

Reassessment of Israeli-Palestinian Political Process: Build a Palestinian State in the West Bank

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For the convenience of the readers, **each paragraph contains a single idea that is captured in the bolded sentence**. Footnotes do not include additional ideas but rather provide further elaboration, examples or sources.

This document is a translation of a document that was prepared to support the reassessment process of the Government of Israel. It has been adapted to non-Israeli readers and expanded based on recent feedback.

Executive Summary

1. **This document overviews the main dilemmas facing Israel in the political process with the Palestinians as a basis for updating Israel's strategy.**
2. **Our working assumption is that it is important for Israel to design a new strategy in the Israeli-Palestinian political process** due to the modest achievements of the Annapolis process and Israel's policies towards Gaza; concerns among the international community surrounding the establishment of the new Israeli government; the distrust toward its 'economic peace' approach; and the current reassessment by the US Administration of its policies in the region.
3. **History suggests that Israel can reap great benefits from consolidating a comprehensive strategy that sets clear objectives, sequence and benchmarks.** Whenever Israel presented such a strategy, it was able to shape the political agenda and influence the policies of the US. In contrast, in the absence of a

relevant strategy, Israel found itself led by the Arab side or the international community.

4. **Israel's conundrum regarding its relations with the Palestinians has not changed.** On the one hand, continued control over the Palestinian population in the West Bank poses a significant threat to Israel's Jewish and democratic character. On the other hand, to date, any withdrawal has led to increased terrorism and violence ('land for terror').

Moreover, Israel's 'Deluxe Occupation' in the West Bank – the situation in which Israel does not carry the full burden for the Palestinian population despite its legal status as 'occupier' – **may end if the Palestinian Authority (PA) implodes.**

5. **Any new strategy must take into account the fundamental changes that have occurred in recent years,** including: the Palestinian political and constitutional crisis and the deep split between Gaza and the West Bank; the consolidation of Hamas' control in Gaza and the creeping international recognition of its rule (despite Israel efforts); the increasing capacity of the PA in the West Bank to govern effectively; the erosion and near collapse of the principle of the Two-State Solution; and substantial international criticism during Operation 'Cast Lead', which led to a significant erosion in Israel's international standing.

6. **The Reut Institute identifies ten main strategic issues and dilemmas regarding the political process:**

- **The framework of the political process: there is no alternative for the Two-State Solution** – Despite its many weaknesses, the Two-State Solution remains the only relevant framework for the political process. All other alternative paradigms are immature and any attempt to present an alternative idea is likely to face strong resistance and carry a heavy political price. Moreover, rejection of the Two-State Solution may undermine Israel's legitimacy as a Jewish state. Finally, there are multiple ways to implement the Two-State Solution that may nonetheless serve Israel's interests.
- **How to reach Permanent Status (within the Two-State Solution)?** In this context, the Reut Institute identifies two main approaches.

The first approach is to seek a comprehensive Permanent Status Agreement (PSA), which offers a political horizon that is based on an Israeli-Palestinian agreement that establishes End of Conflict and Finality of Claims (the approach of Oslo and Annapolis). The PSA will provide for the establishment of a Palestinian state in *permanent* borders.

The second approach seeks to establish a 'Palestinian State with *provisional* borders' (PSPB) that may either be established via an Israeli-Palestinian agreement or through a process of systematic building of the capacities of the PA in the West Bank to a level of recognizing it as a state. After a PSPB's establishment, Permanent Status would be primarily shaped based on the relations between the two states.

- **How to design the parameters of Permanent Status?** A political horizon is considered a prerequisite for stability in the West Bank and for progress on the political process. It may consist of a statements describing permanent status or by a process that combines benchmarks and target dates.

The Reut Institute identifies two main approaches for defining such a horizon: The Oslo and Annapolis approach, which calls for Israelis and Palestinians to agree on a set of parameters for Permanent Status, or for the USA to superimpose a set of parameters such as the Clinton Ideas or the Bush Rose Garden Speech.

- **How to deal with Hamas?** – Hamas has succeeded in consolidating its control over Gaza and in gaining partial international recognition despite Israel's attempts to impose an international boycott. The dilemmas created by this situation include: (1) Who can replace Hamas in Gaza? Fatah does not represent a viable alternative, Israel does not want to control Gaza, and without Hamas there is a risk of total breakdown of central governance and anarchy; (2) A ceasefire allows Hamas to build its strategic military capacities with Iranian support while continued fighting risks inevitable escalation; (3) If a Palestinian national unity government is established, the likelihood of a PSA is compromised. In the absence of such government the legitimacy of the political process is eroded and ratification becomes unlikely; (4) How can Israel remove its responsibility for Gaza without opening the border crossings and thus allowing a massive military build-up by Hamas?; (5) To what extent should the Shalit deal be framed as a strategic issue, as opposed to a tactical prisoner exchange deal?
- **How relevant is the principle of de- militarization when Gaza is armed to its teeth?**
- **Palestinian constitutional and political crisis** – Addressing this crisis is a prerequisite for any political process that ultimately requires Palestinian ratification of a significant agreement with Israel. In this context, there are two options: reestablishing unity through a Palestinian national unity government; or consolidation of a temporary political and constitutional entity in the West Bank that can become an address and partner for Israel and the international community based on the assumption that the Gaza-West Bank division is irreversible in the near future.
- **Relationship between Gaza and the West Bank** – The principle that Gaza and the West Bank constitute a single territorial unit has been one of the cornerstones of the Israeli-Palestinian political process. However, Hamas' control over Gaza has de-facto created two separate territorial and political units. Any agreement with the PLO is likely to re-anchor this principle and re-join the two entities, thus compromising the prospect of allowing actual progress in the West Bank.
- **The legal framework and status of the Interim Agreement (9/95)** – What is the legal framework for Israel's relations with the PA in the West Bank?

