



Brandeis University

Crown Center  
for Middle East Studies

Mailstop 010  
Waltham, Massachusetts  
02454-9110

781-736-5320  
781-736-5324 Fax  
[www.brandeis.edu/centers/crown/](http://www.brandeis.edu/centers/crown/)

*Director*  
Prof. Shai Feldman

*Associate Director*  
Kristina Cherniahivsky

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Khalil Shikaki, Ph.D.

*Research Fellow*  
Jeremy Pressman, Ph.D.

*Postdoctoral Fellows*  
Banu Eligur, Ph.D.  
Naghmeleh Sohrabi, Ph.D.

# Middle East Brief

## Palestinian and Israeli Policy Options: Implications for U.S. Diplomacy

Prof. Shai Feldman  
Dr. Khalil Shikaki

This paper explores the main policy options facing Israel and the Palestinian Authority (PA) following elections to the Palestinian Legislative Council and the Israeli Knesset in early 2006. It also addresses the implications of these options for U.S. interests and policy, with particular attention to how each option may affect the Bush administration's ability to deal with the Middle East, given over-all administration priorities and the U.S. domestic political environment.

### *Muddling Through*

The first option facing Israel and the PA is to attempt to continue muddling through. Under this option, following Israel's disengagement from Gaza and from an area in the northern West Bank, neither side would make a serious effort to resolve the Palestinian-Israeli conflict, to continue the process of Israel's disengagement from the Palestinians, or to promote Palestinian institution and state-building.

The option of muddling through is most compelling if one or both parties believes that the situation is not ripe for a return to full-fledged negotiations, or that the other side will not engage in negotiating meaningful steps to resolve the conflict. The option would also make sense if Israel and/or the PA believe that they cannot afford to take dramatic unilateral steps to advance their interests (Israel's interest in disengaging from the Palestinians, and the Palestinian interest in state and institution-building.)

Muddling through does not mean total stagnation or a return to 2002-2003 levels of violence. It implies that some elements of the current calm persist, that conditions on the ground continue to improve modestly but very slowly, and that the Palestinians continue to take limited (indeed, largely cosmetic) steps toward reform. It also assumes that Israel takes some limited measures to improve Palestinians' living conditions in Gaza and the West Bank, that construction in existing settlements in the West Bank continues, and that Israel completes construction of the "barrier," including where its demarcation cuts deep inside the West Bank.

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This option further assumes that the two sides continue to suffer some level of violence, more or less at the level experienced in 2005. Each side reacts to violence exercised by the other, but within boundaries.

The role of the United States in this scenario is limited to maintenance and damage control. Recognizing that the situation is markedly improved in comparison to conditions that prevailed before the death of PA leader Yassir Arafat and before Israel's disengagement, U.S. leaders will remain unhappy with both sides' performance in the aftermath of these developments, and will decline to take proactive measures to help the parties resolve their dispute. Instead, the Bush administration will attempt to prevent the situation from worsening through continued low-key efforts to help the parties improve economic and security conditions on the ground.

The most important down-side of this option is that it could pave the way for renewed full-scale violence. Without determined efforts by Israel and the PA to resolve their conflict, organizations and individuals committed to violence will control the agenda, and the limited but meaningful improvements experienced in 2005 will be reversed, replacing the new optimism expressed by Palestinians and Israelis in the post-Arafat, post-disengagement era with disappointment and pessimism. Once again, Palestinians will feel that they have nothing to lose by exercising violence and Israelis will feel no reason to restrain their reactions.

Such a deterioration could seriously complicate Egypt's involvement in Gaza, with potentially negative impacts on Egyptian-Israeli and Egyptian-Palestinian relations. Having re-injected itself into the Gaza Strip (against its traditional better judgment), Egypt may now find itself in the cross-fire of renewed Palestinian-Israeli violence. If Israel and the PA do not act to stabilize the situation, Cairo is likely to be angry with both sides.

Under such circumstances, the United States might well abandon its efforts to maintain calm and to improve Palestinians' living conditions, just as the Bush administration largely "opted out" of such involvement in 2003 in the aftermath of failed mediation efforts by General Tony Zinni. If Washington loses patience with the parties' unwillingness to abandon old ways, the Bush administration could once again withdraw its representatives (Jim Wolfenson on the economic side and General Ward or his successor on the security side.)

