

# BACKGROUND

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## How the United States Should Respond to Palestinian Membership in Interpol

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### Abstract

*The Interpol General Assembly's September 2017 decision to admit the Palestinian Authority to membership was a grave error. The Authority will likely use its membership both to pursue its political and legal war against Israel and to harass opponents abroad. The PA's membership further debases Interpol, an international organization of police and law enforcement organizations that is constitutionally required to focus exclusively on ordinary crime. It also reflects awareness by autocracies that Interpol can be a valuable instrument of oppression and that the Western democracies' historically dominant role in Interpol is fading. The U.S. and other like-minded nations should limit the damage that the Authority can do through Interpol and develop a strategy to resist the organization's wider politicization.*

On September 27, 2017, at the annual meeting of Interpol's General Assembly, member nations voted to admit the Palestinian Authority (Authority or PA) to Interpol. The U.S. opposed this decision, which was taken in the face of persuasive evidence that the Authority sought to join Interpol as part of its political war against Israel. The Authority is also likely to use Interpol to pursue its Palestinian opponents and may seek to use it to harass friends of Israel abroad as well as Israeli politicians, officials, or citizens.

The Interpol General Assembly's decision was a grave error. The Authority sought membership as part of its broader strategy of political and legal war against Israel. Admission of the Authority further debases Interpol, the international organization of police and law enforcement organizations, which is required by its constitution to focus exclusively on ordinary crime. It also reflects the

### KEY POINTS

- The Interpol General Assembly's September 2017 vote to admit the Palestinian Authority to Interpol was a defeat for the U.S. and other leading Western democracies that had opposed admitting the Authority.
- The General Assembly acted despite persuasive evidence that the Authority sought membership as part of its political war with Israel and that it intends to abuse its membership for political purposes, using a strategy for waging this war with legal weapons.
- It also acted in spite of the fact that the Oslo Accords, which created the Authority, specifically bar it from taking on responsibilities in foreign relations.
- The Authority's membership is part of the wider politicization of Interpol by autocracies that seek to use Interpol to harass political opponents abroad.
- In addition to opposing this wider politicization, the U.S. and its allies should oppose the Authority's membership until the PA has negotiated a peace agreement with Israel.

This paper, in its entirety, can be found at <http://report.heritage.org/bg3307>

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fact that the world's autocracies have learned that Interpol can be a valuable instrument of oppression and that the dominance historically enjoyed by the Western democracies in Interpol is fading. Interpol, founded as an apolitical association of police organizations, is becoming a body through which other nations pursue political agendas.

This outcome is a diplomatic defeat for the United States. It reflects the U.S. failure to recognize that Interpol, founded as an apolitical association of police organizations, is becoming a body through which other nations pursue political agendas. The U.S. and other like-minded nations should act to limit the damage that the Authority can do through Interpol and develop an effective strategy to resist and roll back the wider politicization of Interpol.

Although U.S. law does not require the U.S. to suspend financial contributions to Interpol as a result of its admission of the Palestinian Authority, the U.S. should nevertheless respond firmly to this unwise decision by:

- Restricting the Authority's ability to abuse Interpol,
- Holding both Interpol and the Palestinian Authority responsible for Palestinian actions taken through Interpol that violate its rules, and
- Recognizing that it must push back against the growing and wider tendency to politicize Interpol.

### **What Interpol Is and Is Not**

The media often portray Interpol as an international police force with armed agents on the ground around the world pursuing and arresting criminals. Every part of this portrayal is incorrect. Interpol is better understood as a sophisticated bulletin board on which its member nations can post "wanted" notices and other information.

At the request of a member nation, Interpol can also issue a Red Notice, which notifies other member nations that an individual is wanted by the nation that made the request. Interpol can only issue Red Notices that have no political, military, religious, or racial character: Like all of Interpol's activities, Red Notices can concern only ordinary crimes, such as murder or robbery.<sup>1</sup>

### **The Palestinian Path to Membership**

The Palestinian push for Interpol membership began in 2015, when the Palestinian Authority submitted an application to join Interpol. In 2016, Interpol's Executive Committee suspended the application and decided that "a clear and transparent process with a defined set of criteria for membership was required." At the 2016 meeting of the General Assembly, the Palestinians requested that the Assembly override the committee and add their membership application to its agenda, but the Assembly rejected this request by a vote of 62 against, 37 abstentions, and 56 in favor.<sup>2</sup>

Instead, the Assembly endorsed the committee's selection of Hans Corell, a Swedish diplomat and former Under-Secretary-General for Legal Affairs and Legal Counsel of the United Nations, to carry out a study of membership criteria. Corell had previously criticized Israel for not showing more tolerance of Hamas's missile attacks on it, called for the international prosecution of U.S. officials, and backed claims for "climate justice."<sup>3</sup> On the basis of Corell's report, which has not been made public, the Assembly approved a process for membership in Interpol.<sup>4</sup> Following this process, it then approved Palestinian membership by a vote of 75 in favor, 34 abstentions, and 24 against.