In recent years many of the working assumptions of the Interim Agreement, which limited the attributes of sovereignty of the PA, have been eroded. Therefore, Israel may choose to transcend this agreement in the West Bank by systematically transferring powers and responsibilities to the PA or by offering to conclude a new interim agreement.

- **‘Economic Peace’** – It is widely agreed that significant economic development is critically important for political stability. This can be achieved by 'gestures' such as removing roadblocks and easing travel arrangements, encouraging investments etc; by strengthening the institutions and existing powers and authorities of the PA in the West Bank within the framework of existing agreements; or by upgrading the powers and responsibilities of the PA over and above those already existing courtesy of the interim agreement (see above).
- **Outposts and Settlements** – The carrying capacity of the Government of Israel is limited in terms of its ability to limit settlement activity. Hence, genuine Israeli commitment to the political process may challenge the wisdom of confrontation with Israel on this issue.

7. **Three possible strategies for the Israeli-Palestinian political process** – The Reut Institute identifies three possible strategies (which can also be combined):

- **Seeking a comprehensive PSA (the Oslo and Annapolis Approach)** – This approach aims to reach a comprehensive PSA whose objective is to resolve all the outstanding issues and declare an End of Conflict and Finality of Claims. Such an agreement would lead to the establishment of a Palestinian state in *permanent* borders towards Permanent Status between Israel and the Palestinians.
- **Aiming to establish a Palestinian State in *provisional* borders (PSPB) via an agreement (the Roadmap Approach)** – This approach calls for reaching an agreement on the establishment of a PSPB that will serve as a stepping stone for shaping Israeli-Palestinian Permanent Status, primarily based on the state-to-state relations and agreements between Israel and Palestine.
- **Upgrading the political status of the PA in the West Bank to a level of *de-facto* recognition as a state** – This approach seeks to bypass ratification on the Palestinian side by systematically upgrading the powers and responsibilities of the PA to the point that it can be recognized as a PSPB. Thereafter, permanent status will be shaped based on the state-to-state relations and agreements between Israel and Palestine.

For more details see the table in the document.

8. **Bypassing the Palestinian constitutional crisis is a key challenge when designing the political process.** This is a violent ideological, constitutional and political crisis that is anchored in the physical, political and governmental division between the West Bank and Gaza.

9. **Due to this constitutional crisis, the political process should avoid a 'moment of truth', as well as a 'shelf agreement', which is signed but not ratified.** In light of the crisis, there is a high likelihood that an agreement that would be signed with Israel would not be ratified or that the results of the ratification process would be bitterly disputed to the point of undermining the foundations of the PA or bringing about its collapse. Such a scenario could lead to renewed IDF presence in the heart of the West Bank population centers and to the demise of the PA and the Two-State Solution.

At the same time, there is a grave risk in signing a shelf agreement that is not ratified by the relevant legislative bodies of the PLO and remains dependent on Abu-Mazen's personal signature. Such a situation is dangerously similar to the 1982 peace agreement between Israel and Lebanon, which was rendered irrelevant with the assassination of Bashir Gemayel.

10. **In light of the above analysis, the Reut Institute concludes that the most viable strategy for the Israeli-Palestinian political process should be based on the following principles:**

- **The principle of two states for two peoples – the 'Two-State Solution' – provides the overarching principle for the Israeli-Palestinian political process;**
- **Both parties reiterate their commitment to the existing agreements – including the Madrid Process, the Oslo Agreements, and the Roadmap – that anchor the process whose objective is to end Israel's control over the Palestinian population while addressing its security concerns;**
- **The systematic build-up of powers and capacities of the PA in the West Bank will continue. Its responsibilities and territorial scope will be according to the Interim Agreement and systematically expanded;**
- **When conditions ripen, the PA will become a state via an Israeli-Palestinian agreement or through Israeli or US recognition in its new political status;**
- **The Chairman of the PA will adjust the constitutional structure of the PA in the West Bank and establish new laws for elections of the legislative and executive bodies for the West Bank. Israel will allow the PA to hold elections according to the new laws in the West Bank and East Jerusalem to establish a temporary representative body for the West Bank until the conflict with Hamas is resolved;**
- **Israel will freeze the building of outposts and expansion of existing settlements;**
- **The US could provide a political horizon if one is required (similar to the Clinton Ideas, the Roadmap or the Bush Rose Garden Speech);**

- **Permanent Status will be shaped through a series of agreements on the outstanding issues (economy, security, water etc) between Israel and the future Palestinian state.**
- **While any issues affecting the entire Palestinian people will be dealt with by Israel and the PLO, the Palestinian state will begin to dissolve the refugee issue within its own territory.**

Reassessment of Israeli-Palestinian Political Process: Lead or be Led!

Introduction and Background: Lead or be Led!

11. **This document aims to frame the main dilemmas of the political process between Israel and the Palestinians as a basis for updating Israel's strategy.** The document does not exhaust the discussion of any of the issues that are addressed hereinafter, nor does it analyze the regional context of the Israeli-Palestinian political process or any aspect relating to the policy and stature of the USA in the region.
12. **Reassessment of the Israeli-Palestinian political process is essential** for a number of reasons:

- **The Annapolis Process and Israel's policy toward Gaza over the past three years have yielded poor results relative to expectations.** Since July 2007, the PA in the West Bank has grown in strength and capacity, Israeli-Palestinian relations have not collapsed, the PA has not imploded, the Two-State Solution remains a relevant framework, and Israel's standing among some Arab states has improved.

However, in spite of significant efforts of the Olmert government, a PSA was not achieved by December 2008; the Two-State Solution has been eroded; rocket fire from Gaza has continued; and Hamas' hold on Gaza and its international position have been strengthened.

- **The new government in Israel raises concerns in the international community regarding its genuine commitment to a political process.** Absence of such commitment may eventually undermine regional stability, specifically in Egypt and Jordan, as well as strengthen the standing of Iran and other radical actors in the region.

