



مركز بروكنجز الدوحة
BROOKINGS DOHA CENTER

BROOKINGS DOHA CENTER ANALYSIS PAPER
NUMBER 25, MARCH 2019

Palestinian Reconciliation and the Potential of Transitional Justice

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**PALESTINIAN RECONCILIATION AND THE
POTENTIAL OF TRANSITIONAL JUSTICE**

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ACKNOWLEDGEMENTS

The author would like to thank the research and communications department of the Brookings Doha Center (BDC) for their support and feedback. The author would further like to thank Hamideh Dorzadeh for research assistance and help with the translation of Arabic texts. Lastly, the author thanks the interviewees for providing insight into the prospects of intra-Palestinian reconciliation.

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Johannesburg, March 2019

EXECUTIVE SUMMARY

This paper focuses on the political division between Fatah and Hamas as the principle obstacle to intra-Palestinian reconciliation. The lack of trust between the two factions is rooted in the 2007 division, or *fitna*. This separation occurred when Hamas took control of the Gaza Strip after winning the 2006 elections for the Palestinian Legislative Council (PLC) and after a period of violent clashes between Hamas and Fatah security forces. In the decade since the 2007 division, Fatah and Hamas have signed several reconciliation agreements, but the will to carry out the agreements often withered before the ink was dry. Despite several meaningful attempts, calls for reconciliation on both sides have mostly been rhetorical. Deep mistrust has caused each attempt at reconciliation to falter, and tensions between the two key Palestinian political parties continue to this day.

This analysis will extensively address the key concepts of transitional justice and reconciliation in the case of Palestine. Transitional justice refers to the ways in which countries that have emerged from periods of conflict and repression can address large-scale or systematic human rights violations to which the conventional or existing justice system does not have adequate responses.

The principal question is: To what extent can transitional justice and its mechanisms further intra-Palestinian reconciliation?

The need for intra-Palestinian reconciliation is urgent for many reasons. First, the humanitarian situation in Gaza is deteriorating by the day. Second, reconciliation is crucial to minimize the risk of intra-factional violence and to increase the chances of reaching peace with Israel in light of the upcoming battle on who should succeed President Mahmoud Abbas. Third, the actions of the Trump administration, particularly the potential “deal of the century” and the transfer of the U.S. embassy to Jerusalem, could lead to an irreversible separation between Gaza and the West Bank.

This paper argues that the state of Palestine can draw inspiration from transitional justice mechanisms in order to overcome the intra-Palestinian divide. It analyzes the applicability and potential of these mechanisms, proposing that they can

strengthen reconciliation regardless of whether transitional justice is adopted whole-scale. While transitional justice is no panacea and can, when applied in a context-insensitive manner, exacerbate tensions, select mechanisms can move the current reconciliation efforts forward. This paper will focus on reconciliation agreements and reparation payments, as well as non-monetary mechanisms, such as symbolic reparations (which include acknowledgment, memorialization, and apology); truth-telling and dialogue; and the reform of the Palestinian judiciary.

INTRODUCTION

Palestinians are facing a battle on two fronts: a battle against the ongoing Israeli occupation, as well as a battle for intra-Palestinian reconciliation. The ongoing division between Fatah and Hamas, the two major political parties, has disrupted and delayed the prospects for Palestinian peace and solidarity. It has also become a major obstacle to resisting the Israeli occupation. Even though Palestinians live under occupation and lack control over their own political fate, they are not powerless in creating the conditions for intra-Palestinian reconciliation. While leaders of Fatah and Hamas have taken concrete steps to achieve reconciliation, such reconciliation has not yet been attained.¹

This paper focuses on the political division between Fatah and Hamas as the principle obstacle to intra-Palestinian reconciliation. The lack of trust between the two factions is rooted in the 2007 division, or *fitna*. This separation occurred when Hamas took control of the Gaza Strip after winning the 2006 elections for the Palestinian Legislative Council (PLC) and after a period of violent clashes between Hamas and Fatah security forces. In the decade since the 2007 division, Fatah and Hamas have signed several reconciliation agreements, but the will to carry out the agreements often withered before the ink was dry.

Despite several meaningful attempts, calls for reconciliation on both sides have often been rhetorical. Deep mistrust has caused each attempt at reconciliation to falter, and tensions between the two key Palestinian political parties continue to this day.

The attempts to achieve dialogue and reconciliation within Palestine* have been described as “Putting the Palestinian House in Order.”² This view posits that Palestine will not achieve peace with Israel until the rift between Fatah and Hamas has been healed. However, it does not follow that intra-Palestinian reconciliation would necessarily lead to peace between Israel and Palestine. The following analysis reflects these assumptions and will seek to answer this central question: To what extent can transitional justice and its mechanisms further intra-Palestinian reconciliation?

* The author uses the term Palestine to refer to the Occupied Territories of the West Bank and the Gaza Strip.

This paper argues that the state of Palestine can draw inspiration from transitional justice mechanisms in order to overcome the intra-Palestinian divide. It analyzes the applicability and potential of these mechanisms, proposing that they can strengthen reconciliation regardless of whether transitional justice is adopted whole-scale. While transitional justice is no panacea and can, when applied in a context-insensitive manner, exacerbate tensions, select mechanisms can move the current reconciliation efforts forward. This paper will focus on reconciliation agreements and reparation payments, as well as non-monetary mechanisms, such as symbolic reparations (which include acknowledgment, memorialization, and apology); truth-telling and dialogue; and the reform of the Palestinian judiciary.

Transitional justice in the intra-Palestinian context has entered the debate on Palestinian reconciliation fairly recently. While there is a growing body of literature and an increase in academic conferences³ on transitional justice in the Israel-Palestine context,⁴ there is still a dearth of analytical scholarship on the application of transitional justice within Palestine.⁵ This research aims to fill that gap.

This paper will extensively address the key concepts of transitional justice and reconciliation in the case of Palestine. Transitional justice refers to the ways in which countries that have emerged from periods of conflict and repression can address large-scale or systematic human rights violations to which the conventional or existing justice system does not have adequate responses. Transitional justice mechanisms help people to confront the past and to learn the truth of what their government has done in their name. These mechanisms also help to restore faith in the processes that guide people's daily lives.

The aims of transitional justice include fostering trust among individuals, communities, and state institutions by encouraging dialogue between opposing groups and uncovering the truth about the past. Transitional justice mechanisms typically refer to reparations, truth commissions, and accountability measures, such as prosecutions or the provision of amnesty to those alleged to have committed serious human rights violations and international crimes. Transitional justice mechanisms include the making of apology,⁶ memorialization, reform of the judiciary (including vetting processes), lustration,⁷ re-education,⁸ and guarantees of non-repetition.

