or even the Palestinian people for that matter (Participant 3, prominent Fatah leader, ex-Prime Minister, one of the principal negotiators of the Oslo Agreements, 2018). Indeed, it may be argued that the diminishing sense of nationhood has been the result of a lack of actual capacity of the Palestinian Authority in current circumstances. However, this is the question that would need to be asked, if we assume that indeed, there has been a process of state-building all along with the establishment of the Palestinian Authority. Then it would be assumed that a continuous effort for nation-building would not be dissociated from the state-building process, especially when the mere existence of the Palestinian people on their territory is being threatened.

The Palestinian experience is quite informative in the sense that it is an existential conflict with a territorial claim at its core. Although it seems complicated to realize the territorial state even on the 1967 borders, the territory remains the main constituent that defines the nation and enables it to manage its own affairs. It is the territory that enables a nation to be internationally recognized, to be like other nations interacting in a world system of nations. But when it comes to understanding the reason of why the Palestinian leadership opted for a transitional arrangement that not only did not promise a state but also forfeited several rights and principles related to self-determination, there might be two possibilities. One possibility may be that the Palestinian leadership mistook the Israeli plan as it is, in other words, was unable to read the Israeli mindset since the establishment of the State of Israel. The other possibility may be that the leadership was powerless and knew its limitations within the existing power asymmetry and, therefore, accepted to enter into this subservient relationship. However, it is not clear how this type of relationship could save the Palestinian claim to have a state on the 1967 borders—which literally no longer exist as Map 15: Palestinian loss of land from the UN treaty 1947 to present indicates—or could preserve their sense of nationhood. With the current geographic and eventually political and socio-economic fragmentation, there is nothing left to be imagined regarding the territorial nation-state modelled after the modern state that we have designated as the Westphalian-Weberian state.

There is no link in the Oslo Agreements between self-governance and external sovereignty or the internal domestic sovereignty level. We have looked into the example of ID cards and passports, movements, and, even if the Palestinian Authority wants to dig groundwater wells in Area A, it has to coordinate with Israel. Besides, intellectual attempts that categorize the case of Palestine as quasi-statehood, limited statehood or Palestine enjoying certain features of statehood neither succeed in describing the reality on the ground nor the potential of transforming this reality. For instance, when one talks about the fact that Palestine is internationally recognized, such recognition remains symbolic without much effect on the status of Palestine as a legal personality within the international community with rights and duties vis-à-vis other states or vis-à-vis its own population as long as it cannot protect its own people from external threats.

All talk about Palestinian statehood in its current form or in the way that it would evolve in the future is a diversion from the real issue. The Palestinian Authority in its current form is a localized administration, a containment of local dissent, that does not have the prospect of evolving into a sovereign state as long as there will be no radical intervention to transform power relations and to put an end to the belligerent occupation. Perhaps, in a continuing situation of two localized self-governing authorities (one in the West Bank and another in the Gaza Strip) which have implicitly accepted to operate within a framework of occupation, the most that both would ask for is to be transformed into two secessionist movements as long as Israel wants to continue treating the territory as part of Eretz Yisrael.

Continuing to opt for the territorial state under the current circumstances seems to be counterproductive and also hurting Palestinian national unity. It might be the case that there is a need to recognize the limitations of what can be done and therefore to recognize the nature of the Palestinian Authority as is (limited self-rule restricted so as not to emerge into a state). If the diagnosis is correct and exact, then perhaps a prescription for the way forward would be better suited to the problem. Consequently, continuing to sell the state-building discourse as a path to statehood does not seem to go anywhere, nor will it bring any further legitimacy for the Palestinian leadership. Continuing to focus on the two-state solution and the discourse of state-building as a path to statehood is either a misconception or a deception. The current process is not one of state-building but somewhat a process of institution building to consolidate the Palestinian Authority's role and function as prescribed by the Oslo Agreements.

7.2. Practical and theoretical implications

It is safe to say that, thus far, the Palestinian Authority's attempts have failed to create a *de facto* situation that can bolster the Palestinian claim for statehood. Neither inflating state-like institutions nor proving that it was institutionally ready to assume statehood could impose a reality that can change the power relations to the benefit of its claim. What appeared to be a leap toward state-building before state making has proven a self-defeating assumption. Looking back at the Palestinian state-building endeavour, there are three observations to be made, which have theoretical and practical implications. The first observation is related to the difficulty of accepting the

rationale behind the Palestinian Authority's assumption for the creation of a *de facto* state whilst under occupation; the second observation is related to the difficulty of understanding the discrepancy between the international community's discourse in supporting the two-state solution and their actions on the ground; and the third observation is the difficulty of understanding the rationale behind the application of state-building theories to explain the Palestinian Authority's experience.

When it comes to the Palestinian Authority's state-building approach to create a *de facto* state whilst under occupation, the research found that the Palestinian Authority's assumed that by inflating its institutional structure and creating symbolic features of a state, it could impose facts on the ground; this proved to be a failure. The failure of such assumptions has been apparent at many occasions; it was the case when the Palestinian Authority tried to create an institutional presence in Jerusalem, despite the fact that the Oslo Agreements were clear about prohibiting the extension of the self-governing authority into the city. Another assumption was Fayyad's Statehood Plan that pushed to adopting a good governance approach as a self-imposed condition to prove eligibility for statehood. The problem with both assumptions is that no matter what the Palestinian Authority would attempt to do in order to defy the limitations of the Oslo Agreements, it would be confined by them—simply because these limitations are the very reason why the Palestinian Authority was established in the first place; after all, the Agreements provide the political foundation as well as the administrative and legal reference for its functions in the West Bank and Gaza. Any attempt to go beyond this framework would instigate action and scrutiny against the Palestinian Authority. The life cycle of the second Intifada that has erupted after the failure of the 2000 Camp David Accords is quite telling about the limitations of the Palestinian Authority and the power asymmetry between the occupation authority and the occupied authority. When Arafat thought that he could rebel against the occupation, Sharon answered with the total destruction of the institutional structures of the Palestinian Authority.

Besides, it is essential to note that the flawed dual misreading of UNSC Resolution 242 and the principle of 'Land for peace' led to a never-ending process of Palestinians proving that they can maintain peace under occupation. Chapter three provided a thorough discussion of the inherent contradiction of this principle. This assumption was reconfigured with Fayyad's state-building approach. It was innovative

in its suggestive tactic that by proving eligibility to govern, it was by far more critical than the standard declarative and constitutive requirements for statehood under international law. In reality, Fayyad's approach did not bring anything new, simply because it was based on the same conditions relating to the Palestinian Authority's commitments and expected role under the Oslo Agreements. The new aspect of Fayyad's Statehood Plan was that external actors were more explicit about the need for better security performance basing their demand on the Road Map for Peace and conditioning their support for the Palestinian Authority accordingly.

Empirically, although Fayyad was commended for his success in security matters and indeed improved living standards in the West Bank, two years after the Plan, the state was not realized; moreover, it has been ten years since his Statehood Plan and prospects for Palestinian statehood still seem unlikely. But then again, Fayyad's assumption proved that a flawed dual assumption could not but produce flawed results. In both cases of the Palestinian Authority's attempt to create a *de facto* situation while proving its governability as a foundation to impose the state proved to be futile as long as Israel continued to hold power to decide upon its performance. At the same time, it is difficult for the Palestinian Authority to provide justification for its assumed role under Oslo as long as the Agreements did not bring the aspired state. It puts it at odds with its *raison d'être* and its relationship with the people that it is supposed to represent, protect and draw legitimacy from.

Moreover, it seems that the Palestinian Authority did not follow a path of evidence-based policy-making. There seems to be no difference between the Palestinian Authority and other government policy-making usually suffering from fundamental flaws when making unsubstantiated decisions. Evidence-based policies are usually formulated on the basis of a thorough consideration of the context that affects the implementation of programmes and of facts that influence the potential for policy success as well as of alternative scenarios in case they fail. In this case, it is evident that the state-building assumptions entertained by the Palestinian Authority do not seem to be based on a clear reading of the context. Comparing the facts gathered from the re-analysis of the Israeli vision vis-à-vis the conflict, the Oslo Agreements, and the occupation's policies on the ground fact with the underlying assumptions of the Palestinian state-building policy, it is still unclear how they have been formulated so as to lead to statehood in the absence of the state as concept and reality.

The second observation relates to the difficulty in understanding the discrepancy of the international community's support for the two-state solution and their actual policies on the ground. A critical puzzle that the research has encountered throughout was the fact that the Palestinian cause triggered so many UN Resolutions since 1947 and yet, it has not been resolved. This begs the question about the credibility of the international system from a legal, political, moral and practical perspective. It puts to test the international state system supposedly inspired by the Peace of Westphalia and Wilsonian idealism. The failure to bring an end to the Palestine question is obviously a failure of the international system at its core. From a theoretical perspective, this also raises the question not only about the ways in which we define the state, but rather the make-up of the international system as an entity that protects, enforces, and maintains the very concept of the state. Without any capability to enforce international law, thus limiting the role of international organizations and actors to that of a mere broker, renders conflict resolution a theory without practice on the ground, especially when conflicts like the Palestine question are rife with power imbalance, and where the occupying entity seems more invested in enhancing *the status* quo than candidly engaging in concessions for a resolution to the conflict.