This concern has been expressed in three different demands: to endorse existing agreements, to recognize the Two-State Solution as the framework of the political process and to continue the Annapolis Process. Clearly these demands are distinct in nature: the first is a standard obligation by international law; the second relates to an overarching principle, which underlies some of the existing agreements and particularly the Roadmap; finally, the third demand relates to a specific process (see below).

- **The 'Economic Peace' approach of PM Netanyahu is an essential but insufficient condition for stability and progress. In addition, the international community expects a political horizon and concrete progress.** The international community accepts the notion that economic development in the West Bank is essential for political stability and progress. However, establishing a 'political horizon' and credible political progress are also critically important for the legitimacy of the PA, PM Fayyed and President Abu-Mazen. They are also essential for the continued

buildup of the Palestinian Police, whose activities under the instruction of General Dayton are considered one of the sole achievements of the US in the Israeli-Palestinian arena in recent years.

- **The US Administration is also reassessing its Mideast policy, as well as its policy toward the Israeli-Palestinian process.**

13. **Who will lead: Israel or the US? Israel's dilemma: to lead or to be led** – The history of the political process suggests that whenever Israel was able to design and offer a strategy, which included clear objectives, structure and timetable that were relevant to US interests, it was able to significantly impact American policies, agenda and priorities. Conversely, when Israel assumed a more reactive and passive stance, or took positions that seemed to conflict with American interests, it found itself in tension with Washington and was eventually coerced into a political process it neither designed nor liked.

While this claim is arguable, the Oslo Process (9/93-9/95), the Camp David Negotiations, the unilateral withdrawal from Lebanon and the negotiations with Syria (7/99-1/010), as well as the Gaza Disengagement of the Sharon Government (12/3-8/05), are examples of cases when Israel was able to impact the US.

Examples for periods when Israel was led may include The Madrid Summit and Process during the Shamir Government (10/91), the Wye River Memorandum (10/98) during the first Netanyahu Government, or the first Sharon Government (until the Roadmap).

Israel's Predicament Has Become Exacerbated

14. **Israel's predicament surrounding its control over the Palestinians persists:**

- **On the one hand, continued control over the Palestinian population in the West Bank threatens Israel's character.** One could argue that for most of the past 20 years, Israel has either been an equal partner or even in the driver's seat of the Israeli-Palestinian political process.¹ This is a result of the fact that most Israelis and Zionists understand that Israel's continued control over the Palestinian population endangers Israel's Jewish and democratic character. Hence, ending 'occupation' in a way that adequately addresses Israel's security concerns is perceived to be an existential interest.

Israel's urgency stems from a confluence of powerful trends in international politics, diplomacy and law that challenges the fundamental legitimacy of the State of Israel due to the continued state of 'occupation'. While a renewal of Israeli control over Gaza would exacerbate this problem, the establishment of a Palestinian state would erode these dangers.

- **On the other hand, 'land for terror'.** Israeli withdrawals from Palestinian territories have resulted in an increase in rocket fire, as well as in waves of terror that amounted to serious national security concerns (e.g. during the

¹ This statement refers primarily to 1992-96 (Rabin and Peres Governments), 1999-01 (Barak Government) and 2003-08 (Sharon and Olmert Governments).

Oslo Process and the Rabin and Peres Governments in (7/95-3/96), during the Second Palestinian Uprising (2002-04) or around Gaza (since 8/05). Withdrawal from the West Bank may threaten the economic heart of Israel.

Moreover, Israel's control of the West Bank is a 'Deluxe Occupation': On the one hand, Israel is considered an 'occupier' by the international community due to its military presence in the West Bank and the control of its perimeter. On the other hand, as a result of the existence, capacity and activities of the PA, Israel does *not* carry the full economic, administrative, security and diplomatic responsibility for the Palestinian population under its control. This is the logic that has led many Palestinians to call for the dissolution of the PA in order to exacerbate Israel's conundrum.

15. **Any new strategy must incorporate the key developments of recent years:**

- **Palestinian political and constitutional crisis** that was created by Hamas' electoral victory (1/06), exacerbated with its coup d'état in Gaza (6/07) and consolidated by the recurring failure to establish a Palestinian national unity government (see below);
- **Hamas' consolidation of power in Gaza** through use of force, relatively effective governance and creeping international recognition of its rule, as well as due to Israel's failure to cripple it in spite of continuous efforts that reached a peak during Operation Cast Lead;
- **The increasing capacity of the PA in the West Bank to govern** through the strengthening of its institutions, the building of Palestinian police led by General Dayton and fast economic growth. Corruption has been reduced and the PA in the West Bank has earned praise for its financial conduct;
- **Iranization of the Israeli-Palestinian conflict** – Iran has turned Gaza and the Hamas government into vehicles of its war-by-proxy against Israel. Hezbollah has persistently attempted to establish its capacities in Gaza and the West Bank;
- **Another failure to conclude a PSA in the Annapolis Process** despite strong commitment by the Olmert Government, Abu-Mazen and the Bush Administration. Reasons for this failure may be subject to debate and may include persistent gaps on the outstanding issues, as well as the Palestinian constitutional crisis;
- **Erosion of the principle of the Two-State Solution.** In the past, the Two-State Solution – which also anchors the international recognition of Israel as a 'Jewish state' – was the only acceptable conceptual framework for the political process. Today its status has been severely eroded without being replaced by any new agreed alternative. Currently there is a tangible fear that this principle may completely collapse if the PA is dissolved and Israel renews full control over the West Bank or Gaza.
- **Stinging criticism of IDF actions and the erosion of Israel's international standing.** Operation Cast Lead caused waves of criticism and

de-legitimacy towards Israel, on the one hand, as well as growing support for the Palestinians and Hamas, on the other hand.