The term reconciliation assumes two meanings. One meaning of reconciliation refers to overcoming differences and tensions to restore friendly relations and to reconcile clearly opposed positions. In the Palestinian context, the term reconciliation has assumed a second, more political, meaning. It refers to the current expectation of the Palestinian Authority (PA), the Palestinian governing

body, that Hamas should, in the name of reconciliation, hand over power to Fatah. Whereas few would disagree with the need to restore friendly relations between the two groups, it is this second meaning of reconciliation which remains a point of contention.

This paper will start with a history of the intra-Palestinian conflict. This rift reaches back (at least) to the establishment of Hamas in 1987, but this analysis will focus on the events since the 2007 division. This is the best chronological starting point, since it was this division that caused the political break in Palestinian unity. The emphasis will be on Fatah and Hamas, but the position of the smaller Palestinian parties will also be considered.⁹ After this historical overview, the paper will discuss the scholarship surrounding transitional justice in comparative perspective. Then, the paper will provide an overview of transitional justice measures that are most helpful in the context of intra-Palestinian reconciliation and address the question of why current transitional justice mechanisms are failing. Finally, the paper will conclude with a set of policy recommendations.

The findings in this study rely on 30 interviews conducted in Ramallah, Jerusalem, Istanbul, and Doha with Palestinians who are involved in intra-Palestinian reconciliation efforts as government officials, observers, academics, and activists. This study will consider developments up to July 30, 2018. One reason why Palestinian politics is difficult to research is that policy in Palestine is continuously shifting as Palestinians respond to a volatile and changing situation. Another challenge in researching Palestine is the fact that a significant amount of information is either undocumented or not readily available.

The need for intra-Palestinian reconciliation is urgent for many reasons. First, the humanitarian situation in Gaza grows worse by the day. In many ways, Gazans have borne the brunt of the ongoing rivalry between Fatah and Hamas. The Israeli siege against Gaza began on June 15, 2007. It consists of an ongoing air, land, and sea blockade, which severely restricts access to the Gaza Strip and worsens the living conditions of Gazans.¹⁰ The PA also imposed sanctions on Gaza in 2017¹¹ to wrest control of Gaza away from Hamas and to pressure Hamas to unconditionally agree to its demands, which include terminating the Hamas-led administrative committee in Gaza, relinquishing control of Gaza to the PA, and holding presidential and legislative elections.¹² The overwhelming majority of Palestinians recognize the injustice of this situation and demand an immediate halt to all measures taken by the PA against Gaza. The U.S. withdrawal of funding to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in 2018 further exacerbated the humanitarian situation in Gaza.¹³

Second, reconciliation is crucial to minimizing the risk of intra-factional violence and to increasing the chances of reaching peace with Israel in light of the upcoming battle on who should succeed President Mahmoud Abbas.¹⁴ Third, reconciliation is increasingly necessary because the actions of the Trump administration, particularly the potential “deal of the century” and the transfer of the U.S. embassy to Jerusalem, could lead to an irreversible separation between Gaza and the West Bank.¹⁵ The threat posed by such a deal, as well as the continuous erosion of the rights of Palestinians, demonstrates the importance of Palestinians presenting a united front, as this could strengthen their resistance against the Israeli occupation.

Lastly, the grievances between Fatah and Hamas should be addressed as a matter of urgency because both factions are losing popular support.¹⁶ This means that the ability of the two major parties to legitimately negotiate peace with Israel and to appeal to the international community for constructive intervention is diminishing.

BACKGROUND ON THE RIFT BETWEEN HAMAS AND FATAH

The second Palestinian elections held in 2006 presented a turning point in the Palestinian political process and caused a deep division between Fatah and Hamas. However, the roots of the animosity between these two parties have been attributed to long-standing differences regarding the role of politics and religion in the struggle for Palestine, as well as Israeli policies.

The scope of the paper does not include an extensive discussion of longstanding Israeli policies aimed at creating and maintaining a divided Palestine. The Israeli siege cut Gaza off from Israel and the West Bank starting in 2007. It played a significant role in plunging Palestine into continuous, factional conflict and distrust.¹⁷ Although the Israeli occupation forces have implemented the mechanisms of closure and siege since 1967, the 2007 blockade of Gaza was the most comprehensive in that it restricted freedom of movement more severely than before. As a result, it also had the most dramatic consequences for the Palestinian political system. The division left the political system vulnerable and characterized by anarchy.¹⁸ The division has further embroiled Palestinians in factional fighting that has eroded their interest in the Palestinian national struggle.¹⁹ Israel has also disrupted the reconciliation initiatives in various ways, such as by placing consistent pressure on the PA not to reconcile with Hamas.²⁰

Additionally, the focus of this paper does not allow for a full exploration of the differences between Fatah and Hamas. It is, however, important to highlight two central differences. Whereas Fatah—founded by Yasser Arafat—is secular and nationalist in orientation, Hamas defines itself as a “Palestinian Islamic national liberation and resistance movement,” and uses Islam as its frame of reference for governing.²¹ The second significant difference concerns their respective views on how to resist the Israeli occupation. While Hamas has persisted in advocating for armed resistance, Fatah has adopted a strategy of negotiation.²²

OTHER PALESTINIAN POLITICAL PARTIES

Where do the smaller Palestinian political parties and groups stand in terms of the Hamas-Fatah divide? The Popular Front for the Liberation of Palestine (PFLP) has clearly indicated that it is closer to Hamas than to Fatah. In January

2018, the leader of the PFLP, Ahmed Saadat, who currently remains imprisoned by Israel, declared that the PFLP would remain on the side of the “live” resistance movements.²³ Saadat has strongly supported national reconciliation efforts made by Hamas, and the PFLP describes Hamas as “a vital part of the Palestinian national movement.”²⁴

The Palestinian Islamic Jihad group broadly agrees with Hamas regarding reconciliation. It believes that the implementation of the 2011 Cairo agreement²⁵ represents the most important step toward reconciliation.²⁶ Islamic Jihad is not currently a member of the Palestine Liberation Organization (PLO), the organization that claims to be the embodiment of the Palestinian national movement and its purpose of liberating Palestine.²⁷ Islamic Jihad is willing to be part of a national partnership to restructure the PLO but is not willing to participate in a political partnership with the PA.²⁸ However, since joining the PLO would invariably mean joining in a broad partnership with the PA, Islamic Jihad is not likely to join the PLO soon.

It argues that, so long as Mahmoud Abbas remains the leader of the PLO, the organization will continue to be dominated by the PA. This means that the interests of other groups will not be sufficiently accommodated. Since Fatah has long been the leading faction in the PLO and since Fatah dominates the PA, it is only natural that Islamic Jihad would be wary of participating in the PLO in its current form.