This introduction was essential to present the findings of the analysis of the two-state solution based on UNSC Resolution 242. Analysis has shown that there are a lot of contradictions inherent in the Resolution, on the one side, as well as its enforcement, on the other. As a matter of fact, the only direct UN Resolution regarding a real two-state solution had been the 1947 Partition Plan based on UNGA Resolution 181. Tracing the series of UN Resolutions relevant for the conflict during the past 70 years, it is clear that there has been a tremendous moral commitment to the Palestinian right to self-determination. However, this commitment did not translate into the will to interfere to end the belligerent state's occupation. Moreover, although the language of the consecutive UN Resolutions is based on the UN Charter for Human Rights, we have found many nuances that weaken the role of the United Nations as an enforcer of international law, when it comes to the Palestine question. The first nuance relates to contradicting interpretations of UNSC Resolution 242, especially with regard to the explicit reference to an independent Palestinian state and the territorial boundaries of that state. The ambiguity regarding the territorial aspect gives

way to the victor in the war to dictate its terms, even when it comes to the recommendations the Resolution proposes. In particular, this language may explain the implicit acceptance of the UN and international actors of the parameters of the two-state solution, which do not reflect the establishment of a territorially independent state.

Such positions suggest a sort of international submission to the new mantra regarding the need to take into consideration the *new facts on the ground* or *irreversible facts on the ground* that Israel succeeded to institute from a territorial perspective. This move was successful to the extent that this notion has turned out to be internalized and institutionalized into the mentality of the UN system. Another nuance has been the fact that the Resolution has always been a recommendation without any enforcement power. This, in fact, might explain the UN's undecided role vis-à-vis the conflict. The most crucial nuance has been the fact that the UN has accepted to become a party to the Road Map's Quartet, thus volunteering its role as a guarantor for the application of international law. By becoming a member in the Quartet, the UN became complicit with a group whose involvement was based on the performance-based Road Map for Peace that conditioned Palestinian statehood on substantial political and institutional reforms, which in turn have been seen as serving the occupation's needs for security rather than the Palestinian cause. By doing so, the UN participated in subjecting the Palestinian right to self-determination to a secondary factor that should not affect the foundational criteria for statehood under international law, namely: 1) a defined territory, 2) a permanent population, 3) a government, and a capacity to enter into relations with other states. The fact that the UN has accepted to be part of a group who would decide whether Palestine becomes a state or not upon the measurement of its eligibility to govern calls for a reconsideration of a universally accepted principle in international law, namely the right to self-determination and statehood. It has never been the case that a state cannot become a state, because, at a particular historical moment, it might not have a competent government. Governments change, but the state as a legal personality under international law remains. If this is the case, then we also need to reconsider theories of statehood from the perspective of international law versus international relations and political science. We need to ensure that we understand the interplay between a state's capacity and a state's prerogative under international law.

The discrepancy between the international community's discourse supporting the two-state solution and its actions on the ground is evident in the type of political and financial support the Palestinian Authority received since its inception. In this respect, it is essential to note that no empirical evidence could be found that the involvement of external actors in supporting Palestinian institutions was based on their objective to enable state-building for the purpose of Palestinian statehood. External support was always directed at building the institutions of the Palestinian Authority so as to enable them to perform the functions specified in the Oslo Agreements, such as security, health, education and the economy. It is hard to find evidence that there is explicit support for building institutions of statehood. This fact is evident even when it comes to the celebrated World Bank statement commending the performance of Palestinian institutions in 2011. The statement was clear about the fact that the performance of the Palestinian economic institutions was better than many institutions in other countries but did not explicitly mention that Palestinians are ready for statehood (UNSCO 2011, p. iii). It seems that the euphoria behind the support for the Fayyad Statehood Plan at the time was overwhelming to the extent that reporting, media and external support whether intentionally or unintentionally created a particular perception that the World Bank's statement was indeed an endorsement of the success of Fayyad's state-building plan and the readiness of Palestinians for statehood. Besides, international support for the Palestinian Authority was limited to the permissible jurisdiction under the Oslo Agreements, namely in Areas A and B where the supposed state-building endeavour was being undertaken. In the case of Jerusalem, Area C and Gaza support was not provided to the state-building endeavour but was somewhat intended to preserve a symbolic presence of Palestinian institutions in Jerusalem and to offer humanitarian support for the population in those areas.

The discrepancy described above begs the question of the rationale behind the discourse of the international community in support of the two-state solution, which is again a self-contradictory discourse since it did not translate into support for the Palestinian Authority to evolve into an independent state. One reason might be that the international community is trapped between its moral support and the inefficiencies of the international system, exemplified by the UN organizations and international law. It might be the case that the institution, which encompasses the veto power of a minority of states, was intentionally designed as a reminder that it is power that dictates

the behaviour of the world system and not only justice or peace. Of more relevance to the circumstances surrounding the possibility of the two-state solution is the fact that the two-state solution has been internalized by international institutions, including Resolutions, intervention mechanism and diplomacy; this makes it challenging to try and make a U-turn and think of a different conceptual framing of the Palestine-Israeli conflict. There are two aspects that might be related to this possible reason. The first relates to the awareness of the international community that the two-state solution is no longer viable because of Israel's extra-territorial behaviour, especially in the West Bank and Jerusalem. In such a case, it might be difficult for the UN system to contemplate any support for a different solution such as that of the one-state solution, even though it may be the only realistic one. The international community's concern is that this type of solution would generate an apartheid state, which is a reality that the international community is not ready to deal with politically and morally. The second fact relates to the tendency of the international community to adopting a stance that is similar to that of the Palestinian leadership. In this sense, the continued discourse about the two-state solution is deemed to be a shield that might curb or mitigate the consequence of Israel's territorial expansion on account of the presumed Palestinian state on the borders of 1967 (Participant 3, prominent Fatah leader, ex-Prime Minister, one of the principal negotiators of the Oslo Agreements, 2017).[180]

The second reason for the international community's discourse on the two-state solution and which does not seem to be seriously considered is the possibility of reverting to a real two-state solution as entailed in the 1947 UN Partition Plan.[181] Proponents of this option claim that the Palestine-Israel question has been created by the UN, henceforth, the latter should enforce a solution that provides a more equitable sharing of the land (Participant 38, veteran politician, PLO member and ex-minister, 2018; Participant 41, civil society activist, expert in international law and international

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[180] Participant 3 believes that although the best option for a solution is that of the two-state solution, since it would enable the Palestinians to have their own nation-state, the Palestinian Authority reverts to using the discourse of the one-state solution only to warn Israel of the potential demographic problem that it would have to deal with if the two-state solution is completely abandoned. The same concern is now being debated within Israeli circles regarding the implications of a potential annexation not only of Area C in the West Bank, but all of it.

[181] XVII Resolution adopted on the Report of the Ad Hoc Committee on the Palestinian Question. (1947). 181, (II) Future Government of Palestine. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/181(II) [Accessed 2 May 2018].

humanitarian law, 2018). According to the Partition Plan, an Arab state would have been established on 43 percent of Mandatory Palestine with a special international regime for Jerusalem and an internationally administered corridor between the West Bank and Gaza (Held and Cummings 2013, p. 255). Reverting to such a solution might be the only way to restore credibility in the international state system and international law. Although it might not be impossible to transform a whole mental and institutional system that has become entrenched in the day-to-day behaviour of external and internal actors, it might be the only way out of this impasse. Simply because it is difficult to contemplate an eternal state of unabated military occupation, this type of unusual situation is against the natural course of history that has gone a long way to undoing institutional and mental colonial structures.

The third observation relates to the difficulty of understanding the rationale behind the application of state-building theories to explain the Palestinian Authority's experience. Whereas there have been many instances where this type of analysis could have been adequate to describe the intended process of state formation and presumed state-building despite the occupation, the problem has been the overall theoretical framing of the role of the Palestinian Authority under the Oslo Agreements. From the outset, it seems that both the Palestinian Authority and the state-building theorists fell into the same trap. While the Palestinian Authority was thinking and acting with the mentality of a state, although it was not a state; scholars interested in analyzing the Palestinian experience were looking at the Palestinian Authority as if it is a state, analyzing it with the analytic tools of a state, while it is not a state. When they were faced with reality, they often attributed the failure of the Palestinian Authority to the occupation. In both cases, such a perspective has done a disservice to the type of policy needed to support a realistic realization of Palestinian statehood, on the one side, and the type of knowledge that could have better captured the reality of the self-governing authority, on the other. The lack of realistic diagnoses of what the situation was on the ground hampered the formulation of realistic policy prescriptions for the way forward. At a conference held in Ramallah during the time of writing this concluding chapter, a senior Fatah/PLO member argued that the "state of Palestine is a given reality and is not subject to negotiations with Israel, but rather, the problem with Israel is the matter of resuming the negotiations over the borders" (MASARAT 2019). It is challenging to understand the justification for such a statement when the

essential constituent of the state is its territorial sovereignty, which is absent under the current circumstances. The Oslo Agreements entailed a redeployment of the Israeli military outside the main cities in the West Bank and Gaza and not a final withdrawal.