Nine Main Issues

16. **The Reut Institute has indentified nine main dilemmas** that should be taken into account when designing the next episode of the Israeli-Palestinian political process.
17. **The framework: The Two-State Solution is the only available framework** – At present and in spite of its many weaknesses, the Two-State Solution remains the only conceptual framework for managing the Israeli-Palestinian political process. Any Israeli attempt to challenge this may prove to be counterproductive due to the following reasons:
 - **There is no viable and relevant alternative paradigm.** All other ideas that have been recently raised – primarily a variety of options that are based on Jordanian 'control', 'presence', 'supervision' or 'management' of the West Bank – are neither more relevant nor riper than the Two-State Solution and have no natural partners among Palestinians, the Arab world or the international community;
 - **Introducing an alternative concept would be conditioned on paying carry a heavy political price.** Israel's ability to successfully introduce an alternative concept to the Two-State Solution – even if possible – would be conditioned on paying a significant political price in the form of concrete political commitments;
 - **Attempting to shake off the Two-State Solution may become a double edged sword.** As stated, this solution also anchors the idea of a Jewish state. Hence, renouncing it may simultaneously undermine the basic legitimacy of the idea of a Jewish state, which is already under attack;
 - **There are a variety of ways to implement the Two-State Solution.** On the one hand, adopting the Two-State Solution framework seems to entail acceptance, in the long term, of a set of general principles describing Permanent Status (probably roughly similar to the Clinton Ideas). On the other hand, there are a variety of ways that these principles can be implemented. Hence, endorsing the Two-State Solution does not mean embracing a specific set of arrangements.
18. **How to reach Permanent Status (within the Two-State Solution paradigm)?** The Reut Institute views this question as a key issue for designing the political process. In this context, we identify two basic approaches:
 - **The Oslo-Annapolis Approach that seeks to reach an agreement on End of Conflict and Finality of Claims.** This approach aims to reach a PSA that resolves all the outstanding issues between the sides, establishes a formal end to the conflict and finality to outstanding claims, provides for the establishment of a Palestinian state in *permanent* borders and defines the

principles for future relations between Israel and Palestine. The implementation of the PSA will bring about Permanent Status.

The main weakness of this approach is its 'all-or-nothing dynamic'. A basic principle in this approach is that 'nothing is agreed until everything is agreed'. Hence, progress in areas where there is room for potential progress is halted in the absence of a comprehensive agreement. In other words, the Two-State Solution may crumble while serious efforts are made to 'save' it.

Furthermore, Hamas is principally and ideologically opposed to this approach. It rejects any notion of ending the conflict or recognizing Israel.

- **A Palestinian State First Approach.** This approach, which was endorsed by the Roadmap, aims to establish a Palestinian state in *provisional* borders (PSPB) and then to shape Permanent Status primarily on the basis of state-to-state agreements (e.g. on economics, security or water). These agreements would replace chapters of a PSA thus bypassing the 'all-or-nothing-dynamic' of the Oslo-Annapolis approach. Hence, establishment of a Palestinian state would end 'occupation' and alleviate Israel's responsibility for the West Bank *before* all outstanding issues are resolved.

The advantage of this approach is that it focuses on de-occupation and promotes gradual, steady and systematic progress toward the Two-State Solution, thus reversing its erosion. This is despite the fact that this approach creates additional problems deriving from the inherent sovereign land, air and sea rights of the PSPB.

Furthermore, the refugee issue may be diluted within the PSPB framework before a PSA. This could be achieved by ensuring full and equal rights for the refugees within a PSPB, transferring UNRWA's authority to the Palestinian state or opening up a direct channel to compensate refugees for their lost property.

The main obstacle to this approach remains the opposition of Fatah although it seems this opposition is more tactical than ideological and can be partially addressed if a 'political horizon' is established. Hamas may accept this approach as from its perspective such a state could serve as a basis to continue the armed struggle against Israel.

19. **'Political horizon' / parameters for Permanent Status / principles for a PSA**
– A 'political horizon' in the form of a set of principles that describe Permanent Status and the process to reach it – such as the Clinton Ideas, the Bush Rose Garden Speech, the Oslo Process or the Roadmap – is considered a prerequisite for the legitimacy of the PA and for stability in the West Bank. **Reut identifies three main approaches for establishing such a political horizon:**
 - **Agreement between Israel and the PLO that is signed and ratified.** However, attempts to reach such an agreement have repeatedly failed due to gaps on the outstanding issues; the growing feeling among the Palestinians that time is on their side; the institutional political weakness in Israel; the Palestinian constitutional crisis since Jan 06'; the political weakness of

Fatah; and the permanent and violent resistance to any political progress on the part of Iran, Hamas, Hezbollah and even factions within Fatah;²

- **A 'shelf agreement' that is initialed by the Prime Minister of Israel and the Chair of the PLO, but not ratified by the respective parliaments.** According to this approach, the Israeli and Palestinian top executives negotiate an accord and initial it, but do not bring it to ratification in the Knesset and the PLO's Palestine National Council (PNC).

Assuming that such an agreement can be reached, this approach is problematic on two major counts: first, it may be unconstitutional in Israel. Additionally, it may jeopardize the personal safety of the Palestinian leadership thus endangering the stability of the PA.

- **A political horizon provided by the USA.** According to this approach, the USA should define the parameters for a 'political horizon' and build an international coalition towards promoting it. Thereafter, the Israeli and Palestinian sides would be called to respond to this 'political horizon' in a manner that may resemble the process that followed the presentation of the Clinton Ideas (12/00).

Past experience suggests that for a new initiative to succeed it has to fulfill a number of conditions. It should be performance and not time based; launched at the beginning of the Israeli and US Administrations; specific enough to strengthen Abu-Mazen yet general enough to maintain the stability of the Israeli Government; supported by international assistance and supervision mechanisms and include a package of incentives by the international community for both sides.