In general, the smaller parties argue that the reconciliation process focuses exclusively on Fatah and Hamas, and that those two groups are not treating the reconciliation issue as a national issue.²⁹ The perception is that the two largest parties pay more attention to the views of “outsiders” (international actors) than to the smaller parties.

THE 2006 ELECTIONS AND THEIR VIOLENT AFTERMATH

In January 2005, following the death of Yasser Arafat, Mahmoud Abbas, the Fatah candidate, was elected as the President of the PA. In the January 2006 elections for the PLC, Hamas won a majority of 74 out of 132 seats (56 percent) in the Palestinian legislature. Fatah came in a distant second with 45 seats.³⁰ Hamas’ victory over Fatah in the popular vote was a much narrower 44 percent to 41 percent.³¹

Fatah, backed by Western powers and several Arab states, refused to accept the outcome of the elections. It was simply unthinkable that Hamas, long-labeled as a terrorist organization by Western powers such as the United States, could govern Palestine.

In the months after the contested 2006 elections, Fatah and Hamas once again became estranged. They failed to reach a political settlement on the question of early elections³² and on forming a national unity government.³³

Security tensions ran high after Abbas assumed direct power over the PA security forces and declared the Hamas-aligned Executive Force unlawful and illegitimate in April 2006.³⁴ The Executive Force, however, continued to be active. This led to widespread, sporadic military clashes from Gaza to Nablus, in the West Bank, from 2006 through mid-2007. The situation was exacerbated when Abbas formed a 2,000-strong Special Force that would protect Fatah officials and security forces against Hamas fighters. Lawlessness among security personnel exacerbated the chaos and loss of life.³⁵ Hamas accused Fatah of plotting to overthrow the elected government.³⁶

In June 2007, Hamas proceeded to eject all Fatah officials from the Gaza strip. The ensuing conflict that occurred in Gaza between June 10 and June 15, 2007 was so intense that some described it as a Palestinian civil war.³⁷ Several atrocities were committed against Fatah fighters in the course of the brief, but intense, conflict. Fighters on both sides were pushed alive from the tops of high buildings.³⁸ Others were dragged half-naked through the streets.³⁹ It was later found that some of these actions constituted humanitarian law violations by both Hamas and Fatah.⁴⁰

The International Committee for the Red Cross (ICRC) estimated that at least 116 people were killed and more than 550 wounded during the fighting in the week ending on June 15.⁴¹ According to the Palestinian Independent Commission for Citizens' Rights, over 600 Palestinians were killed in the fighting from January 2006 to May 2007.⁴² In the aftermath of the abuses, Shawan Jabarin of Al Haq, a Palestinian human rights NGO, stated that the factions must establish a transitional justice program that holds the perpetrators of human rights violations accountable.

The clashes in June intensified when Hamas captured members of Fatah in Gaza and killed Mohammed Sweirki, an officer from the Presidential Guard of President Abbas, by throwing him off a building. After the incident, gun battles between the two factions continued, and Fatah members killed Mohammed al-Rifati, a Hamas mosque preacher.⁴³ Fatah further responded by attacking and killing a Hamas militant. On June 11, the day after the intense confrontations, a senior official of Fatah, Secretary General Jamal Abu al-Jadiyn, was executed by Hamas members. The killing of Abu al-Jadiyn further heated the internal situation in Gaza and resulted in planned attacks on individuals and security bases. The offices of the leaders of the

factions, Prime Minister Ismail Haniyeh and President Mahmoud Abbas, were attacked on the same day as the execution of Abu al-Jadiyn.⁴⁴

Between June 9 and June 13, approximately 59 Palestinians were killed, including two U.N. workers, and 273 people were injured as the result of the fighting.⁴⁵ By this time, Hamas had consolidated its power in northern Gaza, gained control over the strategically important North/South road,⁴⁶ and launched an attack on Fatah's Preventive Security Force in the Gazan town of Khan Yunis.⁴⁷ Finally, on June 15, Hamas was able to assert full control over Gaza, legitimize its rule, and defeat all Fatah forces. In the West Bank, President Abbas declared a state of emergency and dissolved the short-lived unity government that had been formed in March 2007.

The battle of Gaza thus resulted in a division between the West Bank and Gaza. A particularly significant feature of the 2007 division was the formation of parallel government institutions. For example, the court system, including the judiciary, was split into two.

Furthermore, Hamas proceeded to create a parallel security force, which was made up of members of the al-Qassam Brigades. The security forces of the two sides refused to cooperate. Hamas' forces represented a tradition of armed resistance, whereas those of Fatah were committed to upholding the Oslo Accords.⁴⁸ Despite Hamas's takeover of Gaza, the PA kept tens of thousands of employees based in Gaza on its payroll. These PA officials stayed home but still claimed their salaries while Hamas employed tens of thousands of Hamas officials to replace them.

In the context of the 2007 conflict, the "doing of justice" can take the form of transitional justice mechanisms. Due to the dysfunctional state of the Palestinian justice system, transitional justice mechanisms might be particularly appropriate.

THE CONCEPT OF TRANSITIONAL JUSTICE

The term transitional justice was coined by Ruti Teitel and defined as “exploring the role of law in periods of radical political transformation.”⁴⁹ Transitional justice is essentially concerned with the question of how a successor regime should deal with the human rights abuses of its authoritarian predecessor(s).⁵⁰ Transitional justice can also be understood as a practical toolkit to provide guidance to states during and after political transition. Originally conceived of in relation to transitions from authoritarian to democratic forms of government, in more recent times transitional justice has come to be applied to a variety of ongoing conflict situations, such as those in Colombia, the Democratic Republic of the Congo (DRC), Uganda, various Arab Spring countries,⁵¹ and Palestine.⁵²

Applying transitional justice to the Middle Eastern context is still controversial. Many Palestine-focused academics and commentators argue that it is premature to apply transitional justice in the context of Palestine, as a political transition has not taken place, and does not seem likely to in the near future.⁵³ However, Teitel contends that transitional justice is sufficiently capacious to find application beyond the initial or traditional limits of the discipline. This means that transitional justice can apply even in situations of ongoing conflict.⁵⁴ Likewise, Noha Aboueldahab writes that transitional justice needs to be developed to take into account complex and non-liberal transitions.⁵⁵ She posits that the Arab region presents the strongest challenge yet to the transitional justice paradigm, since transitions in the Arab World are typically not from illiberal to liberal rule, but rather from illiberal to a new form of repressive rule.⁵⁶ She describes these as “ambiguous transitions.”⁵⁷

The case of Palestine is particularly difficult because of the fact that Palestinian statehood remains disputed. The purpose of applying transitional justice mechanisms in such a context would be to encourage reconciliation in the hope that creating the right political climate on the Palestinian side could facilitate a transition to a political solution with Israel. This would provide self-determination and statehood to Palestinians.