From a theoretical perspective, it seems that the approach of explaining the Palestinian experience through state-building theories does not suffice to capture the inherent intricacies of having to act like a state, though without being a state but implying to being judged continuously as a state. The application of the Westphalian Weberian (WW) framework shows that it was indeed difficult to understand what it means to govern without territorial sovereignty. The absence of territorial sovereignty has direct implications on all matters pertaining to the 'state' or entity in question. This type of absence is not something that is a consequence of a state's capacity, as is the case in areas of limited statehood, where the state already exists but lacks the capacity to have full control over certain functions, such as the monopoly on the use of violence. The absence of territorial sovereignty is correlated with the presence of a central authority, in which case, it is the Palestinian Authority that is under examination. The findings of this research have indicated that we talk about an entity that does not have the foundational constituents of a state from an external and internal perspective. It is an entity that was not meant to have territorial sovereignty and was conceived so as to function similar to a local administration under the absolute sovereignty of a higher agency. Gordon (2008) has described this relationship as an outsourcing of the responsibility for the territories to a subcontractor (Gordon 2008, p. 1969). In such a situation, the occupation managed to make a distinction between the people and their land (Ibid., p. 224). In such a case, the nature of the functions of the Palestinian Authority cannot be similar to those of a full-fledged state. As long as the source of authority rests in the occupation, the functions of the entity under occupation cannot be similar to those of a real state. Therefore, to apply concepts that fall within the normative conceptualization of the attributes of an existing state becomes problematic, such as governance, good governance, measuring legitimacy, the monopoly on the use of violence. The application of the WW model revealed that such notions get distorted in a situation of lacking territorial sovereignty.

This being said, it should be noted that such conclusions benefited from the abundant research analyzing the Palestinian state-building phenomenon during the past twenty-five years. Although this research claims that the analytic framework

applied was insufficient, it does not dismiss their significance to the discipline in general and to the case of Palestine in particular. This research has provided the conceptual background upon which my conclusions are based. It takes a considerable amount of thinking to analyze the Palestinian anomaly. Indeed, it should be noted that this research has benefited a great deal from the writings of Khan on state formation in Palestine, Fukuyama on state-building and Tilly on state-making (Fukuyama 2004; Khan 2009; Tilly 1985).

Having said this, it might be challenging to adjust the normative conceptualization of state attributes or state constituents to fit with the reality of the Palestinian entity under occupation. However, it might be possible that if we look at those concepts within the framework of colonial administration, similar to cases such as India or Egypt under British colonial rule or military occupation such as the Vichy government during the German occupation in France. It might be possible that if we try to understand the actual role of a sub-entity opting for self-determination might give a better perspective of the intricacies of the lack of sovereignty in general and beyond. For, the research also found that the lack of territorial sovereignty impairs the capacity to formulate and implement adequate policies, as we have seen in the case of liberal economic policies and their inadequacy in an unfitting economic and political environment. Lacking capacity then even produces unintended effects on the well-being of the Palestinian society as well as on its capacity to maintain resilience or formulate resistance policies against the occupation (Khalidi and Samour 2011; Tartir 2015d).

Putting the actual condition of the self-governing authority into perspective might better explain the multiplicity of issues that need to be researched, analyzed and documented for the sake of enriching academic discourse. Such a shift in focus would also be of practical benefit to Palestinian decision-makers and international actors. In order to move forward, there is a need to stop thinking with the mentality of a state, but instead to start to think of the Palestinian Authority as operating under the aegis of the occupation. Albeit, this is not to suggest that we abandon the thought of the state, but rather this should encourage us to rethink the concept of the state, and what it takes to make a state in the 21st century. This being said, it will be necessary to further examine the meaning of international recognition of the Palestinian self-determination from the perspective of international law. For, although we have established the fact

that the Westphalian-Weberian model of the state is the standard model upon which we concluded that Palestine is everything else but a state, there might be a need to rethink the reasons why the theory does not apply to the case of Palestine. In this sense, there is a need to match theory with reality, especially when there is international recognition but no implementation.

7.3 Research limitations and ideas for further research

This study faced a number of limitations when it came to data gathering, accessibility and methodology. For instance, although the research intended to gather data from interview participants from Gaza to complete an empirical chapter on the governance paradox and implications of the national division on the Palestinian state-building enterprise, it was not possible to do so due to time limitation and accessibility issues. Several attempts were made to acquire an entry permit from the Israeli authorities for Gaza, but permission was not granted. Another type of limitation was access to some key officials, whose insight could have made a substantial contribution to this research; yet, because I used to be a senior official for almost 14 years, some were not willing to share experience and information with an ex-colleague.

Perhaps the most critical limitation of the research was the difficulty of integrating the different aspects of the study. In other words, it has been quite challenging to come up with a theoretical framework that could satisfy a multi-paradigm ontological problem. To form a holistic view of the issues pertaining to Palestinian state-building under occupation, it was challenging to link a number of theoretical concepts that belong to different strands of thinking, like post-conflict state-building, state theories, policy discourse, power asymmetry and settler-colonialism. Besides, it was challenging to limit the research to a specific timeline, such as that of the Fayyad Statehood Plan 2009-11. To understand the background of the Plan, it was necessary to understand the Palestinian state-building endeavour pre- and post-Fayyad. As a matter of fact, the choice of the Fayyad Plan stemmed from the fact that it is indicative of an approach that shaped the Palestinian Authority's policy since its inception.

On another note, it has been challenging to find enough literature on the challenges facing the effectiveness and legitimacy of the Palestinian Authority in areas, where it does not have a direct functional jurisdiction, such as Area C and

Jerusalem. It is hoped that the focus on such areas would induce other researchers' interest in further investigating them. Two other research areas might be informative, the first relates to the nature of the self-governing authority and its transformation during the past twenty-five years from the perspective of its *raison d'étre* and future scenarios for its relationship with the occupation authority, and the second relates to the examination of the international community's contribution to the Palestinian state-building endeavour.

Conclusion

At the time of writing this concluding chapter, the Palestinian Authority faces tremendous pressure from Israel and the United States government to take part in the 'Deal of the Century'. Before its publication, there have been a lot of speculations about its substance. Palestinian anticipation was that the deal would not be in favour of the Palestinian quest for statehood and that it would entail the exchange of the right to self-determination and statehood for economic peace. This means that the Palestinians sign off on any future claim to their right to self-determination and the right of return of Palestinian refugees. As a matter of fact, the economic part of the US-proposed 'Deal of the Century' is based on three tenets: 1) unleashing economic potential; 2) empowering the Palestinian people; 3) enhancing Palestinian governance.[182] All three echo many aspects of the Fayyad Statehood Plan, which focused on economic and functional governance aspect. The failure of the Palestinian Authority's state-building endeavour including that of the Fayyad Plan has proven that the problem is neither governance nor economic, but rather a political one, which remains the most favoured option for a peaceful settlement of the conflict.

The other option would be a continued *status quo*, which entails that all parties to the conflict continue to entertain the discourse of the two-state solution, while they also maintain a conflict management strategy. However, there is significant discussion about other scenarios entailing either a collapse of the Palestinian Authority or its dismantling by Israel. Time will tell which scenario succeeds, and how the Palestinian leadership will resume the national project beyond its calls for resilience and

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[182] Peace to Prosperity: The Economic Plan, Programs and Projects, p. 5. Available at: https://www.whitehouse.gov/wp-content/uploads/2019/06/MEP_programsandprojects.pdf [Accessed 23 June 2019].

steadfastness; and whether it will resume the struggle on the land along with preserving the institutional structures of the Palestinian Authority.

In all cases, the current impasse and the failure of the state-building endeavour make it necessary for all parties to the conflict to be held accountable. A self-evaluation process by the Palestinian Authority might illuminate a way forward. Besides, a deeper reflection of the UN involvement in the Palestine-Israeli conflict might be useful in the sense of researching the implications of UN recognition on the future of Palestinian statehood. Lastly, there is a need to rethink the analytic model with which the Palestine case can be explained as well as a need to ponder its implications for the theory of the state.

In conclusion, this thesis pointed out the difficulty of a territorially independent state evolving from the Oslo Agreements, assuming that they themselves presented the platform upon which the implementation of a two-state solution (based on UNSC Resolution 242) would be possible. The analysis conducted in Chapter Three and the empirical chapters revealed the contextual factors that influenced such a possibility; it also highlighted the success of the Zionist settler-colonial project over the aspirations of the Palestinian leadership and people. As a matter of fact, this analysis uncovered a deeper problem that is the basis of the current impasse with Israel's annexation of the West Bank being imminent.