20. **Palestinian Constitutional Crisis** – This crisis, that was created with Hamas' electoral victory (1/06) and exacerbated when the movement took control of Gaza (6/07), is ideological (between Islamists and the secular-nationalist views of Fatah), constitutional (due to the struggle over the character of the legislative institutions and electoral laws), political (over power, resources and responsibilities) and fueled by recent bloodshed.

Due to this crisis the status of the PLO as the 'sole legitimate representative of the Palestinian people' has become a political empty shell. Hamas seeks to overtake the PLO and replace Fatah as the leading political organization in the Palestinian national movement. It directly challenges the legitimacy of the PNC in its present structure and membership and demands to be included. Hence, there is currently no Palestinian 'address' that can take and implement decisions on behalf of the entire Palestinian people in the West Bank and Gaza (although such an address exists in Gaza (the Hamas government) and in the West Bank (the PA)).

Hence, this crisis represents a critical challenge to the Israeli-Palestinian political process. The status and structure of the PLO, as well as Arafat's leadership and stature had been the platform for the Israeli-Palestinian political

² For more information see [Conundrum of Negotiations between Israel and the Palestinians](#).

process. All parties took for granted the ability of Arafat and the Palestinian leadership to ratify an agreement that would be signed with Israel.

Today, the capacity of the Palestinian leadership to ratify an agreement cannot be taken for granted. As mentioned, the legitimacy of the PNC is subject to a direct challenge by Hamas. Furthermore, a referendum would create further complications: not only that it may not be feasible to hold but also its results are likely to be contested to the point of destabilizing the PA.

Hence, the framing of this crisis as an 'internal Palestinian matter' may be convenient but is inappropriate. Addressing this dilemma is critical for the success of the political process.

Against this backdrop, the Reut Institute sees **two principal alternatives**:

- **A political solution: Palestinian national unity government.** According to this approach, such a government would allow Abu-Mazen as Chair of the PLO to negotiate and bring an agreement before the Palestinian people to approve in a way that will be agreed upon.

It is doubtful that such a government would be formed. Even if formed it is unlikely to be effectual. As mentioned, there are deep ideological, constitutional and political gaps between Hamas and Fatah that are likely to prove insurmountable. Beyond ideology, the practical issues that may prove unbridgeable are: the status of existing agreements with Israel, recognition of Israel, use of violence and terrorism; authority over the security forces and the courts, the budget and the international funds; future electoral laws; the make up of the PLO; the reintroduction of the PA to Gaza; or even positions in the negotiations with Israel and the makeup of the negotiation team.

Furthermore, Israel and the USA are 'third parties' to this process, sort to speak, whose positions are critical to the success of these negotiations. For example, on what conditions would the USA continue to offer financial support to this government and on what terms would Israel cease its military activities against Hamas in the West Bank?

Finally, even establishment of a Palestinian unity government creates a Catch 22 for the political process. The logic of the international efforts to establish a Palestinian national unity government is to legitimize a political process whose objective is a PSA. While, at present, when Hamas is formally excluded from the process, Abu-Mazen is able to negotiate with Israel a PSA, but not to ratify or implement it except in the West Bank. If Hamas is included, the PLO may have the legitimacy to negotiate with Israel but not to conclude a PSA.

Hence, we find this approach is likely to prove counterproductive to any political progress.

- **Temporary constitutional solution: consolidating a political entity in the West Bank.** This approach assumes that the separation between Gaza and

the West Bank is irreversible in the near future. Therefore constitutional adjustments have to be made in the West Bank to create the platform for a political process that will focus on this area. According to this approach, for example, Abu-Mazen may use his power as Chairman of the PA and the PLO to establish new electoral laws and hold elections to a West Bank government that would represent the residents of the West Bank until the constitutional crisis is resolved.

Such a step would require Israeli consent and collaboration, as well as affect the agenda of the political process. It would not only mandate deviations from the Interim Agreement and require Israeli collaboration in holding elections in the West Bank and East Jerusalem, but also narrow the negotiation agenda to issues related to the relations between Israel and the Palestinian entity in the West Bank.

21. **The association between Gaza and the West Bank** – This issue is closely related to the issue of the constitutional crisis. The 1979 Camp David Agreements between Israel and Egypt established the principle that the West Bank and Gaza constituted a single territorial unit. This principle was reiterated in the Oslo Accords. Although both Fatah and Hamas remain loyal to this principle of territorial integrity, Hamas' control over Gaza (6/07) de-facto created two separate territorial and political units.

This issue represents another 'catch 22': while any Israeli-Palestinian agreement would require renewed ratification of this principle, a strategy that is based on separate approaches to Gaza and the West Bank can *not* be formally anchored in agreements.

Furthermore, the present reality creates two distinct models with one message to the world. In Hamas controlled Gaza there are difficulties. In PA controlled West Bank there is relative stability, security, economic development and even possibly political progress.

22. **De-militarization (when Gaza is armed to its teeth)** – The de-militarization of the Palestinian state – or some version thereof – has been one of the pillars of Permanent Status. However, since Hamas took over Gaza, it has been armed to its teeth in a manner that seems irreversible at the moment.

Hence, it would be very complicated to craft an agreement that establishes this general principle, on the one hand, and provides for the difference between Gaza and the West Bank, on the other hand, particularly if the political unity between Gaza and the West Bank would be recreated.

23. **Status of the Interim Agreement (9/95)** – The Interim Agreement (9/95) is the agreed framework that shapes Israeli-Palestinian relations in the West Bank (to the extent that this legal perspective matters). This agreement was designed based on a set of working assumptions that were aimed to deny the PA attributes of sovereignty until the PSA was concluded and a Palestinian state was established.

Many of these working assumptions have become eroded since negotiations took place such as. For example, in 1995 there was no physical border between

Israel and the PA, while now there is; in 1995 Permanent Status seemed to be imminent (due to be signed in 5/99) while today it seems distant; in 1995 Israel opposed symbols of sovereignty in the PA and rejected the idea of Palestinian statehood while today even this has changed.