### **How the U.S. Lost the Battle to Keep the Palestinian Authority Out of Interpol**

It is important to understand how the U.S. effort to keep the Palestinian Authority out of Interpol went wrong. This sheds light on what the U.S. can do now and on the difficulties the U.S. and its allies will face in seeking to set the situation right. With due regard for the opacity of Interpol and the challenge of understanding so recent an event, these appear to be the phases that determined the outcome.

1. In 2009, Interpol inaugurated a new electronic communications system. This system made it much easier for nations to access Interpol, but it also made it much easier to abuse Interpol. Interpol does not appear to have appreciated this fact. Moreover, the new system led to a rapid increase in the volume of communications that Interpol had to screen for compliance with its rules. Interpol also does not appear to have appreciated that this would happen.

The result was that after 2009, it became easier to abuse the system and harder to detect and stop the abuse. During the following years, authoritarian nations learned to take advantage of these weaknesses, while Interpol, under Director General Ronald Noble, concentrated on increasing its size and budget while denying that it faced any serious problem with abuse. By the early 2010s, authoritarian nations were fully alive to the potential now inherent in the Interpol system for harassing their political opponents.<sup>5</sup>

2. In 2011, the Palestinian Authority set out a new strategy for its war against Israel. Recognizing that Israel could not be beaten by terrorism and that there was no serious appetite among the Arab states for another war on Israel, the Authority decided to internationalize the conflict and to take up legal weapons against Israel. This approach, known generically as “lawfare,” seeks to turn the legal structures of the West and the international organizations founded by the West into weapons against Israel. In order to do this, the Authority had to become a member of these organizations. In the years after 2011, it succeeded in joining many such organizations, and during those years, it had the example of the ways that other authoritarian governments were abusing Interpol before it.
3. In 2016, the West lost control of Interpol’s Executive Committee, which has a rotating membership, elected on a regional basis, and which sets Interpol’s organizational policy and direction. The loss of control of this committee reflected the malign interest that the autocracies had increasingly taken in Interpol since 2009. After its post-World War II refounding, Interpol was dominated for many years by France, the United Kingdom, and the United States, but in 2016, a Chinese security official was selected as Interpol’s president and, thus, head of its Executive Committee.<sup>6</sup>

Thus, while the Executive Committee that deferred the Palestinian application for membership for a year in 2016 was led by France, the Executive Committee that would examine this issue in 2017 was led by China. Then, in another sign of the West’s loss of control, the Interpol General Assembly met in 2017 in Beijing. It was unlikely

that a Chinese-led Executive Committee would defer the Palestinian application again or that its prestige would be deployed in 2017 to encourage wavering members of Interpol to vote for a postponement as had happened in 2016.

4. The opponents of Palestinian membership were unduly encouraged by their success in 2016. Meanwhile, the selection of Hans Corell to write the report on the process that Interpol should adopt to decide whether to admit an applicant made it likely that this report would, *de facto*, side with the Palestinian Authority. It does not appear that the U.S. recognized the importance of Corell’s selection, researched his views, or proposed an alternative candidate.
5. At the 2017 meeting of the General Assembly, the U.S. reportedly sought to win Russia’s and China’s support for deferring the Palestinian application for another year by encouraging Kosovo, which was strongly opposed by Russia, to withdraw its own application for membership. In the meeting of the Assembly, the U.S. argued that with the ink barely dry on Interpol’s admission procedure, it was too soon to admit any applicants through it and, supported by Britain, Germany, and the Netherlands, proposed five amendments that in effect would have deferred the Palestinian application.