It remains challenging to envisage separating the territory into two geographically separate entities. This issue has been present in the various proposed solutions since the Peel Commission's recommendations in 1937, the UNGA Resolution 181, the UNSC Resolution 242 and the following peace proposals, and initiatives as well as many intellectual attempts to find a reasonable or viable solution to both sides claiming the same territory to be their own homeland. To give an example, the Peel Commission warned of the difficulty of having two economically separate entities in one country, it also proposed a corridor between the West Bank and Gaza passing through Israel. The UNGA Resolution 181 proposed that Jerusalem would be internationally administered, as it realized the difficulty of sharing the city for its religious and cultural significance to both sides. UNSC Resolution 242 offered Israel an excellent opportunity to impose its vision of the borders to the extent that the internationally accepted principle of possible 'land swaps' is in itself a recognition of

how difficult it is to change Israeli facts on the ground, and/or to dismantle Israeli settlements in the West Bank and/or to attempt to transfer the settler population.

All such examples indicate the impossibility of having what is often called a just and equitable solution, or a two-state solution for two peoples, or even a viable Palestinian state. Participant 32 maintains that "a viable state entails a situation where a state would have the potential to survive or in better words, stay alive and not perish, however, does not have the potential to prosper or to become a full state" (Participant 32, legal expert and ex-official of the Palestine Legislative Council, 2018). This is especially evident since in the past century and now the last two decades the state of Israel has been founded and supported by the international community, while a Palestinian state has been pending. The success of the settler-colonial project showed that most proposed solutions could be entertained as intellectual exercises rather than practical and feasible solutions to be accepted by both sides. This entails a vision of the main issue at the heart of the conflict, namely its territorial aspect and the feasibility to have two separate entities enjoying separate and independent sovereignty over borders and resources.

For the latter to be achieved, one needs to ask whether it will be possible to transform what Israel has managed to impose as facts on the ground and which has indicated a type of complicity between the international community and Israel's vision and implementation of the settler-colonial project. Hence, it is not only about the possibility of transforming the thinking about the two-state solution but also the persistent reality. As a result, many lament the feasibility of the two-state solution at the current moment. This position has intensified since the announcement of the long-anticipated Trump Deal of the Century, which leaves the West Bank as "isolated Bantustans" without much viability as to having a contiguous territorial entity between the West Bank and the Gaza Strip as shown in Map 15. The Palestinian reaction to this plan is determined resilience in the sense of staying on the land and not leaving despite the adversity of life under occupation. The explanation of this situation is an eventual *de facto* one-state solution that turns into an 'apartheid state', because of Israel's settlement policies and imminent annexation of the West Bank. Trump's deal of the century is considered as "the straw that broke the camel's back", as it fully buries the two-state solution. Hence, it may be time to think creatively.

This being said, as explained in Chapter One and Chapter Three, one should not disregard other proposals that have been made throughout the past century aimed at resolving the conflict and including an Arab state with a Jewish minority, a single bi-national state, two-states, a federated state, two-states in one space (Yacobi 2014),[183] etc. However, in between what is possible and what is or can be presented is what many call the *de facto* 'apartheid state' or a continued form of Israeli colonization of the territory. As a matter of fact, the imminent Israeli annexation of the West Bank is the total eradication of the notion of any territorial sovereignty for the Palestinians. Then, under a situation of a *de facto* apartheid state, the only thing that the Palestinians can do is to demand equal rights.

In this respect, we need to differentiate between what is possible and what is being proposed (mainly by intellectuals who might not have direct experience with the actual situation on the ground); after all there is a lack of theoretical proposals that could offer a compelling case for both parties to delve into what can be considered as 'creative solutions' that have the support of both peoples, their leadership and also the international community. Whatever solution, if contemplated at all, would be best when accepted by both parties. The problem is that currently the Palestinians are the weaker party, and whatever will be presented to them might still be rejected, despite the fact that it might be depicted as yet another lost opportunity to save a two-state solution. The trick is indeed in the definition of such opportunities, and what they entail as to fulfil Palestinian national aspirations, which can only be envisaged when Israel also accepts the principle of Palestinian self-determination. Especially after the Oslo Agreements, most of what has been presented has been characterized as a state-minus solution.

In such a situation, it might be possible that theoretically one can contemplate other forms of administration different from the two-state solution under the guise of the limited self-governing authority. It all depends on the notion that we can have more conceptual assumptions that can be made to match the context of the Palestine-Israeli territorial conflict whilst taking into consideration past, present and possible future options. It might be the case that further research could be contemplated to focus on colonial statehood and possible administrative practices. This would be a bold intellectual exercise but perhaps can help reset the conceptual moulds that govern the thinking of political leaders not only on the Palestinian but also the Israeli side, the international community and for

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[183] The two-states in one space "is a project that proposes the creation of two independent states that enter into a voluntary union with greater flexibility and cooperation than the separation paradigm" (Yacobi 2014).

sure the scholarly debate—invigorating reflection of what exists and what can evolve in the case of Palestinian statehood under occupation.

Map 15: The Palestinians Historic Compromise: Trump's Plan (IMEMC, 2020)

TABLE 1: Palestinian Budget Allocations for Jerusalem

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total of current expenditures and net of loans in the Palestinian General Budget per million ILS	12046	11960	12114	13092	13916	15085	15212	16148	16180
Jerusalem Governorate									
Salaries and wages						3043	2796	2884	3000
Social contributions						350	270	288	300
Operational expenses						1556	1529	1780	1792
Transfer expenses						0	0	0	0
Non-financial assets						150	150	150	150
Development expenditure							35	150	150
Gross total – per thousand ILS	1400	5700	3639	4411	4604	5099	4780	5252	5392
Ministry of Jerusalem Affairs									
Salaries and wages	5280	6500	6925	6803	7133	9175	7669	13400	13000
Social contributions			73	124	132	180	166	189	149
Operational expenses	83600	15100	15066	17593	25128	26158	26177	26197	2616
Transfer expenses	30422	15450	15000	20000	20000	22000	25000	25000	25000
Non-financial assets	0	0	200	200	240	240	200	200	200
Development expenditure							10000	33400	42400
Gross total – per thousand ILS	31395	37050	37264	44720	52633	57753	69211	98386	106913

See the total of expenditures per million ILS – ranged between 12 billion and 16 billion ILS during the period 2010-2018
Jerusalem expenditures per thousand ILS – ranged between 31 million ILS and 106 million ILS.

Jerusalem Governorate rate of each year alone, for example, expenditure in 2013 was 44 million ILS, and the total expenditure was 13 billion ILS, means less than 3 per thousand

Note the following:
The social contributions item introduced after 2011 for the ministry and after 2015 for the governorate
The development expenditure item was introduced in 2016 only.

Source – Ministry of Finance budgets – different numbers, part of them is published on the ministry's website, another part exists at Mass Institute library (hard copy)
Palestinian National Authority – Ministry of Finance – General Administration of the budget – General Budget Law – different years

APPENDIX 1: Interview guidelines

Conducting the interview

At the beginning of the interview, I explained the interview process to the participants and proceeded as follows: (1) providing a short biography of myself as well as a short synopsis of the research project; (2) asking the participant, if it is ok to record the interview and sign the consent form and answer any questions that may arise from the participant; (3) explaining the ethical principles and rules governing the interview process and protecting the rights of the participants including written consent, anonymity and confidentiality; (4) informing the participant of her/ his freedom to withdraw from the research including having removed her/his views used in the project at any time; and (5) seeking the signature of the interview participant.

1.   Transcribing data gathered from interviews

In order to ensure accuracy in transcribing the interview data, I made sure to transcribe the interview immediately after each interview, while ensuring that I assign numbers to participants. In this respect, I have to acknowledge that some interview participants did not accept that I record the interview, and, hence, I had to take as many notes as possible. However, in both cases, s recording or note-taking, I immediately transcribed/ copied the information after each interview and assigned numbers to them in order to keep anonymity. On a particular note, I have to mention that most interviews, especially those with Palestinian officials, were conducted in Arabic. As I am tri-lingual, I conducted a direct translation of the interviews from Arabic or French to English. The whole interview process, including transcription, was conducted by myself without external support. In fact, transcribing the recorded interviews and/ or copying the written notes helped me have immediate insight and capacity to link themes and quotes from the various interview participants and to secondary data.

2.   Assessment of possible harm

Although this research project does not have a direct potential of harm to the participants, I adhered to the principles of anonymity, confidentiality, and in particular to the principle of 'do no harm', especially with interviewees from political parties and government officials. Additionally, I ensured that the recording was based on anonymity. For example, I denoted participants as 'participant 1', 'participant 2',

'participant 3', etc. I also made sure that the participants have a copy of the research project synopsis as well as the consent form.

3. Foreseen risks

Since the research project has a highly political implication, especially with regards to questions about official positions, seeking official documents, and most importantly, seeking insight from politicians and government officials, I made sure to conduct careful and objective data analysis, while keeping the anonymity of officials. In addition, I ensured reliable storage of data (mainly on the University's *IExeter drive)* on a timely basis during the duration of the research project. To ensure that data is not jeopardized in any way possible, I will destroy data tools and transcripts upon completion of the research project.