In this spirit, the Interim Agreement established many restrictions on the powers, authorities and symbols of sovereignty of the PA in security, economic and civilian areas. For example, the PA was forbidden to establish embassies, issue currency, become a member of international economic organizations or maintain an independent customs envelope.

Hence, there are currently two main approaches regarding the status of the Interim Agreement and the powers and authorities of the PA in the West Bank, which derive from it.

- **The Interim Agreement will continue to serve as the basic agreed framework** that determines relations between Israel and the West Bank **until it is replaced by a PSA or a new agreement;**
 - **The time is ripe to change the parameters of the Interim Agreement in order to upgrade the PA into statehood** through a new agreement or on the basis of understandings between Israel and the PA.
24. **'Economic Peace'** – The Netanyahu Government was elected, inter alia, on the platform of 'economic peace', which called for decisive Israeli action to accelerate economic development in the West Bank. As mentioned, while no one argues as to the importance of economic development for stability and political progress, there is a widespread agreement regarding the need for a political component to Israel's policy. Nonetheless, a policy of economic peace may comprise three layers.
- **'Gestures'** – defined as steps that do not affect the powers, responsibilities or capacities of the PA – such as removing roadblocks, easing travel arrangements or encouraging investments;
 - **'Strengthening' existing institutions, powers and capacities of the PA** in the West Bank *within* the framework of existing agreements;
 - **'Upgrading' the PA** by systematically transferring powers and authorities in the areas of economic development over and above those that exist by virtue of the Interim Agreement (see above). In this spirit, it may even be possible to advance and implement some arrangement that represent mature state-to-state economic relations between Israel and the PA such as the ones discussed during the Camp David or Annapolis Processes.
25. **Outposts and settlements** – This issue may become a major point of friction between Israel and the US in the coming years. Past experience suggests that if Israel is genuinely committed to the political process, the tendency of the US to clash with it over issues considered to be tactical, such as dismantling outposts and settlements, declines. In this context, the opposite is also true.

Hammas

26. **Israel's policy since March 2006 has not achieved its objectives** – Since Hamas' electoral victory (1/06), Israel has held firm to its policy of three demands of recognition of Israel, endorsing existing agreements and ceasing terrorism as a precondition for alleviating the boycott and siege around Gaza. Therefore, ceasefire arrangements were unstable as while lifting the siege was a principal demand by Hamas, Israel refused to do so

While this policy ambitiously aimed to topple Hamas or radically transform its ideology, it established its own glass ceiling since Israel had no intention of reoccupying Gaza. Hence, this policy was destined to fail since inception, despite Israel's success in establishing an international coalition around these three demands and close understandings with the US Administration and Congress.

Operation Cast Lead was the unavoidable outcome of this policy. As Israel refused to lift the siege and respond to the principal demand of Hamas, any ceasefire was destined to short life. Finally, although the IDF pushed deep into Gaza during Operation Cast Lead, Hamas' status continued to strengthen thereafter (even if its appetite for confrontation with Israel decreased, for a while).

17. **There is no disagreement within Hamas' regarding the rejection of Israel's right to exist** – Hamas rejects the Jewish *right* for self-determination in Israel and calls for its replacement with a Palestinian-Islamic state. At the same time, some members of Hamas are willing to recognize the *fact* of Israel's existence. Both use the armed struggle and politics to serve their cause. **There are two approaches within Hamas over how to fulfill this objective.**

- **Phased approach / Pushing Israel out** - This approach is concurrent with the PLO's Phased Plan whose objective is to push Israel back *in stages* until the complete liberation of Palestine. It recognizes the *fact* of Israel's existence and may 'allow' for the establishment of a Palestinian state in part of 'Historic Palestine' and even a long term ceasefire with Israel (*Hudna*). According to this approach the 4th June 1967 borders are temporary borders and represent cease fire lines.

- **Logic of implosion / Pulling Israel in** – This approach maintains that the demographic, political, military and economic burden caused by the Israeli 'occupation' of the Palestinian population may actually bring about Israel's collapse (similar to South Africa or the Soviet Union). This approach thus aims to foil any political process that would establish a Palestinian state alongside Israel and views the renewal of Israel's control in Gaza as a strategic asset for the national Palestinian struggle.

27. **The dilemmas posed by Hamas makes it difficult for Israel to consolidate a coherent military or political policy.** Thus the IDF was unable to translate its military superiority during Operation Cast Lead into equivalent political achievements. The main dilemmas are as follows

- **Alternative to Hamas regime** – Israel would like to see Hamas toppled, but does not have a credible and viable moderate option to replace it: Israel doesn't want to reoccupy Gaza and Egypt wants nothing to do with it; the PA doesn't want to regain its control over Gaza from Israel; and Hamas consolidated power is preferred to the anarchy that emerge by its demise;
 - **Ceasefire** – On the one hand, Israel wants to a stable ceasefire around Gaza. On the other hand, such a ceasefire would allow Hamas to strengthen itself politically to the point of challenging Fatah, Fayyed and Abu-Mazen in the West Bank and militarily to the point of threatening many more Israelis in case the conflict is renewed.
 - **Participation in the political process** (see above about the Palestinian national unity government) – Hamas is an integral, authentic and powerful part of Palestinian society who rejects the premise of the Israeli-Palestinian political process in violation of the existing agreements. Not only that its participation in elections is a condition for their legitimacy, but also it is likely to be an integral part of any democratically elected Palestinian body of government.
 - **Responsibility for Gaza** – Israel officially contends that it is not responsible for Gaza. Nonetheless, it prevents the opening of Gaza's border crossings and is held de-facto responsible by the international community.
 - **Gilad Shalit** – What is the framing and context of the Gilad Shalit deal: is it a prisoner / POW exchange or part of a broader package of strategic issues such as border crossings or ceasefire?
28. **Two distinct strategies** - There is thus an urgent need to formulate consistent and clear policies towards Hamas. In this context there appear to be two approaches.
- **Military option: decisive action to topple Hamas** militarily and control Gaza with the ultimate aim of transferring responsibility to another entity, which is most likely the PA when the conditions ripen. According to this logic, Israel should seek a direct confrontation with Hamas in order to destroy its government and infrastructure;
 - **Political option: 'Corridor of Difficult Decisions'** – This approach is based on recognizing *the reality* of Hamas control of Gaza and pursuing a *political* strategy in order to isolate and weaken it until it collapses as a result of internal political and social dynamics. According to this policy, Israel and the USA should create a series of challenges for Hamas that will exacerbate its internal and external dilemmas.