This argument, though reasonable enough on its own terms, fell short either of making a comprehensive case against the Authority or of being a warning to Interpol’s member nations that admitting the Authority would jeopardize U.S. support for Interpol. In any case, the U.S. amendments were vigorously opposed by Iran, Iraq, and Turkey. Russia was committed to lobby for these amendments by the terms of the deal it had struck with the U.S., but it apparently failed to do so. Instead, Russia let the amendments fail, and Russia, China, and Serbia then voted to admit the Palestinians.<sup>7</sup>

The U.S. strategy in 2017 was flawed: It sacrificed Kosovo for the sake of keeping out the Palestinians and then failed to keep the Palestinians out.<sup>8</sup> It appears to have placed unwarranted trust in Russia. Even if this strategy had worked, however, it would only have kicked the can down the road for one more

year, at which point the Authority would very likely have been admitted.

The decisive developments came in the years before 2017. The Palestinians enjoyed considerable success in winning admission to a variety of international organizations after 2011, and Interpol is fundamentally no different from those other organizations. Once the Palestinians adopted their new strategy, given the popularity of the Palestinian cause with a majority of the U.N.'s member nations, it was always going to be difficult to keep them out of Interpol. If the U.S. wanted a different outcome in 2017—and it did—the time to work toward it was not in 2017, but in the years from 2009–2016, when the groundwork for the defeat in 2017 was laid. By 2017, the battle was all but lost.<sup>9</sup>

### **Consequences of Palestinian Membership for U.S. Funding of Interpol**

A 1994 U.S. law bans the U.S. from making voluntary or assessed contributions to the U.N. “if the United Nations grants full membership as a state... to any organization or group that does not have the internationally recognized attributes of statehood” or to any U.N.-affiliated organization that “grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood.” A 1990 U.S. law bans the U.S. from appropriating funds “for the United Nations or any specialized agency thereof that accords the Palestine Liberation Organization the same standing as member states.”<sup>10</sup>

The meaning of the phrase “internationally recognized attributes of statehood” in the 1994 law is unclear. Interpol’s new guidelines for applications for membership, based on Corell’s report, assert that:

[A requesting nation should] explain that it meets the conditions for statehood: a territory; a population; a government; and capacity to enter into relations with other states. An important element is also that the requesting country mentions if it is a member of other intergovernmental organizations and, in particular, if the country is a Member of the United Nations or an Observer State recognized by the United Nations.<sup>11</sup>

The first three criteria were set out in the Montevideo Convention on Statehood of 1933, but as experts disagree about their interpretation, it is unclear

whether the Palestinian Authority meets them. It is therefore unclear whether the 1994 law applies to the Palestinian Authority.

The 1990 law, on the other hand, does apply to the Palestinian Authority. When the United Nations Educational, Scientific, and Cultural Organization (UNESCO) granted membership to the Palestinian Authority in 2011, the Obama Administration suspended all U.S. financial contributions to the organization. The Obama Administration again recognized that this law applies to the Palestinian Authority by including in the President’s fiscal year (FY) 2013 budget a statement of the Administration’s intent to amend the law to permit funding for UNESCO.<sup>12</sup> But Interpol is not, in the terms of the 1990 law, a “specialized agency” of the U.N.; it is a separate, self-governing entity.<sup>13</sup> Therefore, neither the 1990 law nor the 1994 law (as Interpol is also not an “affiliated organization” of the U.N.) applies to Interpol.

In short, as a matter of law, the U.S. is not required to withhold its assessed contributions to Interpol as a result of the Interpol Assembly’s vote to admit the Palestinian Authority.

### **Risks of Palestinian Membership in Interpol**

Palestinian membership in Interpol poses seven risks. Four of these are potentially particularly serious, as they involve a risk of the direct and political abuse of Interpol by the Palestinian Authority for the purpose of harassing individuals. The remaining three are also significant but pose problems for the Interpol system as a whole, not directly for individuals.

The four most serious risks—those to individuals—are:

**1. Arrest and Extradition of Israeli Officials to the West Bank at Palestinian Behest.** The most frequently cited risk of Palestinian membership in Interpol is that the Palestinian Authority will use Interpol’s channels to seek Red Notices (requests to locate and arrest individuals before their extradition) on serving Israeli officials.<sup>14</sup> When made public, Red Notices also have secondary effects through the international financial system, as well as through visa and passport systems.<sup>15</sup> If the Palestinian Authority were to request such Red Notices, if Interpol issued them, and if Interpol member nations acted on

them, Israeli officials would find themselves on trial, presumably for war crimes or crimes against humanity, in the West Bank.