The purpose of transitional justice mechanisms is to create social conditions in which human rights will be respected.⁵⁸ Transitional justice seeks to establish

the principles to govern the transition from a morally deficient former order to a morally superior future one.⁵⁹ The claim that transitional justice is morally transformative is, of course, as with most claims about morality, subjective and open to question.

The idea of reconciliation has been a central part of transitional justice from its inception. While it is not always clear that reconciliation can be achieved through transitional justice mechanisms, reconciliation is always one of the central objectives of transitional justice processes. In the context of the former Yugoslavia, the Council of Europe described the essence of a reconciliation process: “post-war justice is not only judicial and retributive...It is above all restorative and preventive, providing redress to victims and to eliminate impunity and ensure that all people in the region come to terms with the past, and live in peace and security.”⁶⁰

TRANSITIONAL JUSTICE EFFORTS AND RECONCILIATION IN OTHER CONTEXTS

The success of the South African transition from apartheid has long been an inspiration to Palestinians. Government officials in the West Bank and Gaza, as well as those representing local and international NGO’s in both Ramallah and Gaza, have regularly and consistently referred to the South African model as highly-instructive.⁶¹ The South African model was the product of ongoing negotiations between the African National Congress (ANC) and the ruling National Party.

One reason why the South African model is frequently invoked is because of the similarities between apartheid South Africa and the segregated conditions in which Palestinians live under Israeli occupation. However, the scope of this analysis paper will not cover the extent to which the apartheid analogy can successfully be used in the context of the Israeli occupation.⁶²

A few central features of the South African transitional justice model exhibit particular relevance for Palestine: first, the negotiation process that preceded the first democratic elections; second, the concept of interim power-sharing; and, third, the concept of acknowledging the truth about the past. These features could bolster the Palestinian reconciliation process. The extent to which the South African transitional process, and particularly the Truth and Reconciliation Commission (TRC), achieved reconciliation is still unclear.

However, the TRC process was aimed at *promoting* reconciliation, and there is general consensus that the TRC succeeded in meeting this objective. Perceptions do tend to differ among generations. Older generations of South Africans believe that the TRC did contribute to racial reconciliation, while younger South

Africans argue that the TRC's delinking of reconciliation and social justice had dire consequences for reconciliation.⁶³ There does seem to be broad consensus that the commission contributed to the creation of a human rights culture and to restorative justice.

Following the South African model, truth commissions were established in many transitional contexts, including in Sierra Leone. The majority of scholars agree that these commissions contributed to reconciliation between victims and perpetrators in Sierra Leone to some degree.⁶⁴

TRANSITIONAL JUSTICE MEASURES IN THE CONTEXT OF INTRA-PALESTINIAN CONFLICT

Reconciliation agreements are considered transitional justice mechanisms because they can form a foundation for the transitional process. Among numerous reconciliation conferences, documents, and agreements, the Cairo Agreement of 2011 stands out as the strongest and most recent attempt to formulate a comprehensive plan and vision for reconciliation.⁶⁵ It led to optimism for a period because it marked a preliminary agreement on the PA officially reasserting control over Gaza. However, this has not come to fruition and the Israeli blockade against Gaza, as well as the PA sanctions, remain in force. Both the 2011 and the 2017 reconciliation agreements will be discussed below. The applicability of other transitional justice mechanisms will also be discussed, including: reparations; reforming the Palestinian justice system; and truth-telling and dialogue.

1) THE 2011 CAIRO AGREEMENT

The 2011 Cairo Agreement remains the most authoritative and legitimate reconciliation agreement between Fatah and Hamas.⁶⁶ The agreement called for elections for the PNA President, the PLC, and the Palestinian National Council (representative body of the PLO) to be held within a year from signing. The two sides also agreed to form a consensus government for the interim period.⁶⁷

It is no coincidence that the Cairo agreement was signed in 2011. The Arab Spring inspired a popular movement on both the West Bank and Gaza sides to end the division. As the Egyptian revolution of 2011 gained momentum, Fatah became amenable to reconciliation. Palestinian reconciliation was a primary concern of the Egyptian foreign minister at the time, Nabil al-Arabi.⁶⁸

In the spirit of the moment, Hamas leader Ismail Haniyeh gave a televised speech during which he invited Fatah to a comprehensive dialogue. Abbas promptly responded to this invitation and agreed to visit Gaza to form a consensus government. Because of political differences between the two sides, however, this visit did not happen.

Despite the cancellation of Abbas' visit, there was still sufficient political will to sign the reconciliation agreement. Post-Mubarak Egypt also played an important

role in enabling the acceptance of the reconciliation document by all parties.⁶⁹ The Supreme Council of the Armed Forces (SCAF), the group that ruled Egypt after Mubarak was ousted, was crucial in creating a positive environment for acceptance of the Cairo Agreement.⁷⁰ Egypt, for example, supervised follow up meetings between Hamas and Fatah in March and April 2011. The agreement was finally signed on May 3, 2011.

The 2012 Doha Declaration was signed in an effort to promote implementation of the 2011 Cairo agreement, but no unity government was formed until after the April 2014 reconciliation agreement. There are two important reasons for this: first, there was a lack of trust between Fatah and Hamas on some critical issues; and, second, Israel exerted pressure on the PA not to enter into a unity government with Hamas.⁷¹

Palestinians hoped that the 2011 Cairo agreement would be the start of a new chapter in domestic Palestinian relations. Palestinian factions largely welcomed the reconciliation agreement, but demanded that there be guarantees put in place to see it through. Some factions believed that a bilateral framework was insufficient and that a comprehensive national agreement was needed.⁷²

Prominent Palestinian government officials, as well as members of smaller parties and civil society, have consistently viewed the 2011 Cairo agreement as the best hope for promoting shared understanding and reconciliation, as well as the most comprehensive plan for reconciliation. A prominent member of Hamas believes that the Cairo agreement could resolve every important issue in the reconciliation process.⁷³ In principle, Hamas is opposed to the continuous signing of new reconciliation agreements.

As part of the 2011 Cairo Agreement, five committees were established to reach a final arrangement on how to run the Occupied Territories. Fundamentally, these committees were tasked with overseeing implementation of the reconciliation agreement. The details of the committees' work were fleshed out in the 2011 Cairo agreement.⁷⁴ These committees have an ongoing mandate to work toward reconciliation. The implementation of the commitments made in the 2011 agreement (with the necessary adjustments to consider developments since that period), and the active continuation of the work of the Cairo committees, is an important, potential way forward.