4. Interview data protection and storage

With regards to data protection and storage, I have abided by the Data Protection Act 1998, including the principles for proper information handling as well as the University's notification lodged at the Commissioner's Office. In this respect, I ensured that the interview participant fully understands the nature of the research project as well as the fact that the process of processing data will be solemnly for the purposes of research, namely for the purpose of dissertation completion. The consent form included a paragraph regarding the right of the participant to withdraw from the research, even after the interview and during the period of the research as well as after the submission of the thesis.

In maintaining the anonymity of the participants, I used a matrix including the set of interview questions and participants (who were organized in numerical order) for analytical purposes. This procedure was intended to ensure maximum use of the data with maximum objectivity and analytical reliability. Further explanations were given to the interview participant about the storage of data and encryption on the University's UDrive. Additionally, I provided a Data Protection Notice attached to the information sheet and consent form.

5. Data organization

To organize data, I reverted to the following coding technique. Upon reading the data, I demarcated segments within documents. Each segment was labelled with a 'code' which is usually a word or short phrase that suggests how the associated segments

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inform the research objectives. When coding was complete, I merged the codes into a category referring to the issues I was investigating. I then assigned themes to reflect my interpretation of patterns across the data I had collected. Then, I formed categories from codes, and from categories I extracted themes to describe the data. I then prepared a report that included summaries of the prevalence of themes, discussion similarities and differences in related texts across distinct original sources/ contexts, or compared the relationship between one or more codes.

As for interview data, codes were applied as a layer on top of the data. I did not revert to computer programmes and did the coding myself to ensure the accuracy of interpreting the codes. I also made sure to use quotations from the interviews to illustrate categories and themes to support my analysis. To analyze data, I reverted to thematic analysis in order to emphasize, pinpoint, examine and record patterns (or themes) within data" (Braun 2006, p. 83). Moreover, I complimented the thematic analysis with a qualitative content analysis that focused more on its intentionality and implications on the research questions (Braun and Clarke 2006, p. 93). This involved systematic reading and observation of texts which were assigned labels (codes) to indicate the presence of interesting and meaningful patterns. I then looked for a correlation between patterns while taking into consideration the type of data, how it is defined, the population it is drawn from, the relevant context, the boundaries of the analysis and what it is to be measured (Krippendorff 2004, p. 413).

To ensure reliability, I used a standardized comparative method (Glaser & Straus 1967) to guide my data analysis, based on an inductive approach to identify patterns and discover theoretical properties in the data. I regularly checked and rechecked the elemental codes and concepts. I scrutinized and compared data with codes in order to organize ideas and pinpoint concepts that seemed to cluster together. Codes were clustered into substantive categories, then categories were compared across interview transcripts, observational data, respondent feedback, and data from documents. In comparing coded segments, I looked for similarities, differences and general patterns (Bowern 2008, p 144). I kept reviewing transcripts of interviews, together with data from field observations and documents in order to determine the presence of those categories and narrow down excess ones.

APPENDIX 2: Interview Consent Form and Data Protection Notice

CONSENT FORM

Title of Research Project

State-building as a path to statehood under occupation: the case of Palestine

Details of Project

My name is Labiba Shayeb Habash-Hilal, and I am mostly known as Lily Habash.

This project relates to my research for a PhD thesis to be presented at the Department of Politics at the University of Exeter. The topic of my research is focused on the examination of the notion of the viability of statehood under occupation with a specific focus on the case of Palestine. The research will take into account on the impact of the Oslo peace process on Palestinian statehood in general and the extent to which the Fayyad Plan "Ending the Occupation; Establishing the State" (2009-2011), has helped achieve statehood in particular. My focus on the Fayyad Plan is due to the fact that it stands as the most distinguished program for state-building in Palestine in recent times.

My interest in this project stems from my professional experience in negotiations and state-building in Palestine during the period of 1994-2009 on the one hand, and from my personal interest in conducting academic research on the issue of Palestinian statehood on the other hand. In addition, I am hoping that this research will help inform my current professional engagement in working with the United Nations Development Program (UNDP) in the area of governance and state-building in post-conflict countries.

Information gathered by these semi-structured interviews will be solely used for the purpose of my research. I am self-funded and have no affiliation or responsibilities towards any third party other than my obligations as a researcher at the University of Exeter.

Contact Details

For further information about the research /interview data, please contact:

Name: *Labiba Shayeb Hilal (Lily Habash)*

Postal address: Department of Politics – University of Exeter, Streatham Campus – Amory Building – Exeter EX4 4RJ - Telephone: – 00 970 599 381002

Email: lehh202@exeter.ac.uk

If you have concerns/questions about the research you would like to discuss with someone else at the University; please contact:

Professor Michael Dumper, Professor in Middle East Politics, Department of Politics/ University of Exeter - Room …., Amory Building, Rennes Drive, Exeter EX4 4RJ the United Kingdom

(+44) (0) 1392 723167

mick.dumper@exeter.ac.uk

Dr Irene Fernandez-Molina, Lecturer / Department of Politics / University of Exeter

Room A026, Amory Building, Rennes Drive, Exeter EX4 4RJ United Kingdom

(+44) (0) 1392 72 6439

I.F.Molina@exeter.ac.uk

Consent

I have been fully informed about the aims and purposes of the project.

I understand that:

•there is no compulsion for me to participate in this research project and, if I do choose to participate, I may withdraw at any stage;
•I have the right to refuse permission for the publication of any information about me;
•any information which I give will be used solely for the purposes of this research project, which may include publications or academic conference or seminar presentations;
•all the information I give will be treated as confidential;

the researcher(s) will make every effort to preserve my anonymity.

………………………………………………..…..
    …………………………………………………

(Signature of participant)   (Date)

.............................……………………………..

(Printed name of participant)

…………………………………………….……
    ……………………………………………………

(Printed name of researcher)   (Signature of researcher)

One copy of this form will be kept by the participant; a second copy will be kept by the researcher(s).

Your contact details are kept separately from your interview data.

Data Protection Notice

"Data Protection Notice - The information you provide will be used for research purposes, and your personal data will be processed in accordance with current data protection legislation, and the University's notification lodged at the Information Commissioner's Office. Your personal data will be treated in the strictest confidence and will not be disclosed to any unauthorised third parties. The results of the research will be published in anonymised form.

I will keep this data for the duration of the research until the end of 2020, the expected date of submission of the thesis. The data will be stored in a safe place with access only to the researcher and will not be used for any other purpose other than this research. I will be using two methods for data protection in order to mitigate applicable threats. The first is data encryption and use of a password to access my computer as well as use a password for document protection, and the second is to continuously monitor my computer and update computer firewalls and anti-virus system. I have to note that I am the only user of my personal computer and will ensure

that I have regular back-ups of my data, including the university's server and my personal post-graduate record system.

I am self-funded with no other affiliation regarding the research in question. In case I decide to publish the research, anonymity of the interviewees will be kept unless there is no objection for disclosure. I will obtain approval by the interviewees in case the thesis will be published in another form than the university Doctorate website.

APPENDIX 3: Interview questions

The following are the questions that guided the semi-structured interviews. Probing was added in several instances to ensure capturing the maximum insights from the respondents.

1. What is the Palestinian official understanding/ definition of the state (prior to Oslo, during Oslo and now)?

2. Where does the Fayyad Plan fit in this vision, and where did it succeed/ not succeed?

3. To what extent has the Palestinian interim self-governing authority including Fayyad's governments been effective in retaining the claim on territorial sovereignty. In particular, what have been the implications of the absence of territorial sovereignty for the effectiveness of the Palestinian Authority's institutional capacity and its ability to exercise a monopoly on the use of violence; what are the implications of all of the above for its legitimacy and its capacity to maintain a collective sense of identity and nationhood?

4. What is the Israeli vision of the nature of the Palestinian entity? How does the Palestinian Authority's state-building approach inclusive of the Fayyad Plan fit into this?

5. What are the possibilities for an independent and sovereign Palestinian state to emerge from within the Oslo Agreements?

6. What are the lessons to be learnt from Fayyad's approach to state-building and that can favour the achievement of Palestinian statehood?

APPENDIX 4: List of interview participants[184]

1. Habash, L., interview, Participant 1 – prominent political scientist – Annajah University, September 2017.

2. Habash, L. interview, Participant 2, – prominent Fatah leader, ex-minister for Jerusalem, Jerusalem, September 2017.

3. Habash, L. interview, Participant 3, – prominent Fatah leader, ex-Prime Minister, one of the principal negotiators of the Oslo Agreements, Abu Dis, June 2017.

4. Habash, L. interview, Participant 4, – prominent Israeli journalist, Ramallah, December 2018.

5. Habash, L. interview, Participant 5 – prominent Civil society leader from Jerusalem, Ramallah, January 2018.

6. Habash, L. interview, Participant 6 – ex-Palestinian Authority Official, ex-Quartet staff, Ramallah, September 2018.

7. Habash, L. interview, Participant 7 – prominent Palestinian political scientist, Ramallah 2018.

8. Habash, L. interview, Participant 8 – ex-minister of Economy, Ramallah 2018.

9. Habash, L. interview, Participant 9 – prominent academic and expert in international law, ex-legal advisor to the PLO, Ramallah 2018.