In the short term, a U.S. withdrawal would probably not have serious domestic consequences, but the long-term regional impacts would likely be considerable and negative. No strong domestic constituency exists for deep U.S. involvement in Arab-Israeli peacemaking, so just as U.S. diplomatic pull-out following the failure of the Zinni Mission had little impact on President Bush's standing, so a U.S. withdrawal from the Palestinian-Israeli diplomatic efforts are likely to be met with sympathy and understanding. But renewed Palestinian-Israeli violence would seriously undercut U.S. policy in the region. Most importantly, with no sign of progress toward ending the insurgency in Iraq, the televised return of violence in the Israeli-Palestinian front will make it even harder for the U.S. to win the battle over the "hearts and minds" of the Arab street.

#### *Negotiating a Permanent Status Agreement*

Renewing the effort to negotiate a permanent status agreement is clearly the most ambitious of the four options facing the PA and Israel. If successful, this approach would clearly be far preferable since it would have the potential to end Palestinian-Israeli conflict. But attempting permanent status negotiations might also prove extremely risky: failure could trigger new Palestinian despair and an explosion of violence like the events that took place in the aftermath of the failed 2000 Camp David negotiations.

Trends in Palestinian and Israeli public opinion on some of the permanent status issues point to a significant narrowing of gaps between the two sides. With regard to borders between Israel and the future Palestinian state, the two peoples seem closer than ever to accepting the so-called "Clinton parameters." Specifically, for example, the future of the

Jordan Valley may prove far less contentious in future negotiations than was the case in 2000.

But this convergence does not necessarily hold for all permanent-status issues: for example, the demographic problem—which was an important factor in Israel's decision to begin disengaging from the Palestinians—is also making Israelis more sensitive than ever to formulas regarding Palestinians' "right of return" that might open the door to large-scale return of Palestinian refugees to pre-1967 Israel. This increased sensitivity may lead to greater Israeli flexibility regarding a re-division of Jerusalem: Israelis seem far less eager than before to incorporate the Arab neighborhoods of Jerusalem into their state. However, this greater flexibility does not necessarily apply to the hilly basin; it is still far from certain that the parties will find a formula to resolve their pursuit of sovereignty over Temple Mount/Harm al-Sharif.

These difficulties indicate that although the gap between Israelis and Palestinians regarding permanent status seems to have narrowed in recent years, negotiating a permanent status agreement and implementing it would require very strong leadership on both sides. While President Abu Mazen clearly favors this route, he may not be strong enough to make the necessary concessions to obtain and implement an agreement. Moreover, the PA's capacity to engage in negotiations would be affected by forthcoming elections to the PLC: a strong showing by Hamas will clearly make Abu Mazen unable to act flexibly enough to reach a permanent status agreement.

On the Israeli side, a return to permanent status negotiations is predicated on the new leadership of the Labor Party controlling the national agenda. But it is far from clear that the next elections will produce a clear mandate for negotiations. Even if these elections produce a Labor-Sharon governing coalition, and even if the two components of this coalition agree on meaningful steps to move the Israeli-Palestinian process forward, it is not assured that they will also achieve enough consensus on final status issues to make it possible to hold negotiations with the Palestinians.

Some members of the Israeli Right have expressed support for permanent status negotiations, but this readiness seems to be primarily designed as a challenge to Sharon's unilateral and phased approach. Those who have stated such a preference have not demonstrated that they are willing to adopt positions that might enable an agreement to be reached.

From the U.S. standpoint, returning to permanent status negotiations appears to be extremely risky. Such an effort would be difficult to pull off without heavy American involvement, but in view of the Bush Administration's demanding domestic and foreign policy agendas—primarily the war in Iraq and the after-effects of Hurricane Katrina—it is hard to imagine that President Bush will invest the time and energy in Arab-Israeli peacemaking that Presidents Carter and Clinton were willing to devote. Nor is it clear that President Bush has the attention span of his predecessors, especially the attention to detail required to chaperone such negotiations effectively.

### *Negotiations Focused on Phases I and II of the Road Map*

Absent conditions that would facilitate new permanent status negotiations, a third option is for Israelis and Palestinians to engage in negotiations focused on implementing Phases I and II of the Quartet's Road Map. This option is based on a lesson from the failed attempt to reach a permanent status agreement in 2000, namely that such negotiations cannot succeed without an infrastructure of mutual trust and confidence. Discussions focusing on Phases I and II would channel the parties to create the conditions for the establishment of a Palestinian state with provisional borders and to negotiate the attributes of such a state.