The committees concerned with national reconciliation are the Social Reconciliation Committee and the Public Freedoms Committee, which were both set up to implement the Cairo Agreement. The Elections Committee will also briefly be described here. These three committees represent some of the most

important elements needed to bolster reconciliations efforts between Hamas and Fatah and to mitigate the tensions that arose after the 2007 clashes.

(A) SOCIAL RECONCILIATION COMMITTEE

The social reconciliation committee works on a number of issues relevant to supporting reconciliation between Fatah and Hamas.⁷⁵ In Palestine, the term “social reconciliation” is understood as pertaining only to issues stemming from the division and not to social reconciliation in its broader sense.

This committee aims to foster civil peace, which enhances political partnership and supports the advancement of society by strengthening unity. This is the first step toward ending the division. In spite of these ambitious goals, the committee has met infrequently. Its objectives include: restoring Palestinian unity by ending the most important files of victim’s cases during the period of division; ending tension among families that lost their sons in the division; ending the justifications for fugitives, killings, counter-killings, and adherence to Islamic law to end cases; healing the wounds of division and strengthening the steadfastness of the Palestinian people in the Gaza Strip; promoting social and community reconciliation to end the division; and maintaining civil peace, social fabric, and cohesion among families in Gaza.⁷⁶

(B) PUBLIC FREEDOMS COMMITTEE

Created to supervise the release of political affiliates on both sides and to improve the state of civil and political rights, the Public Freedoms committee has a fairly broad mandate. Much of its work relates directly or indirectly to reconciliation. The committee has focused a substantial part of its work on freedom of movement. It also works to end newspaper bans and to reopen charities and rights groups that were closed during the political division.⁷⁷ It further considers the issue of the large number of civil servants who lost their jobs during the 2007 conflict.⁷⁸

The committee is particularly concerned with prisoners’ rights. Although torture is an ongoing problem in Palestinian prisons, the prosecution of the perpetrators of torture is not currently high on the Palestinian agenda. At a meeting in 2013, the committee recommended, for example, that prisoners should only be questioned in the presence of a lawyer.⁷⁹ This recommendation has, however, not been implemented. In fact, the recommendations made by the committee are rarely implemented by the PA. At times, the committee has suspended its work as a result of the government’s failure to implement its recommendations.⁸⁰ Frustration has increased as the committee has been unable to show much for its work, despite several premature announcements that newspapers would begin circulating and detainees would be released.

(C) ELECTIONS COMMITTEE

Holding national elections is a crucial step toward attaining real democracy, as well as intra-Palestinian reconciliation. Crucially, the fact that the PLC has been unable to convene since 2007 means that there has not been a functioning parliament for more than a decade. Free elections can, however, only take place once there is an independent judiciary, since the courts must be ready to hear election-related disputes. The 2011 Cairo Agreement made provisions for the creation of an Electoral Court, as well as for the formation of the Elections Commission. In accordance with the election law of Palestine, the Palestinian president must form an election committee based on consultations. The holding of elections is a matter of political will that has long been lacking on the part of the PA. Political will can, however, be bolstered by effective civil society mobilization, as well as by the actions of international organizations.

2) THE 2017 CAIRO AGREEMENT

By October 2017 one could discern a clear and growing rift between Fatah and Hamas. This was triggered partly by Abbas imposing socioeconomic sanctions on Gaza as a way of forcing Hamas to agree to the PA's demands.⁸¹ The sanctions included limiting the electricity supply to Gaza in May 2017.⁸² Shortly afterward, Abbas demanded that the cabinet ministers in the West Bank be moved to Gaza to take over its ministries. This was one of the few of Abbas' demands that Hamas conceded to because of the economic pressure placed on it by the PA.⁸³

The scene was set for a new reconciliation effort when, in an attempt to show openness to reconciliation, Hamas unveiled a "Document of General Principles and Policies" in 2017. This was the first ideological document released by Hamas since the release of its 1988 founding charter.⁸⁴ The document reveals a less hardline position toward Israel and underscores the conflict as political, rather than religious.⁸⁵ The fact that Hamas refuses to give up its military power remains one of the major sticking points in the reconciliation process. The group continues to define itself as a national liberation movement, and the recent document shows no indication that it will abandon the armed struggle as a central method of resistance against Israel.

Another factor that created a favorable climate for unity talks was the change of leadership in Hamas. Significantly, the proximity of the new Hamas leader, Yahya Sinwar, to Mohammed Dahlan provided the possibility of money flowing into Gaza from the United Arab Emirates (UAE). Dahlan is a former Fatah leader and former member of the PLC. He was ousted by Mahmoud Abbas in 2011 because of corruption charges and allegations of

planning to overthrow Abbas. His close ties with the UAE, which provides him with financial support, and with Egypt, one of the main actors in the reconciliation efforts between Hamas and Fatah, makes him a significant player. Overall, Hamas' need for funding led to a closer relationship between he and the party.⁸⁶

The unity negotiations were generally credited to Dahlan.⁸⁷ By this time, he had carved out a role for himself by brokering a deal to supply Gaza with Egyptian fuel when Abbas cut off electricity there. Dahlan also promised to bring UAE-funded development projects to the Strip.⁸⁸ In 2017, Dahlan led social reconciliation efforts—most prominently, the payment of compensation to the families of those killed in the 2007 clashes.

The enmity between Abbas and Dahlan, and the desire to keep Dahlan out of the process, was one of Abbas's main motivations for participating in the talks. Some Fatah leaders tried to limit Dahlan's role by insisting that all Gaza-bound aid must go through the PA. Egypt—a close UAE ally—is unlikely to yield to that demand. At the time, Abbas's willingness to accept a role for Dahlan was believed to be instrumental in the success or failure of reconciliation.⁸⁹

PA Prime Minister Rami Hamdallah subsequently visited Gaza as part of ongoing unity negotiations.⁹⁰ On October 12, 2017, with Egyptian mediation, Fatah and Hamas signed an agreement stipulating that the PA would take control of the Gaza crossings on November 1, 2017 and would assume its full responsibilities in Gaza by December 1, 2017.

In return, the PA agreed to lift financial restrictions on Gaza, which had been imposed as punitive measures.⁹¹ Thirteen other Palestinian political parties, notably the PFLP represented by Jameel Mezher, participated in these negotiations.⁹² The PFLP hailed the concessions made by Hamas.⁹³ The agreement on Gaza's return to PA control was the key breakthrough.⁹⁴ The United Nations saw this development as cause for "cautious optimism."⁹⁵

3) REPARATIONS

The reparations debate in Palestine has long centered on reparations Israel might pay to Palestinians for human rights violations, loss of land, and the displacement of much of the population during the 1948 Nakba and in the years thereafter.⁹⁶ Reparations would essentially include restitution and compensation for lost properties and human suffering. The payment of reparations to Palestinian refugees has been widely recognized as an essential component of any resolution of the Palestinian-Israeli conflict.