10. Habash, L. interview, Participant 10, European diplomat, Jerusalem, July 2018.

11. Habash, L. interview, Participant 11 – senior ex-official during Fayyad government, Ramallah, February 2018.

12. Habash, L. interview, Participant 12 – ex-minister during Fayyad government, Ramallah September 2018.

13. Habash, L. interview, Participant 13 – senior policy expert on Jerusalem/PLO, Ramallah, September 2018.

14. Habash, L. interview, Participant 14 – prominent political figure, ex-minister who served during several governments including the last Fayyad government, Ramallah, September 2018.

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[184] Numbers assigned according to alphabetical order – by first name

15. Habash, L. interview, Participant 15 – Palestinian expert on international law, a prominent official of the Palestinian Authority, Ramallah, July 2018.

16. Habash, L. interview, Participant 16 – Palestinian political analyst and head of a policy think tank, Ramallah, December 2018.

17. Habash, L. interview, Participant 17 – Palestinian political figure, senior policy advisor to Fayyad, Ramallah, September 2018.

18. Habash, L. interview, Participant 18 – Palestinian political analyst, an official in the Palestinian Legislative Council, Ramallah, September 2017.

19. Habash, L. interview, Participant 19 – Israeli-American activist against the demolition of Palestinian houses, Skype interview, Ramallah-Jerusalem, December 2018.

20. Habash, L. interview, Participant 20 – European diplomat, Ramallah, July 2018.

21. Habash, L. interview, Participant 21 – ex-Senior Palestinian official, Ramallah, January 2019.

22. Habash, L. interview, Participant 22 – Palestinian activist and writer from Gaza, Ramallah, December 2018.

23. Habash, L. interview, Participant 23 – prominent Palestinian thinker from the Palestinian diaspora and ex-President of Birzeit University, Ramallah, July 2018.

24. Habash, L. interview, Participant 24 – ex-minister during Fayyad government, Jerusalem, July 2018.

25. Habash, L. interview, Participant 25 – prominent Palestinian thinker, historian, head of think tank in Jerusalem, Jerusalem, July 2018.

26. Habash, L. interview, Participant 26 – Fatah activist, a minister in the Palestinian Authority, Ramallah, September 2018.

27. Habash, L. interview, Participant 27 – professional expert, advisor on Area C in the Prime Minister's Office, Ramallah, July 2017, and March 2018.

28. Habash, L. interview, Participant 28 – prominent Palestinian businessman, ex-minister during Qurei government (2003-6).

29. Habash, L. interview, Participant 29 – prominent Jerusalem figure, lawyer – a critic of the Palestinian Authority's negligence of the city of Jerusalem, Jerusalem, July 2018.

30. Habash, L. interview, Participant 30 – Palestinian Academic, activist and advocate of non-violent resistance, Ramallah, September 2018.

31. Habash, L. interview, Participant 31 – veteran Fatah member, ex-Palestinian official at the President's Office, Ramallah, June 2018.

32. Habash, L. interview, Participant 32 – Palestinian legal expert, ex-official at the Palestinian Legislative Council, Ramallah, December 2018.

33. Habash, L. interview, Participant 33 – Palestinian/international development practitioner, Jerusalem, October 2018.

34. Habash, L. interview, Participant 34 – senior official in the Palestinian Authority, Ramallah, June 2017.

35. Habash, L. interview, Participant 35 – prominent Palestinian leader of a political party, often critical of the Palestinian Authority, Ramallah, June 2018.

36. Habash, L. interview, Participant 36 – senior Palestinian official working on the Jerusalem file, Ramallah, June 2018.

37. Habash, L. interview, Participant 37 – Palestinian economist/analyst, Ramallah, December 2018.

38. Habash, L. interview, Participant 38 – Palestinian veteran politician, PLO member, ex-minister, Ramallah, February 2018.

39. Habash, L. interview, Participant 39 – Palestinian veteran politician, PLO-central committee member, Ramallah, June 2018.

40. Habash, L. interview, Participant 40 – prominent Palestinian figure, one of the founders of the Technical Committees at the Orient House during the early 1990s, ex-minister in several governments, Ramallah, February 2018.

41. Habash, L. interview, Participant 41 – prominent Palestinian Civil society activist, expert in international law and international humanitarian law, Ramallah, December 2018.

42. Habash, L. interview, Participant 42 – civil society activist in Israel-Palestinian second track negotiations, Ramallah, January 2018.

43. Habash, L. interview, Participant 43 – ex-policy advisor at the Negotiations Support Unit of the PLO, Skype interview, Washington-Ramallah, June 2018.

44. Habash, L. interview, Participant 44 – senior Palestinian official, Ministry of Interior, Ramallah, September 2018.

45. Habash, L. interview, Participant 45 – prominent Palestinian economist, a harsh critic of the neo-liberal approach to state-building, Ramallah, February 2018.

46. Habash, L. interview, Participant 46 – prominent legal expert who has written extensively about the occupation's policies with regards to ex-territoriality, ex-legal advisor to the PLO, Ramallah, February 2018.

47. Habash, L. interview, Participant 47 – Palestinian activist, head of Palestinian NGO, who believes that the best way to maintain resilience in Jerusalem and Area C, is by working from within the Israeli system, Jerusalem, July 2018.

48. Habash, L. interview, Participant 48 – head of a UN agency, Jerusalem, July 2018.

49. Habash, L. interview, Participant 49 – Palestinian activist, a member of a prominent Jerusalem family, Ramallah, September 2018.

50. Habash, L. interview, Participant 50 – member of a non-Fatah political party, ex-minister in several Palestinian governments including Fatah and Fayyad governments, Ramallah, February 2018.

51. Habash, L. interview, Participant 51 – prominent Palestinian thinker-philosopher-founder of the Technical Committees at the Orient House, Jerusalem, February 2018.

52. Habash, L. interview, Participant 52 – veteran development practitioner in international organizations, Ramallah, September 2018.

53. Habash, L. interview, Participant 53 – Palestinian official, an expert in local government, Ramallah, August 2017.

54. Habash, L. interview, Participant 54 – veteran Palestinian health and development expert from Jerusalem, Ramallah, September 2018.

55. Habash, L. interview, Participant 55 – official at the Ministry of Interior, Ramallah, August 2017.

56. Habash, L. interview, Participant 56 – prominent Israeli economist – key player in the Oslo Accords, Tel-Aviv, February 2018.

57. Habash, L. interview, Participant 57 – prominent Israeli politician – key player in the Oslo Accords, Tel-Aviv, February 2018.

58. Habash, L. interview, Participant 58 – Palestinian politician, head of a PLO political party, Ramallah, March 2018.

59. Habash, L. interview, Participant 59 – Palestinian politician, Fatah member from Jerusalem, Ramallah, May 2018.

60. Habash, L. interview, Participant 60 – independent Palestinian politician, senior official from Gaza, Ramallah, November 2018.

61. Habash, L. interview, Participant 61 – senior official, Jerusalem Governorate, Al-Ram, June 2018.

62. Habash, L. interview, Participant 62 – head of a European development agency based in Ramallah, August 2017.

63. Habash, L. interview, Participant 63 – senior Fatah member, senior official at the Ministry of Local Government, Ramallah, August 2017.

64. Habash, L. interview, Participant 64 – Palestinian development expert/UN agency, Ramallah, August 2017.

65. Habash, L. interview, Participant 65 – ex-official dealing with the Jerusalem file at the President's Office, Ramallah, June 2018.

66. Habash, L. interview, Participant 66 – Palestinian activist, a journalist from Jerusalem, Skype, Jerusalem - Ramallah, September 2018.

67. Habash, L. interview, Participant 67 – Palestinian negotiator, 2000 Camp David Accords, Ramallah, September 2018.

68. Habash, L. interview, Participant 68 – senior Palestinian official at the Ministry of Local Government, Ramallah, August 2017.

69. Habash, L. interview, Participant 69 – Palestinian veteran political activist, Ramallah, September 2018.

70. Habash, L. interview, Participant 70 – Palestinian social scientist and political activist, Ramallah, October 2018.

APPENDIX 5: Policies and Trajectory of the Palestinian National Authority Budget[185]

The history of the budget can be divided into six distinct phases: the establishment phase (1994-99), the Intifada years (2000-02), the start of financial reform (2003-05), the Hamas government and the national unity government (2006-07), the current period (2009-13), and finally the period 2013-17.

I . The establishment phase (1994-99)

- The budget showed a surplus in 1998 and was almost balanced in the following year.
- International aid mainly went into development spending.
- Public employment reached 98,000 in 1999.
- Raise the domestic revenue to 20 percent of GDP.

II . Intifada years (2000-02)

- Local budget revenues fall sharply.
- General employment increases to approximately 124,000 in 2002.
- Significant increase in international aid to current budget spending.
- Increase in unpaid debts and borrowing from local banks.

III . The start of financial reform (2003-05)

- Payment of part of the debt to local banks.
- Public employment reached 146,000 by the end of 2005.
- The net lending bill increased to USD 344 million in 2005.
- The proportion of public spending to GDP increased in 2005 to 49 percent.