Three Main Strategies for Managing the Political Process

29. **In light of the above analysis, the Reut Institute identifies three main approaches to the political process:**
- **Seeking a PSA that establishes End of Conflict and Finality of Claims** (recreation of Oslo and Annapolis) – According to this strategy, the

objective is to conclude an agreement that will establish End of Conflict in and Finality of Claims between Israel and the Palestinians. Such an agreement will lead to the establishment of a Palestinian state and the resolution of all outstanding issues between Israel and the Palestinians.

The primary advantage of this strategy is two-fold: First, it is the accepted paradigm that requires little explanation. Second, it calls for establishing a 'package' that bundles all the outstanding issues that are highly interdependent.

The main disadvantages of this approach are: the large gaps between the parties regarding the outstanding issues; the Palestinian constitutional crisis may compromise ratification (see above); and this is an all-or-nothing approach whose repetitive failures may at some point lead to further decline or even collapse of the PA and the Two-State Solution.

- **Agreement on a Palestinian State in Provisional Borders in the West Bank** – According to this approach, the objective is establishing a Palestinian state in *provisional borders in the West Bank* before a PSA thus achieving 'de-occupation' in the West Bank as was envisioned according to the second phase of the Roadmap (adjusted to the new realities). The resolution of the outstanding issues will be achieved primarily via direct state-to-state negotiations.

The primary advantage of this approach is its relevance to the existing realities of the political and physical split between Gaza and the West Bank, as well as its focus on rapid de-occupation in the West Bank and on consolidating the Two-State Solution. In addition, it does not represent a direct confrontation with Hamas ideology. In fact, Hamas spokespersons supported a long term *Hudna* in exchange for a state in 1967 borders.

The primary problems with this approach are that currently, Abu Mazen publicly opposes the establishment of a PSPB having framed it as a 'trap' (2/05), although his objections do not seem ideological. Second, an agreement on a PSPB is as complex as a PSA, since it requires, for example, crafting an agreement that balances Israeli security concerns with Palestinian sovereignty. Therefore this approach is also vulnerable to the constitutional crisis on the Palestinian side.

- **Upgrading the PA in the West Bank to a level of recognizing it as a state** – According to this approach, progress will be achieved primarily through a systematic effort to build the capacities, powers and responsibilities of the PA in the West Bank to the point that it can be recognized as a 'state'.

Significant strides in this direction have already happened over the last year in policing, planning and building, sewage, education, transportation, judiciary and health. **However, consolidating these activities into an 'upgrade' of the PA requires decisive action by Israel and the US** as it entails transcending the logic and wording of the Interim Agreement (see above). For example, Israel could remove its objections towards Palestinian

currency, an independent Palestinian customs envelope, foreign embassies in Ramallah and PA representations abroad, and PA membership in international organizations.³

The uniqueness of this approach is that its focus is on bypassing the Palestinian constitutional crisis. It requires no formal agreements and it is entirely within the jurisdiction of the executives on both sides.

	PSA / End of Conflict / Finality of Claims (Oslo & Annapolis)	PSPB First (Return to adjusted Roadmap)	Upgrading the PA
How to reach Permanent Status	This approach is based on the Oslo / Annapolis outline: first a PSA that resolves all out-standing issues; its implementation establishes a Palestinian state, ends 'occupation' and shapes Permanent Status.	This approach is based on the outline of the Roadmap: the parties will reach an agreement on the establishment of a PSPB. Permanent Status will be shaped primarily through state-to-state negotiations.	This approach suggests a new outline for reaching PS: the PA will be upgraded by systematic buildup of powers and responsibilities. When ready it will be recognized as a state. Thereafter, Permanent Status will be shaped primarily through state-to-state relations.
How to create a political horizon	Through bilateral agreement.	Either through bilateral agreement or by the USA offering such a horizon.	<i>Same:</i> Either through bilateral agreement or by the USA offering such a horizon.
How and when the historical issues will be resolved?	<i>Detailed</i> resolution of all issues in the PSA.	The historical issues will be resolved over time, primarily through state-to-state agreements between Israel and the Palestinian state. The refugee issue will be diluted within the Palestinian state.	<i>Same:</i> The historical issues will be resolved over time, primarily through state-to-state agreements between Israel and the Palestinian state. The refugee issue will be diluted within the Palestinian state.
How to deal with the Palestinian constitutional crisis?	This approach is only possible and realistic if the Palestinian constitutional crisis issue has been addressed (probably within a united government) as such as agreement will have to be ratified.	<i>Same:</i> This approach is only possible and realistic if the Palestinian constitutional crisis issue has been addressed (probably within a united government) as such as agreement will have to be ratified.	This approach avoids the need to address the constitutional crisis as a precondition for the political process. Instead it is possible to focus on creating temporary constitutional arrangements in the West Bank.
Relationship	This approach would have	This approach would have	This approach

³ (For more information see [Upgrading the Palestinian Authority to the Status of a State with Provisional Borders](#))