However, the question of reparations within the intra-Palestinian context has not received significant attention. There are at least two reasons for this. First, reparations payments are usually embedded in a system of transitional justice, and such a system has been absent in Palestine. Second, reparations are usually paid after an acknowledgement of guilt and such acknowledgement is hindered by intra-Palestinian tensions. This dilemma is common in debates on the usefulness of reparatory measures.

In 2017, money for reparations to victims' families, approximately \$15 million, was donated by the UAE through Dahlan.⁹⁷ These monetary reparations were given to families of more than half of the victims during a special ceremony in Gaza.⁹⁸ The decision to pay reparations is widely seen as a Dahlan-driven initiative.⁹⁹ The intention was to follow up the payments with counseling and continuous engagement with the victims and their families. The Takaful Committee (The National Islamic Commission for Development and Social Solidarity), a group that includes Hamas and the Dahlan wing of Fatah, works to compensate the victims of the 2007 clashes, as well as their families.¹⁰⁰

For the foreseeable future, however, it is unlikely that more monetary reparations will be forthcoming from a similar "outside" source. It is also unlikely that reparations payments will be arranged by a Palestinian structure, such as the Social Reconciliation Committee, partly due to a lack of funds and organization. While financial reparations can make a powerful difference in victims' lives by improving their material living conditions, Palestinians concerned with reconciliation should also be open to symbolic reparation such as apology,¹⁰¹ public acknowledgement of wrongs, and memorialization. Ideally, victims should receive both financial and symbolic reparations, but a lack of resources means that Palestinians are likely to receive mostly symbolic reparations. Nonetheless, these efforts can help create political pressure to push for financial compensation.

It must be emphasized that not all victims of the 2007 conflict are open to the idea of receiving reparations. Some of the victims want the law of *qisas* to apply. *Qisas* is a category of crime that includes intentional homicide and wounding.¹⁰² In *qisas* crimes the victims play a central role in punishment for the crimes. Victims can choose the kind of punishment to be imposed and can choose to forgive the perpetrator.¹⁰³ Partly because of its victim-centered nature, *qisas* has been described as a form of restorative justice.¹⁰⁴

4) REFORMING THE PALESTINIAN JUSTICE SYSTEM

The reform of public institutions is a key mechanism of transitional justice. Public institutions that perpetuated a conflict need to be transformed into

institutions that support the transition and uphold the rule of law. Vetting recommendations have also been made for the security sectors of countries in the throes of transition.

Currently, the Palestinian legal system is almost entirely politicized. There is a deep lack of trust in the courts. Increasingly Palestinians are resorting to informal justice mechanisms rather than placing their trust in the courts.¹⁰⁵ The politicization of the courts is also evident from the ways in which laws have been made since the division. In the West Bank, laws are passed by presidential decree. These laws-by-decree were implemented through article 43 of the Palestinian Basic Law.¹⁰⁶ It is argued, however, that Basic Law only allows for lawmaking by presidential decree in cases of “necessity.” On the Gaza side, laws are made in an equally problematic manner. Since 2007, the members of Hamas’ Change and Reform Block, who were elected to the PLC in 2006, started to convene and pass new laws. They continued to do so even after the expiration of their terms in 2010. Because of the imprisonment of some of its members, Hamas decided to follow a system according to which laws would be made by proxy voting. This meant that those PLC members who were imprisoned and could not vote themselves would be represented by other Hamas members who would vote as their proxies. This system has no basis in the Basic Law.¹⁰⁷

Thus, there are urgent questions regarding the status of laws adopted during the 2007 division, as well as legal decisions (such as court decisions) made during this period.¹⁰⁸ The legitimacy and constitutionality of laws and court decisions made after 2006 are disputed. A persistent problem is that the legal authorities in the West Bank regard the lawmaking in Gaza as illegal and refuse any reintegration of the judiciaries of the West Bank and Gaza. Likewise, the ongoing practice in the West Bank of making law by decree has led many to criticize the practice as unconstitutional.¹⁰⁹ Fundamentally, the practice of the executive usurping the role of the legislature violates the principle of separation of powers.

The crisis in the legal sector extends far beyond the way in which laws are made. It is vital that public trust in the judiciary be restored. The judicial system in Gaza and, to a lesser extent, the West Bank, is severely under-resourced and unable to fulfill the needs of the Palestinian people. There is also a severe shortage of judges throughout the Occupied Territories.¹¹⁰ The lack of resources makes judges more susceptible to executive encroachment and other influences. This inherently undermines judicial independence.

Large question marks hang over the appointment of judges and the qualifications required for judgeships. In the Gaza Strip in particular, many judges do not have the required qualifications for judgeships. The appointment of judges in the West

Bank is also overly politicized. For example, in April 2016, Abbas appointed the nine judges of the Constitutional Court by presidential decree, and they were predominantly from Fatah. This delegitimizes the court.¹¹¹ Many commentators regarded this decree as another way for Abbas to tighten his grip on power.¹¹² Hamas described the setting up of the court as a deviation from national unity.¹¹³

Due to concerns about the legitimacy of the appointment of judges in Palestine (particularly after the division), as well as the qualifications of judges, it is recommended that a vetting process of all judges be undertaken in the West Bank and Gaza. Such vetting could be done by a group of independent, retired judges, for example.¹¹⁴

Palestinians could also devise a system of legal review to ensure that laws made since 2007 are in line with human rights standards tailored to Palestinian national aspirations, norms, culture, and needs, as well as international agreements—especially those signed by Abbas. This includes the 1998 Rome Statute of the International Criminal Court. Overall, the need to reform legal institutions in Palestine is an essential precondition for intra-Palestinian reconciliation, and such reform can be based on the 2011 Cairo agreement.

5) TRUTH-TELLING AND DIALOGUE

The transitional justice mechanism of a truth and reconciliation commission has been widely adopted in transitional settings. It has been successful in facilitating dialogue and progress toward reconciliation. The establishment of the truth about past events has become a *sine qua non* of transitional justice. Truth commissions are not only about establishing the historical truth but also about finding accountability. The prolific Egyptian scholar Cherif Bassiouni has recommended that a truth commission be created to find the truth about the violations of the past and to act as a fact-finding commission in the context of the Israel-Palestine conflict.¹¹⁵ He emphasized that such a commission should be objective and neutral. In light of the current power imbalances between Israel and Palestine, it is, however, highly unlikely that the establishment of an objective commission will be feasible in the foreseeable future.