This risk, though genuine, is not as immediate as it might appear.<sup>16</sup> A Red Notice is issued after a preliminary Interpol review, which purports to ensure that the request complies with Interpol's rules, but because Interpol operates on the assumption that all requests by member nations are legitimate, this review is frequently cursory.<sup>17</sup> In late 2017, it was reported that Interpol was reviewing up to 40,000 existing Red Notices to determine whether they were politically motivated.<sup>18</sup> While this review is laudable, it should have been undertaken before the Red Notices were issued, not after the fact. The controversy surrounding Palestinian membership is likely to lead to more thorough Interpol scrutiny of Palestinian requests. Interpol should be made aware that its first mistake in this area will have very grave consequences, not least for its relations with the U.S.

Contrary to Hollywood's depictions of Interpol, a Red Notice is not a mandatory international arrest warrant. Only some countries, largely those based on civil law as opposed to Anglo-American common law, treat a Red Notice as a sufficient basis for making an arrest, so even if Interpol were foolish enough to issue a Red Notice on an Israeli official, the common-law nations would not treat it as an arrest warrant. Additionally, no nation, no matter what its legal system, is obligated to extradite an individual arrested on the basis of a Red Notice, and all extraditions are subject to legal appeals in the country from which the individual is being extradited. In short, the barriers to successful extradition of an Israeli official to the West Bank are high.

Interpol's *Repository of Practice* on the application of Article 3 of its constitution, which forbids Interpol from engaging in matters of a political, military, religious, or racial character, sheds additional light on the risks posed by this scenario. It notes that according to a 1984 General Assembly Resolution, "offenses committed by politicians must...be assessed to determine whether the political or criminal law aspect is predominant, in the same way as offences committed by other people."

If a politician is wanted by his/her own nation, Interpol, after considering the general context of the case and other relevant factors, may agree to publish a Red Notice; but if a politician is wanted by another nation, the standard that nation must meet when it seeks Interpol action is much more demanding. In this case, one of the factors Interpol considers is "whether the country where the individual served as a politician objects."<sup>19</sup>

In other words, if the Palestinian Authority were to seek a Red Notice on an Israeli politician, Interpol would ask Israel whether it objects to this request. An Israeli objection would presumably be forthcoming. This would not prevent Interpol from publishing a Red Notice, but an objection would be a powerful deterrent.

Four recent cases illustrate these considerations and put the risk to Israeli officials in context.

- **Ukraine.** In January 2015, Interpol issued Red Notices on 12 Ukrainian officials, including former President Viktor Yanukovich, on a variety of corruption charges issued by the current Ukrainian authorities. In January 2016, as a result of a legal complaint filed by Yanukovich, these officials were removed from the public Interpol database, although Ukrainian officials asserted that the suspects continue to be available on Interpol's restricted-access database.<sup>20</sup> The wisdom of removing disputed Red Notices from the public database while keeping them in the private one is debatable, but in this case, Interpol acted at the request of Ukraine, the nation that Yanukovich had served, and on charges of personal corruption, a criminal offense.<sup>21</sup>
- **Thailand.** In October 2017, Interpol reportedly agreed to issue a Blue Notice (a request to locate the named individual in relation to a crime) on former Prime Minister Yingluck Shinawatra.<sup>22</sup> Shinawatra assumed office in 2011 and was removed in May 2014 by a decision of the Constitutional Court, which found her guilty of abuse of power in transferring Thawil Pliensri, the national security chief. Her removal was followed by a military coup later that month. The BBC's Bangkok reporter

noted that “the judges gave a lengthy justification for their verdict, but it will inevitably be seen as political intervention on both sides of Thailand’s divide.”<sup>23</sup>

The rights or wrongs of this dispute (and another one related to purported negligence and corruption in a failed rice subsidy scheme for which Shinawatra was convicted in August 2017) are beyond the scope of this paper, but the BBC’s assessment appears to be creditable. Even if Shinawatra was corrupt, the wider context of the case seems to be political. In this instance, again, Interpol has acted at the request of a nation seeking to arrest one of its own politicians, but unlike the case involving Ukraine, the charges in this case are not clearly criminal.