	PSA / End of Conflict / Finality of Claims (Oslo & Annapolis)	PSPB First (Return to adjusted Roadmap)	Upgrading the PA
between Gaza & West Bank	to be based on the principle of unity of Gaza and the West Bank in spite of the reality of separation between Gaza and West Bank. Therefore it is unclear how this principle can be adjusted to the current reality.	to be based on the principle of unity of Gaza and West Bank. But, this approach allows focus on establishing a PSPB in the West Bank.	distinguishes in principle and practice between Gaza and the West Bank for the time being.
Policy toward Hamas in Gaza	This approach mandates a policy that gradually integrates the West Bank and Gaza politically and then also on practice. Otherwise, any PSA would be a dead letter.	This approach requires crafting an agreement that addresses both Gaza and the West Bank. In practice, there can be separate policies in Gaza and the West Bank as this approach focuses on building a PSPB in the West Bank.	This approach allows different policies in principle and practice toward Gaza and the West Bank.
Status of Interim Agreement	The Interim Agreement is valid until replaced by a PSA.	The Interim Agreement is valid until it is replaced by the new agreement creating the PSPB.	Israel and the Palestinians transcend the Interim Agreement and upgrade the PA.
Advancing Economic Peace	Apart from 'gestures' such as opening crossings and removing roadblocks or steps to 'strengthen' the PA, any significant economic steps will comprise part of the PSA and will thus be postponed until its completion.	<i>Same:</i> Apart from 'gestures' such as opening crossings and removing roadblocks or steps to 'strengthen' the PA, any significant economic steps will comprise part of the PSA and will thus be postponed until its completion.	According to this approach it is possible to create a new set of economic arrangements based on understandings between the PA in the West Bank and Israel even without any new formal agreements.
Outposts and settlements	A serious effort to reach PSA would defer the issues of dismantling outposts and settlements until the implementation of the PSA.	<i>Same:</i> A serious effort to reach PSA would defer the issues of dismantling outposts and settlements until the implementation of the PSA.	Israel will have to stop building outposts and expanding settlements and may even have to unilaterally dismantle some in order to create a PSPB in the West Bank.
Intl. Involvement (US, Quartet, Egypt,	The agreement will be signed between Israel and the PLO. International involvement is essential to its implementation.	<i>Same:</i> The agreement will be signed between Israel and the PLO. International involvement is essential to its implementation.	International involvement is essential for upgrading the PA. A political horizon may be provided by the US.

	PSA / End of Conflict / Finality of Claims (Oslo & Annapolis)	PSPB First (Return to adjusted Roadmap)	Upgrading the PA
Jordan)		Political horizon may be provided by the US.	

Palestinian Constitutional Crisis: Avoiding a Moment of Truth

30. **The Palestinian constitutional crisis is the formative consideration for designing the political process: even if signed, an agreement may not be ratified and the Two-State Solution may collapse.** As mentioned, the Palestinian constitutional and political system used to be stable to support the assumption that any signed agreement would be ratified and implemented (as was during Oslo). Nowadays, this system suffers from a severe crisis, thus making it highly doubtful whether it could ratify a signed agreement and then implement it.
31. **A moment of truth would emerge if the Palestinians are required to ratify an agreement with Israel.** There is a high chance that the ratification process – referendum or PNC vote – wither would not happen or be disputed to a point of destabilizing the PA and even its collapse altogether. **In other words, a process designed to pin down the Two-State Solution may lead to its demise.**
32. **This aspect represents the major weakness of the Annapolis Process.** Its structure ignored this issue altogether.
33. **The design of the political process needs to strive for harmony between powers, responsibilities and ideology of the Palestinian interlocutor, on the one hand, and the agenda of the political process, on the other hand. In absence of such harmony, prospects for success are slim and the political structure may implode.** As mentioned, no such harmony existed during Annapolis or exists today.

34. Therefore, the design of any political process needs to be based on three pillars:
 - **Addressing the Palestinian constitutional crisis** seeking an overlap between the powers and authorities of the Palestinian interlocutor, on the one hand, and the agenda of the negotiations, on the other hand. As stated, the two options in this context are a Palestinian unity government that will legitimize negotiations with Israel *or* encouraging a separate temporary political entity in the West Bank that will be upgraded to statehood;
 - **Strengthening the PA** as an effectively functioning government in the West Bank;
 - **No Ratification.** If the objective of the political process is to consolidate the Two-State Solution, than no agreement should be brought before the PNC for ratification until the above conditions are met.

Recommended Strategy: Upgrading the PA in the West Bank to a State

35. In light of the above analysis, the Reut Institute concludes that the most viable strategy for the Israeli-Palestinian political process should be based on the following principles:

- The principle of the two state for two peoples – the 'Two-State Solution' – provides the overarching principle for the Israeli-Palestinian political process;
- Both parties reiterate their commitment to the existing agreements – including the Madrid Process, the Oslo Agreements, and the Roadmap – that anchor the process whose objective is to end Israel's control over the Palestinian population while addressing its security concerns;
- The systematic build-up of powers and capacities of the PA in the West Bank will continue. Its responsibilities and territorial scope will be according to the Interim Agreement and systematically expanded;
- When conditions ripen, the PA will become a state via an Israeli-Palestinian agreement or through Israeli or US recognition in its new political status;
- The Chairman of the PA will adjust the constitutional structure of the PA in the West Bank and establish new laws for elections of the legislative and executive bodies for the West Bank. Israel will allow the PA to hold elections according to the new laws in the West Bank and East Jerusalem to establish a temporary representative body for the West Bank until the conflict with Hamas is resolved;
- Israel will freeze the building of outposts and expansion of existing settlements;
- As there is currently no reason to negotiate over a PSA, the US could provide a political horizon if one is required (similar to the Clinton ideas or the Bush Rose Garden Speech);
- Permanent Status will be shaped through a series of agreements on the outstanding issues (economy, security, water etc.) between Israel and the future Palestinian state.
- While any issues affecting the entire Palestinian people will be dealt with by Israel and the PLO, the Palestinian state will begin to resolve the refugee issue within its own territory.

End.