IV . The Hamas government and the national unity government (2006-07)

- Only about 40 percent of public employees' salaries were paid on average.
- The number of government employees in 2006 was about 159,000 employees (50 percent civil, 50 percent security).
- The second half of 2007 witnessed the return of a flow of clearing resources and an increase in external support to the current budget.

V . The period 2009-13

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[185] Appendix was prepared in cooperation with Mysief Mysief, Senior Economist at the Palestinian Institute for Economic Policy Research Institute (MAS).

- Increase in net domestic revenue.
- External budget support decreased from USD 1.76 billion in 2008 to USD 1.3 billion in 2013.
- Increase in the net accumulation of arrears.
- The number of employees increased to 98,000 in 2009, of which 44 percent were security personnel.

In general, the budget history shows the following trends by 2013:

The dominant feature of the Palestinian budget is that it always lives on the edge of a suffocating crisis. The core of the crisis lies in the fact that there are certain expenditures that the PA must pay monthly (mostly salaries that take more than half of the budget) in exchange for unconfirmed revenues (international aid and remittances, which account for about 80 percent of current budget revenues) and insufficient domestic revenues.

- The structural imbalance between income and expenditure is reflected in the increase in public debt (including the accumulation of arrears, i.e. outstanding government debts).
- The budget deficit depends on the amount of international support: the more support, the lower the deficit.
- The increase in expenditure is consistently higher than the increase in revenue.
- Raise income tax rates, especially for companies, to reach 25 percent instead of 15 percent. And for individuals at a rate of 10 percent.

Post-2013 budgets

Budgets were based on new policies and principles (i.e. all that has not been adopted by Salam Fayyad)

- New trends in the reform of public finance management, which began in 2014-2015; revised terminology and concept manuals were developed, and the ceilings of the budget settings of Ministries and medium-term enterprises were issued within the Program Policy Review and Expenditure Planning methodology.
- Budget preparation is integrated into the financial management system. It is followed by a new framework in 2016—a framework for reforming finance,
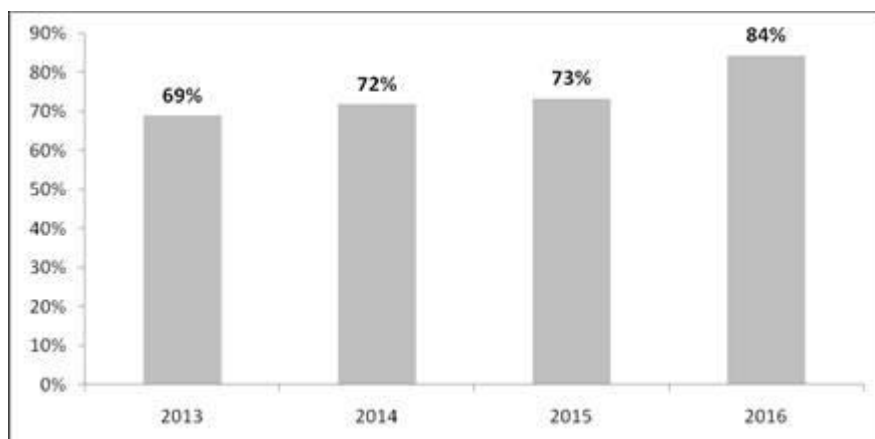
different from the past through new policies and regulations for a medium-term of three years as part of a detailed medium-term programme budget.

✧ The 2016 budget report focused on preparing a budget that is sensitive to gender and marginalized groups. The most important principle of this budget is to follow a prudent approach by increasing conservative discretion and austere spending, reducing net lending, relying on increasing domestic revenues by following the policy of horizontal expansion of the tax base, increasing tax liability and combating smuggling, and improving the relationship with the private sector. These principles are adopted by now.

✧ Reduce the proportion of corporate income tax to 15 percent and individuals to 5 percent.

✧ Reduce dependence on external support by diversifying revenues from domestic sources of property, income and added tax.

✧ Search for Palestinian financial sources within the framework of the economic rights stipulated in the Paris Agreement, and the reduction of the financial leakage of USD 300 million annually. Such as Israel's deduction of 3 percent of the value of the clearing as administrative fees, collection of the purchase tax rights for Israeli goods as well as customs and purchase tax on non-Israeli goods originating and purchased from the Israeli market. This situation has not been a concern for previous governments.

✧ To direct donor efforts to prevent conflicts between different programmes.

✧ Continuing exemptions for the agricultural sector and the renewable energy sector.

✧ Continuing the policy of not engaging with the private sector in bank borrowing, while continuing the policy of avoiding borrowing.

✧ The government continues to transfer funds on a daily and weekly basis to the local authorities and maintain the level of ILS 400 million annually.

✧ The allocation of ILS 222 million to support education sector projects in Jerusalem and the marginalized sectors in Area C.

✧ Reduce the tax burden of individuals, stimulate the growth of start-ups and small companies, and achieve more tax justice taking into account the disparity of the economic situation between the southern and northern Governorates.

- ✧ Demonstrate incentivising corporate tax policies aiming at absorbing new graduates and motivating banks and financial institutions to channel financing to small and emerging companies.

- ✧ Include the cost of reconciliation in the budget and the adoption of new development projects in the Gaza Strip.

- ✧ Enhance financial sustainability through more rationalization of expenditures, end unwarranted expenditures not resorting to borrowing as much as possible, borrow on the condition of ensuring the ability to service debt and directing to development projects rather than to consumption or current expenditure.

- ✧ Continue to strengthen the financial position of the Palestinian Retirement Authority, and transfer the monthly amount of ILS 25 million in 2018, instead of ILS 20 million that was transferred in 2017.

In general, despite the lack of financial sustainability and stability, these policies and new assumptions were not introduced before 2013. The increase in revenues was more successful than the increase in expenditure, and the increase in expenditures for the various items was 6.3 percent while the percentage of increase in net income is 18.5 percent in 2017. This is illustrated in the figure below, which shows the increased coverage of revenue over the four years before 2018, and the coverage gap decreased from 31 percent in 2013 to 16 percent in 2016.

Figure (1) Evolution of the ratio of income to expenditure coverage during the period 2013-2016

Source: Palestinian Ministry of Finance

Relationship between grants and local Palestinian revenues

The table below shows the following:

1- The increasing trend in Palestinian revenues with an increasing decline in grants and aids.

2- The decline in grants has increased after 2013.

3- The increase in revenues between 2009 and 2013 was minor, and in 2009 declined from 2008, while the increase in revenues was significant after 2014.

4- The budget deficit after 2014 is lower than before 2014, despite the decline in grants. This indicates an increase in domestic revenues after 2014, which reduced the deficit; while before 2014, the deficit was even more significant despite the increase in grants. This means that there is a Palestinian possibility of reducing the deficit by relying on local financial resources without grants.

Table 2 - Palestinian Budget - Revenues and grants and balance 2008-2017 /USD

Mill	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Total revenues	**1,896.0**	**1,675.1**	**1,927.7**	**2,189.6**	**2,289.7**	**2,542.0**	**2,928.9**	**2,959.6**	**3,649.3**	**3,704.6**
Grants and donations	**1,978.1**	**1,401.8**	**1,210.3**	**977.5**	**932.1**	**1,358.0**	**1,230.4**	**796.8**	**766.3**	**720.4**
External budgetary support	1,763.1	1,355.0	1,131.5	808.7	777.1	1,251.2	1,029.4	707.1	608.0	545.4
External financing for development expenditures	215.0	46.8	78.8	168.8	155.0	106.8	201.0	89.7	158.4	175.0
Total expenditures and net lending	**3,487.7**	**3,375.9**	**3,200.1**	**3,256.9**	**3,258.2**	**3,419.1**	**3,606.9**	**3,445.0**	**3,661.7**	**3,794.8**
Overall balance (including development expenditures)	**-1,708.0**	**-1,827.3**	**-1,354.7**	**-1,080.8**	**-1,018.0**	**-1,099.2**	**-815.6**	**-730.0**	**-326.3**	**-401.3**
Balance after external budgetary support	**270.1**	**-425.5**	**-144.4**	**-103.3**	**-85.9**	**258.7**	**414.8**	**66.8**	**440.0**	**319.1**

Source: PMA, Annual Data

APPENDIX 6: Presidential and Cabinet decisions on Jerusalem

Since 1995, there have been 46 Presidential and Cabinet decisions regarding Jerusalem, starting with the decision no (6) 1995 regarding the establishment of a Sharia Appeal Court in the PNA with its headquarters in Jerusalem.

It is noteworthy to mention that most codified laws, Presidential decisions and decrees emerged from 2000 onward. Most government decisions regarding Jerusalem were taken during Ahmad Qurei's government (2003-2006). Moreover, it is also noteworthy to mention that none of those decisions was taken during the Fayyad consecutive governments (2007-13) or the Rami Hamdallah governments (2013-18). It is also noteworthy to mention that after the national schism with Hamas, most of the decisions regarding Jerusalem were taken by the President of the Palestinian Authority (Mahmoud Abbas) in the form of Presidential decisions and decrees.[186] What is quite interesting is the nature of such decisions. For instance, almost one quarter is Presidential decrees with a symbolic nature—the rest deals with post-Separation Wall effects, and others try to build consensus over policies and intervention.