- **Kosovo.** In 2017, it transpired that Serbia had secured a Red Notice on Prime Minister Ramush Haradinaj of Kosovo. Kosovo is not, as noted, a member of Interpol. Haradinaj was arrested in France as a result of the Red Notice and was later released by a French court after it rejected Serbia’s extradition request. Serbia charges Haradinaj with murdering Serbs in the 1998–1999 war, but he has been tried and acquitted twice by the U.N. war crimes tribunal in the Hague. With support from Russia and China, Serbia has continued to block Kosovo’s membership in international organizations, including Interpol. A Western diplomat commented concisely on Haradinaj’s Red Notice that “[a] quick solution must be found. This is nonsense.”<sup>24</sup>

Serbia is purportedly concerned that admitting Kosovo to Interpol would give Kosovo the ability to request Red Notices on former members of the Serbian security forces.<sup>25</sup> This concern is well founded, but it exists only because Serbia continues to shelter individuals suspected of committing war crimes. More broadly, and in an additional parallel to the example of the Palestinian Authority, Serbia opposes Kosovo’s membership in international organizations that would appear to confer recognition of Kosovo’s sovereignty. By contrast, the U.S., Britain, and France have urged

that Kosovo be admitted to Interpol.<sup>26</sup> In early December 2017, Interpol deleted its Red Notice on Haradinaj, raising the ire of Serbia, which (wrongly) insisted that only Serbia itself could delete the notice.<sup>27</sup>

This case raises even more serious issues than that of former Prime Minister Shinawatra: Prime Minister Haradinaj was charged with war crimes by an Interpol member nation and was arrested as a result. This is precisely the possibility that concerns Israeli officials. The only difference is that Kosovo, unlike Israel, is not a member of Interpol and so could not protest Serbia’s request for a Red Notice. This is a very significant difference, but the Haradinaj case is still troubling.

- **Catalonia.** In early November 2017, a Spanish judge requested a Red Notice on deposed Catalanian President Carles Puigdemont, and Spain issued a European Arrest Warrant on Puigdemont.<sup>28</sup> In early December, Spain withdrew the Red Notice, but the notice should never have been issued in the first place, as the context of the case makes it clear that the charges against Puigdemont and his associates (sedition, rebellion, and embezzlement) are political.<sup>29</sup>

Again, the potential implications for Israel and the Palestinian Authority are disturbing. If the Palestinians refuse to accept a two-nation solution, they are in effect demanding a single nation and thereby casting the government of Israel as illegitimate in the same way that Spain regards the Catalanian leaders as rebels.

There is no case involving Interpol that precisely mirrors one that the Palestinian Authority might make through Interpol against Israeli officials. The most significant difference between the cases of Ukraine, Thailand, Kosovo, and Spain on the one hand and Israel’s on the other is that in none of those cases did Interpol publish a Red Notice on an official from one Interpol member nation at the behest of another. But the examples of Thailand, Kosovo, and Spain do raise concerns. Collectively, they illustrate that in practice, Israel’s best defense against Red Notices does not

rest either in the constitutional prohibition that purportedly prevents Interpol from involvement in political affairs or in its supposed unwillingness to publish Red Notices on current or former national officials or even national leaders. Israel's best defense actually rests in the fact that it is a member nation of Interpol and so, according to Interpol's *Repository*, will have a substantial say if the Palestinian Authority seeks a Red Notice on an Israeli official.

Of course, every nation will (or should) recognize that arresting a serving or former Israeli official on the basis of an Interpol Red Notice published at the request of the Palestinian Authority and extraditing that official to be tried by the Palestinian Authority in many cases would be a profound assault on diplomatic immunity. Such action would certainly raise the gravest possible issues in that nation's relations with both Israel and the United States and likely would do so with a significant number of other nations as well. Much the same could be said of Interpol itself, which could hardly take any action that would damage itself more severely in the eyes of the United States.

In short, the risk that Interpol will issue a Red Notice on an Israeli official appears to be low, and the risk that an Israeli official will be extradited to the West Bank is even lower.<sup>30</sup> On the other hand, however, there are enough precedents to make it clear that the risk of Interpol's issuing a Red Notice on an Israeli official, though not urgent today, should not be ignored.

**2. Arrest, Extradition, and Trial of Israeli Officials by an International Court.** This risk, though less commonly cited than the risk of arrest and extradition of Israeli officials to the West Bank, is more serious.<sup>31</sup> In this scenario, the Palestinian Authority would assist an international court—probably the International Criminal Court (ICC)—in pursuing a case against Israeli officials, as the Authority in fact has already done.<sup>32</sup> The ICC, which also has the authority to request Red Notices, would issue its own arrest warrant, supplementing this with an Interpol Red Notice on the Israeli officials. The Palestinian Authority would support the ICC request through Interpol's channels. Palestinian mem-

bership in Interpol would be only a part—and not the most important part—of such a scenario, but by the same token, the Palestinian Authority will derive additional credibility from membership in Interpol and will gain the power to back any request the ICC makes through Interpol.