There is a lack of literature on the establishment of a truth commission in the context of the intra-Palestinian divide, indicating a lack of enthusiasm for this idea.¹¹⁶ While many scholars and commentators would agree that a truth commission can be a positive tool in this context, it can be argued that it would be premature to establish a truth commission at this point in time. Truth commissions are typically established in countries where there has been a cessation of violence and where a certain consensus has been achieved on the

nature of the future government. However, truth commissions have on occasion assisted in achieving peace.¹¹⁷ Although the time may not currently be optimal for the creation of a truth commission, this does not preclude the encouragement of dialogue between Fatah and Hamas, which is crucial for reconciliation. The dialogue should be extended to become a conversation between all Palestinian political groups.

Dialogues on national reconciliation should include topics such as the possible creation of a truth commission in the longer term, after intra-Palestinian reconciliation has been achieved. Although truth commissions generally involve an official recognition of past wrongdoing, a truth commission need not be an official or government-created commission.¹¹⁸ In the Palestinian context, a commission can be created by an international organization such as the United Nations, for example.

WHY ARE CURRENT TRANSITIONAL JUSTICE EFFORTS FAILING?

Intra-Palestinian reconciliation is not imminent. Indeed, there is currently no consensus or clear vision about what Palestine's future state and system of governance will look like. This question depends entirely on the model of statehood Palestine will attain should a future peace deal with Israel be reached. The 2017 Cairo agreement, like all other agreements of this kind, failed very soon after it was signed. The spirit of the agreement was derailed by the fact that, on the very day of the signing of the agreement, a Hamas official executed a member of Fatah after a court in Gaza accused the Fatah member of collaborating with Israel.¹¹⁹

Just four months after the 2017 Cairo agreement, the will to implement it faltered. It seemed clear that Hamas had no intention to hand over power, including control of weapons and the military. Egypt became immersed in other priorities and was not active in monitoring the implementation of the accord.¹²⁰ In another blow to the agreement, the Egyptian intelligence services chief Khaled Fawzy, the main broker of the deal, was fired in mid-January 2018.¹²¹ Since the agreement is partly based on the demilitarization of Hamas, the fact that former military figures were appointed to senior roles in Hamas in recent years also does not bode well for the future of the agreement.¹²²

International human rights NGO's in Ramallah and some local civil society actors are the main groups that employ the term transitional justice. While the term is familiar to the PA leadership in Ramallah, it is not generally used by Hamas.¹²³ The application of transitional justice in the intra-Palestinian context is still under-researched. There is significant agreement on the desirability of individual mechanisms such as reparations, negotiations, and power-sharing, but many academics and observers both within and outside Palestine are critical of the application of the concept to the Palestinian situation.¹²⁴

Palestinian academics such as Reem Al Botmeh express reservations not only about transitional justice but also about the way in which "reconciliation" has become politicized in the power struggle between Hamas and Fatah.¹²⁵ Botmeh contends that the everyday needs of Palestinians are being neglected in the PA leadership's attempts to play reconciliation politics.

A high level of mutual distrust contributes to the continued failure of the reconciliation process. The distrust on the side of Fatah has been particularly evident from statements made by Abbas. He accused Hamas of being an Iranian satellite in the region and of having contacts with al-Qaida, among other things. On the Hamas side, Ramallah has been accused of implementing the American-Israeli agenda and of suppressing the national resistance effort. Moreover, Hamas maintained that the leadership in Ramallah was reluctant to pursue dialogue because of the American veto against any reconciliation between Fatah and Hamas. The deep distrust and mixed messages on the side of Ramallah was evident from Abbas' speech on the 43rd anniversary of Fatah, where he accused Hamas of "inflicting misery"¹²⁶ on the people in the Gaza Strip.¹²⁷

In 2008, an Al Jazeera analyst remarked that "The rivalry between Fatah and Hamas has eclipsed demands for putting forward a Palestinian negotiating strategy [with Israel]."¹²⁸ Ten years later, there is still much truth to this statement. The international community has dragged its feet in pushing for a solution to the Israeli-Palestinian conflict, as well as to the intra-Palestinian divide. The international community has invoked the argument that Palestinians are delaying a potential resolution to the Israeli-Palestinian conflict by not solving their internal differences. However, they maintain such a position while the Israeli-Palestinian conflict actively obstructs efforts for intra-Palestinian reconciliation. The best example of this is the 2014 Gaza war, which obstructed the implementation of reconciliations efforts such as the 2011 Cairo agreement and reversed much of the good progress made before the outbreak of the war.

CONCLUSION AND POLICY RECOMMENDATIONS

The factors unifying Palestinians are greater than those dividing them. It is recommended that Palestinians return to the 2011 Cairo agreement because it is widely considered as the most legitimate and authoritative of the Palestinian reconciliation agreements; it is the agreement which forms the basis for all subsequent reconciliation agreements. Since the realities on the ground (for example the relationship between Palestine and the United States) have changed since the signing of the agreement, it would have to be adjusted and interpreted to fit new dynamics.¹²⁹

Crucial requirements for the success of reconciliation initiatives include inclusivity and popular consultation, negotiation, national dialogue, compromise, re-activation of the dormant Cairo and PLC Committees, reinvigoration of the active Cairo committees, judicial independence, and adhering to the principle of separation of powers.

A major obstacle to the application of transitional justice is the fact that it is premature in a setting as riddled with uncertainties as the intra-Palestinian context. The objection of prematurity is a serious impediment to crafting a comprehensive transitional justice strategy in the tradition of strategies adopted previously under that name, but it does not prevent Palestinians from adopting individual transitional justice mechanisms to help accelerate reconciliation.

Transitional mechanisms can motivate parties to participate in the peace and reconciliation process, foster good faith, and bring them to the negotiation table. In this way, transitional justice can help prepare a path to peace. It can be argued that the current situation is so bleak and the division so deep that transitional justice measures will not have a significant impact on reconciliation, but reconciliation should be understood as a *process*. Transitional justice measures can thus cultivate a climate that is more conducive to reconciliation in the longer term.

Based on the above analysis, the following policy recommendations can be made:

ELECTIONS

The voice of the Palestinian population should be heard, first and foremost, in the form of the vote. The holding of elections can no longer be delayed. The election of the PLC is long overdue. It is the foundation for all other reform and the successful implementation of transitional justice mechanisms. Without democratic elections, all official Palestinian institutions lack democratic legitimacy. Civil society and the international community should call for the holding of elections. The international community should accept the outcome of such elections. The trouble with the 2006 elections was not the elections itself, but the international community's unwillingness to accept the outcome of the elections.

CAIRO COMMITTEES

The committees created under the 2011 Cairo agreement that have become dormant should be reactivated, and those committees that are active should work with greater urgency to accomplish their original mandates. The Social Reconciliation Committee and Public Freedoms Committee are particularly important in furthering reconciliation, and these committees should be more active. Crucially, authorities on the West Bank and Gaza sides should show the political will to cooperate with these committees and to implement the recommendations of the Cairo committees, particularly the recommendations of the Public Freedoms committee.