The following list was adopted from the Al-Muqtafi: The Palestinian Legal and Judicial System Portal established by the Law Center at Birzeit University.[187]

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[186] It is noteworthy to mention that since the advent of Hamas to the Palestinian governing structure in the West Bank and Gaza Strip and since the national division of 2007, the Palestinian legislative process has been impeded, hence the President has been issuing several Presidential decisions, decrees and laws by Presidential decree as a way to organize public affairs in the West Bank. Though this issue has been deemed controversial and unconstitutional (violating Article 43 of the Palestinian Basic Law), after almost 11 years, there seems to be a general acceptance of their utility for the organization of Palestinian society.
Article 43 of the Palestinian Basic Law 43 stipulates:
"The President of the National Authority shall have the right, in cases of necessity that cannot be delayed, and when the Legislative Council is not in session, to issue decrees that have the power of law. These decrees shall be presented to the Legislative Council in the first session convened after their issuance; otherwise they will cease to have the power of law. If these decrees are presented to the Legislative Council, as mentioned above, but are not approved by the latter, then they shall cease to have the power of law".

2003 Amended Basic Law The Amended Basic Law. Ramallah: 2003. Bir Zeit Institute of Law: The Palestinian Legal and Judicial System "al-Muqtafi". Available at URL: http://muqtafi.birzeit.edu/mainleg/14138.htm, [Accessed 20 September 2018].

[187] Al-Muqtafi, Palestinian Legal and Judicial System – Birzeit University, Institute of Law. *"Palestinian Authority Decisions regarding Jerusalem".* Available at URL: http://muqtafi.birzeit.edu/Legislation/ConsResult.aspx?Res=%20(LG_Main_Title%20Like%20%27%[%D8%A3%D8%A5%D8%A2%D8%A7]%D9%84%D9%82%D8%AF%D8%B3%%27)%20AND%20LG_Main_Status%20Like%20%27%%D8%B3%D8%A7%D8%B1%D9%8A%%27. [Accessed 20 September 2018).

1. The Law of the Capital no (4) 2002 is considered a Basic Law and issued by the Head of the Executive Committee of the PLO, 28 September 2002). The law entails 6 articles emphasizing Jerusalem as the capital of the Palestinian State as well as the primary and permanent headquarters of the legislative, executive and judiciary. It stipulates that the Palestinian State is the sovereign of Al-Quds Al-Sharif and the Holy places and is responsible for their preservation and guarantee freedom of movement and practice of all religions; that a particular share of the budget is allocated annually with special programmes and plans directed at public and private investment and that Jerusalem remains a development area (A) with a particular priority; that every legislation or agreement undermining the Palestinian right in Al-Quds Al-Sharif or that violates the provisions of this law; that this law cannot be modified or annulled except by the majority of two thirds 3 of the members of the Legislative Council; and that all specialized parties should implement this law effective from the date of its issuance and published in the official gazette.

2. Presidential Decree no (5) 2002 to establish the Higher Commission for Jerusalem Affairs. The decree stipulated the establishment of the Commission with an independent budget within the general budget of the state and the executive committee for the Palestine Liberation Organization, with its main headquarters in the Orient House in Jerusalem.

3. Council of Ministers Decision no (6) 2003 regarding follow-up on issues of Jerusalem, settlements and the apartheid Separation Wall.

4. Council of Ministers Decision no (7) 2003 regarding the establishment of a specialised unit to follow-up Jerusalem issues at the Prime Minister's Office (to follow-up also with the respective Ministries and the Jerusalem Presidential Committee).

5. Law no (8) 2004 to establish a Compensation Fund to address effects of Israeli aggression. It aims at supporting people who have been affected by the Al-Aqsa Intifada; its main headquarters is in Jerusalem with the possibility of having branches in other Governorates. The Fund's resources come from "what the Ministry of Finance allocates from the public budgets, from donations and any other resources the Council decides to accept". The most crucial point is that "the PA keeps its right to demand the Israeli side for compensation resulting from the damages of the Israeli aggression".

6. Council of Ministers Decision no (48) 2005 to endorse the recommendations of the Permanent Ministerial Committee on Jerusalem (12/5/2005).

   The decision considers Jerusalem as a priority in the programmes of the Islamic Bank for Development, Al-Aqsa and the Jerusalem Funds and directs the Ministries to cooperate with those institutions. The support expected was to be in the form of soft loans for the private sector in Jerusalem, protection of properties, support to social sectors and confrontation of Israeli settlement plans.

   The most crucial part in this decision is: "assign the Ministry of Finance to establish a particular financial unit in the Ministry of Finance to follow-up on all issues about Jerusalem due to the particularity of the city of Jerusalem.

7. Council of Ministers Decision no (69) 2005 to endorse the recommendations of the Jerusalem permanent ministerial committee to pay the due to support Jerusalem institutions.

8. Presidential decision no (380) 2006 regarding the establishment of a "special committee to survey, document and defend Jerusalem properties. (signed by President Mahmoud Abbas).

   The committee is comprised of 7 members of prominent personalities from Jerusalem. It specialises in the following tasks:

   - Preservation of real estate properties in Jerusalem and prevent its leakage;
   - Survey to document all Jerusalem properties that have been owned for the public benefit as well as properties threatened with leakage;
   - Coordination and cooperation with all Islamic and Christian leadership and international parties on all issues regarding the preservation of Jerusalem properties;
   - Coordination with all research centres specialised with Jerusalem affairs.

9. Decision no (269) 2007 regarding the formation of a national committee to survey damages resulting from the apartheid Separation Wall in the northern Governorates with the aim of:
   - Surveying and documenting damages;
   - Reaching out to all relevant agencies, local, regional and international in order to unify efforts and present the legal case to the International Court of

Justice regarding the illegality of the colonial wall in all the Palestinian territories and its capital Jerusalem since 1967;

- Develop a communication strategy.

10. Council of Ministers decision no (83) 2007 with regards to the formation of a committee to present a vision for Jerusalem as the capital of Arab culture/

11. Decision no (119) 2007 with regards to the National Popular Conference for Jerusalem signed by President Mahmoud Abbas.

- The National Popular Conference is part of the PLO;
- The General Secretariat stemming from it is the Higher Committee for Jerusalem in the PLO, and it is the direct point of reference for all the work in Jerusalem, and it is also the point of reference for the Jerusalem National Fund;
- The emerging Jerusalem National Fund is a national fund for Jerusalem;
- All preceding (stipulations) regarding the institutional reference in Jerusalem are cancelled.

12. Decree no (9) 2010 regarding the integration of the Jerusalem Unit into the President's Cabinet and the Islamic and Christian Association for the support of Jerusalem to be under the National Popular Conference for Jerusalem.

13. Decree no (1) 2011 regarding the formation of the National Higher Committee for Jerusalem. The Committee is formed by the name "the National Higher Committee for Jerusalem" to be headed by the Head of the Executive Committee of the PLO with members:

- the prime minister as the deputy head, Ahmad Qurei (Abu Ala), Othman Abu Gharbieh, Mohammed Ishtayyeh, Jerusalem Governor, Hussein Araj.

14. Decree no (2) 2012 regarding the redesign of the Jerusalem Municipality (Amana). The Amana comes under the Head of the Executive Committee of the PLO, the Head of the Higher Committee for Jerusalem and the Secretary-General of the National Popular Conference for Jerusalem is responsible for the supervision of it and following-up on its issues.

15. Decision no (96) 2013 regarding the formation of a special committee for the Jerusalem Fund. It stipulates the establishment of a special committee for Jerusalem (Amed Qurei (Abu Ala), Mohammed Ishtayeh, Munib Masri, and Dr Sari Nusseibeh). The Committee is assigned the task of completing the establishment of the Jerusalem Fund and the preparation of the required

bylaws for its work, and then raise it to the Head of the Executive Committee of the PLO to endorse its decision. The Committee is assigned the preparation and calling for the first Founding Conference of the Fund.

16. Decree no (20) 2013 on the establishment of the Jerusalem Fund with its permanent headquarters in the city of Jerusalem. The Fund has the right to establish offices and other branches inside and outside Palestine. The Fund also has a board of directors.

17. Decree no (46) 2014 regarding the establishment of a 'Commission for the Resistance of the Wall and Settlements'. The Commission has a permanent centre in Jerusalem and temporary offices in Ramallah and Gaza. The Commission's task is to support people affected by the Wall and the settlements and the provision of a database on such issues with more work to enhance the resilience of people affected.

18. Decree no (3) 2015 regarding the establishment of the Higher National Committee to follow-up with the International Criminal Court (ICC).

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Map 16: Annexation & Expansion Wall—ACCO—PMO / State of Palestine

Map 17: Palestinian Communities (Partially or fully in Area C) —ACCO— PMO / State of Palestine