Whether Palestinians and Israelis can pursue this option successfully clearly depends on election results on both sides. Palestinian elections would need to result in a comfortable majority for Fatah. A strong showing by Hamas (anything above 35 percent) would make it exceedingly difficult for Abu Mazen to meet the Palestinian requirements under Phase I of the Road Map by disarming the armed militias and thus establishing a monopoly of force. Yet even if Fatah does well in these elections, it is doubtful that Abu Mazen will be able to muster sufficient support for a disarmament process unless Israel completely freezes settlement activity.

On the Israeli side, elections to the Knesset would need to produce a governing coalition that is willing and able to dismantle the outposts and freeze construction in existing settlements. This could happen if the new leadership of the Labor Party frames this issue in a social context by calling for a reallocation of precious financial resources from settlement construction in the West Bank to dealing with the urgent needs of development towns inside the Green Line. For this approach to succeed, Israelis would need to feel confident that they could allow their approach to the Palestinians—as well as their vote in the next elections—to be determined primarily by social-economic considerations, not by security imperatives. This choice, in turn, will be strongly affected by the overall level of security at the time of elections. By making a significant contribution to security-building, the United States thus could allow Israelis and Palestinians to give higher priority to social-economic considerations.

While these conditions are not impossible to envision, fulfilling Phase I of the Road Map would further require the main components of Israel's new governing coalition to agree on the scope of a freeze on settlement activity, and Palestinians would have to accept such an agreement. Specifically, the players would have to be able to reconcile their views about the applicability of such a freeze to the large settlements blocks, including those in the vicinity of Jerusalem at-large.

Phase I of the Road Map also requires Israel to withdraw its forces to the lines held until September 2000. Current realities on the ground—primarily, the expansion of permanent checkpoints—indicate that Israeli leaders are not now contemplating such a withdrawal.

On the Palestinian side, implementing Phase II of the Road Map is an even greater potential minefield. There is a clear risk that Israel would take advantage of its comparative strength and

freeze the process after the Palestinian state is established, thus making the Palestinian state's provisional borders permanent. This places a serious onus on U.S. policy, since Palestinians are unlikely to engage in negotiations focused on implementing Phases I and II without strong U.S. assurances that Washington would not permit the process to end with Phase II.

Alternatively, the Palestinians may be willing to focus on Phases I and II and to suspend their pursuit of Phase III implementation if the United States clarifies its positions on the most important final status issues. In particular, since Phase II-focused negotiations are likely to center on demarcating the prospective state's provisional borders, the United States will be called upon to clarify its understanding regarding the Palestinian state's final boundaries.

Another major Palestinian concern involves the characteristics of the provisional state envisaged in Phase II. Palestinians currently suspect that Israel does not intend to give a Palestinian state real territorial contiguity, but rather that it intends to provide "transportation contiguity" through various technical means that would allow greater ease of movement and improved quality of life.

Despite these problems, it is hard to exaggerate the advantages that this option offers for both parties. For Israel, Phase I signifies the end of violence, while the establishment of a Palestinian state with provisional borders, encompassing all the large population centers, will relieve Israel from much of the demographic pressure that it currently faces. For the Palestinians, Phase I will end settlement construction everywhere but the large settlement blocks. It is important to note that Palestinians interpret Phase II to stipulate establishment of a provisional state as an option, not a requirement. However, Israel regards this view as violating the very "performance-based" logic of the Road Map—that is, predicating advances on full compliance with the requirements of the previous phase.

#### *Israeli and Palestinian Coordinated Unilateral Steps*

The fourth option is an extension of the *modus operandi* launched by Israel's disengagement from Gaza, with the Palestinians following the Israeli example. It centers on two separate but coordinated series of steps: first, unilateral Israeli moves ending control over the Palestinians and restoring and preserving Israel's Jewish and democratic identity by disengaging from additional parts of the West Bank; and second, parallel Palestinian state-building and institution-building measures aimed at unilaterally establishing independent statehood. Under this scenario the Palestinians would not necessarily declare a *de-jure* independent state, but the PA would gradually gain the attributes of statehood in Gaza and the West Bank.

Israel's withdrawal from Gaza has already demonstrated that these measures cannot be implemented in isolation: even within a move that was largely unilateral, the parties had no choice but to negotiate or at least coordinate closely certain activities regarding which they were interdependent on one another. This was clearly the case with respect to the fate of the Rafah crossing in the aftermath of Israel's withdrawal: while Israel

withdrew from Gaza unilaterally, the Palestinian assumption of responsibility and control over the crossing was an important state-building measure. And while both steps were largely taken unilaterally, the parties had to coordinate them. Palestinian failure to coordinate post-withdrawal arrangements in Rafah with Israel would have led Israel to establish the boundaries of its customs envelope along the Gaza-Israel border, resulting in additional economic harm to the Palestinians.