JUDICIAL REFORM

There is an urgent need for a joint effort by both Fatah and Hamas to reform the judicial sector as a way of ending the partisan nature of the judiciary. The judicial appointment system should be revised to ensure judicial independence. The vetting of judges could be a useful way of reforming the judiciary and bolstering judicial independence. It could also elevate the status of the judiciary and increase much-needed public trust in the Palestinian judiciary. The appointment of judges to the Constitutional Court should be depoliticized. Communication, cooperation, and mutual respect among leaders of the judiciary in the West Bank and Gaza in this regard is vital.

DIALOGUE AND TRUTH-SEEKING

Since dialogue is a central demand of many political players and civil society organizations, it is vital that negotiation and inclusive dialogue should guide

the reconciliation process. Dialogues on national reconciliation should include the topics of the possible creation of a truth commission in the longer term, after reconciliation has been achieved. Such a truth commission need not be an official government-created commission. Palestinians have a chance to craft their own truth-seeking process. Because of South Africa's pioneering contribution to transitional justice, aspects of the South African model can be useful, particularly its emphasis on dialogue and truth-finding.

REPARATIONS

Reparations can be a highly effective mechanism to help compensate victims for the violations that occurred during and after the 2007 clashes. International reparations programs should be studied for guidance and inspiration. The reparations process initiated by Dahlan can also provide some direction. The question of extending the payment of financial reparations for human rights violations should be explored. International law should be used as a basis and theoretical justification for the making of reparation. Due to the lack of financial resources for reparations payments, non-monetary forms of reparations, such as symbolic reparations, should be explored. Symbolic reparation can include the making of apology,¹³⁰ public acknowledgement of wrongs, and memorialization.

THE NEED FOR A PEACE BROKER

It is crucial that a peace broker be objective and have the interests of both sides at heart. In facilitating the Cairo agreements and various other reconciliation initiatives, Egypt has been the most active outside party. Some have asked whether Egypt is a well-intentioned broker, since it deals with Palestine mostly as a security issue. The country has not taken sufficient measures to alleviate the humanitarian crisis in Gaza and has not publicly condemned violence against Gazans.¹³¹ However, it remains difficult to conceive of a successful peace process and end to the humanitarian crisis without the active participation of Egypt. Egypt should assume a larger role in the implementation of the 2011 Cairo agreement process to reignite reconciliation efforts.

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⁴ See Aeyal Gross, “The Constitution, Reconciliation, and Transitional Justice: Lessons from South Africa and Israel,” *Stanford Journal of International Law*, 40 (2004): 47–104; Ariel Meyerstein, “Transitional Justice and Post conflict Israel/Palestine: Assessing the Applicability of the Truth Commissions Paradigm,” *Case Western Reserve Journal of International Law*, 38, Issue 2 (2007), <https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1337&context=jil>; C Donnelly and J Hughes, “Contact and Culture: Mechanisms of Reconciliation in Schools in Northern Ireland and Israel,” in *Reconciliation(s): Transitional Justice in Postconflict Societies*, ed. Joanna R Quinn (Montreal: McGill-Queen’s University Press, 2009), 313.

⁵ See however Brendan Ciaran Browne, “Transitional Justice and the Case of Palestine” in *Research Handbook on Transitional Justice*, eds Cherly Lawther, Luke Moffett, and Dov Jacobs (Elgar Online: Edward Elgar Publishing, 2017), 576, <https://doi.org/10.4337/9781781955314.00034>. There is a growing body of literature on Palestine and the International Criminal Court. See for example Marco Longobardo, “Some Developments in the Prosecution of International Crimes Committed in Palestine: Any Real News?” *Polish Yearbook of International Law*, 35 (2015), <https://ssrn.com/abstract=2811857>, 109–137.

⁶ See Mia Swart, “Sorry seems to be the hardest word: Apology as form of Symbolic Reparation,” *South African Journal on Human Rights* 24: 1 (April 2017): 50–70, <https://doi.org/10.1080/19962126.2008.11864943>.

⁷ Lustration can be defined as a set of laws that restrict members or collaborators with former repressive regimes from holding public office. Cynthia M Horne, “Transitional Justice: Vetting and Lustration” in *Research Handbook on Transitional Justice*, eds Cherly Lawther, Luke Moffett, and Dov Jacobs (Elgar Online: Edward Elgar Publishing, 2017).

⁸ Re-education is education that aims to change someone's beliefs or opinions. In the context of transitional justice, mass re-education has taken place after shifts from authoritarian to democratic governments (such as after the fall of Nazi Germany).

⁹ The following Palestinian political parties took part in the PNA elections: Al-Mustaqbal, Arab Liberation Front, As Siqa, Democratic Alliance (consisting of Palestinian Democratic Union, Palestinian National Initiative, and Popular Front for the Liberation of Palestine), Democratic Alliance List, Fatah, Hamas, National Coalition for Justice and Democracy, Palestine Liberation Front, Palestine Arab Front, Palestinian Justice, Palestinian National Initiative, Palestinian People's Party, Palestinian Popular Struggle Front, Revolutionary Palestinian Communist Party, and Third Way.

¹⁰ The first two years of the blockade (2007–2009) saw a complete halt of all exports from the West Bank to Gaza. This led to the closure of 95 percent of Gaza's industrial establishments and enormously high job losses. Israel has imposed further movement restrictions on the Gaza Strip since the early 1990's. These restrictions intensified in June 2007. See United Nations, "Gaza Ten Years Later," July 2017, https://unsco.unmissions.org/sites/default/files/gaza_10_years_later_-_11_july_2017.pdf.

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¹⁹ Ibid.

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²¹ See “Charters of Hamas,” *Contemporary Review of the Middle East* 4 (4) 2017, 393–418. Zena Tahhan, “Hamas and Fatah: How are the two groups different,” *Al Jazeera*, October 12, 2017, <https://www.aljazeera.com/indepth/features/2017/10/hamas-fatah-goal-approaches-171012064342008.html>. See also Menachem Klein, “Hamas in Power,” *Middle East Journal* 61 No. 3 (Summer, 2007), 442–459, <https://www.jstor.org/stable/4330419>; Sara Roy, “Hamas and the Transformation(s) of Political Islam in Palestine,” *Current History* (January 2003) 13–15, <http://carnegieendowment.org/pdf/files/2004-02-17-roy.pdf>; Beverley Milton-Edwards & Stephen Farrell, *Hamas: The Islamic Resistance Movement 1st ed* (Cambridge: Polity Press, 2010) vi, viii, 7.

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