Coordinated unilateralism has clear drawbacks. It implies that the two communities avoid assuming any reciprocal obligations or contractual commitments to peace. Moreover, in the process of attempting to gain internal legitimacy and support, both sides might make moves that created friction rather than accommodation. For example, to compensate for its additional pullbacks, Israel might actually expand construction in the large settlement blocks. At the same time, instead of disarming militias, the Palestinians could decide simply to integrate some of these forces into the PA's army and police.

Yet Israel's disengagement from Gaza showed that this approach has some advantages that are not widely appreciated. In the absence of contractual obligations, the parties cannot be held accountable to agreements reached. Thus, post-Oslo quarrels about compliance failures are largely avoided.

Moreover, the fact that Israel has dismantled settlements in Gaza as well as in the West Bank (a dramatic step that was avoided by all Oslo and Post-Oslo Israeli governments, including those headed by peace-seeking prime ministers Rabin and Peres) at least suggests that it may be easier to implement far-reaching measures advancing a two-state solution when these are presented as meeting each party's self-interest, rather than as "concessions" made to the other side within the framework of a negotiated process.

Compare the problems that are entailed in this option with the difficulties associated with implementing the first phase of the Road Map. Some Palestinian opponents of establishing a PA monopoly of force by disarming the armed militias argue that this step—stipulated under Phase I of the Road Map—should be avoided as long as Israel does not meet its primary obligation under Phase I to dismantle outposts and freeze settlement construction. At the same time, some Israeli opponents of a settlement freeze ask why Israel should take such a measure while Palestinians fail to disarm the militias.

In contrast, unilateralism allows both sides to implement these measures independently. Israelis may be persuaded to halt settlement construction, at least outside the large blocks, in order to avoid additional financial investments in settlements which may later be dismantled and to allow scarce resources to be reallocated to development towns in the Negev. Palestinians may move to disarm the militias in an effort to establish law and order—a prerequisite for state-building—rather than as a favor to Israel. In sum, both sides may be more likely to do the right thing if taking such measures is not tied to the other side's behavior.

Yet some aspects of Israel's disengagement from Gaza had to be coordinated while others (notably the opening of the Rafah

crossing) had to be negotiated, and this is even more likely to be the case if Israel attempts a meaningful additional disengagement in the West Bank. This is so because further Israeli pullbacks, even if substantial, will fall short of a withdrawal all the way to the location of the security barrier (that is, from some 93 percent of the West Bank), let alone to the 1967 lines. Because the pullbacks will be incomplete, they will require some sharing of responsibilities in the West Bank, and such sharing will need to be negotiated. Any significant new Israeli withdrawals in the West Bank will spur Palestinian state-building impulses, but the Palestinians are more likely to support such measures if they provide significant territorial contiguity, if Israel transfers major responsibilities following the pullbacks, if Palestinians attain some control over border crossings, and if the PA is allowed to maintain some presence in East Jerusalem.

Israeli-Palestinian coordinated unilateralism does not obviate U.S. involvement, as was demonstrated during the recent post-disengagement negotiations over the opening of the Rafah crossing—an agreement which was not reached until U.S. Secretary of State Condoleezza Rice intervened. Nevertheless, it stands to reason that a process envisaged as largely unilateral is likely to require much less intense U.S. involvement than that required for pursuing Options 2 or 3. Clearly, option 4 will not require U.S. presidential time and energy of the type invested by presidents Carter and Clinton.

#### *Concluding Remarks*

The purpose of this paper is to open a discussion, not to close it. For this reason, it attempts to characterize the main options available to Israel and the Palestinians and offers a preliminary analysis of the advantages and drawbacks associated with each of these options. We do not conclude with a “bottom line” that weighs these pluses and minuses or stipulates which of the four options is more likely to be pursued.

The chances that any of these options will be adopted depend both on the balance of the advantages and disadvantages associated with each of these policy tracks, and on Israeli and Palestinian domestic politics. These factors, culminating in elections to the Palestinian Legislative Council on January 25 and to the Israeli Knesset on March 28, will reflect shifts in the internal distribution of power among Israelis and Palestinians as well as changes in the two peoples’ priorities. In turn, these different priorities will affect how each side ranks the various options discussed here.



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