There is significant evidence that this is precisely what the Palestinian Authority intends to do. In 2011, PA President Mahmoud Abbas stated that the Palestinians sought membership in international organizations to “pave the way for us to pursue claims against Israel at the United Nations, human rights bodies and the International Criminal Court.”<sup>33</sup> The Palestinians, in other words did not seek Interpol membership to pursue ordinary criminals, which is Interpol's only legitimate purpose: They sought it as part of their political war against Israel. From the Palestinian point of view, given the ICC's ongoing investigation of alleged Israeli Defense Force (IDF) war crimes during the 2014 Gaza War, this strategy is entirely coherent.<sup>34</sup>

Later Palestinian statements downplaying PA efforts to involve the ICC were described by expert David Bosco as “much more noise than signal.”<sup>35</sup> The noise disappeared entirely during Abbas's September 20, 2017, speech to the U.N. General Assembly, in which he called on the ICC to “open an investigation and to prosecute Israeli officials in settlement activities and aggressions against our people, and we will continue to pursue our accessions to international conventions, protocols and organizations.”<sup>36</sup> In other words, Abbas continues to link closely ICC prosecutions of Israeli officials and Palestinian membership in organizations such as Interpol.

Moreover, the U.N. appears to be eager to play a role in this strategy. In October 2017, the U.N. Development Assistance Framework signed a “strategic programming framework” for 2018–2022 that commits the U.N. to “increase its support for Palestinian institutions (state and non-government)” to help them “effectively access international accountability mechanisms in order to hold Israel accountable for its violations under international law.” As *NGO Monitor* acidly commented, the U.N. provides no assistance “in

response to Palestinian violations of the human rights treaties the Palestinian Authority has signed” but will put \$18 million over four years behind its anti-Israel campaign.<sup>37</sup> It is intended that these funds will be used to harass Israel and Israeli officials through entities such as the ICC, and Interpol could easily be used to play a role in this campaign.

In this scenario, Palestinian membership in Interpol exacerbates the risk to Israeli officials instead of causing it. Palestinian membership in Interpol is part of a broader international campaign of delegitimization, harassment, and lawfare against Israel, and it gives the Palestinian Authority additional leverage and legitimacy to pursue and participate in this campaign.

**3. Harassment of Friends of Israel.** Palestinian membership in Interpol does pose a risk, though not an overwhelming one, to serving Israeli officials, but it poses a greater risk to private citizens who publicly support Israel, both in Israel and anywhere else around the world. The Palestinian Authority would face high barriers if it sought to publish a Red Notice on a serving Israeli official, but it would face much lower barriers if it alleged that a private citizen was part of a criminal conspiracy against the Authority. It would still be difficult, verging on impossible, for the Palestinian Authority to extradite a private citizen to the West Bank, but the point of the Red Notice would not be to secure an extradition. It would be to harass Israel’s friends: The process is the punishment.

Over the past decade, autocracies and dictatorships have become increasingly aware of the ways they can use Interpol to make life hard for their opponents and critics abroad. Russia is the best-known abuser of the Interpol system, but it is not the only one, and the Russian example has been widely imitated.<sup>38</sup> The best-known example of this abuse is Russia’s harassment of William Browder, the progenitor of the Magnitsky Act, but Browder’s case hardly stands alone. The fact that, as noted, Interpol is reportedly reviewing 40,000 Red Notices to determine whether they were politically motivated indicates that Interpol itself is concerned about the level of abuse it has facilitated and experienced.

Interpol is not alone in its concern. Over the past several years, major newspapers, analysts, national leaders, and parliamentarians have warned repeatedly that dictatorships and autocracies are abusing Interpol.<sup>39</sup> The abuse of Interpol even became an issue in the 2017 national German elections after Dogan Akhanli, a Turkish-German writer, was arrested in Spain on the basis of a Red Notice requested by Turkey. Prime Minister Angela Merkel commented that this was “unfortunately one of many cases” of Turkey pursuing German citizens.<sup>40</sup> As a result, Germany and Sweden expressed their joint concern that “a trusted and respected international organization like Interpol is being abused for politically motivated arrest warrants by the Turkish Government.”<sup>41</sup>

The abuse about which Germany and Sweden complained is facilitated by the fact that it is effectively impossible for Interpol to vet properly all of the Red Notice requests that it receives every year. In 2016, for example, Interpol published 12,878 Red Notices. Moreover, member states can also issue diffusions (requests analogous to Red Notices) through the Interpol network with no evidence and no prior review by Interpol at all, and there is some evidence that as the abuse of the Red Notice system has drawn more attention, abusive nations are turning instead to diffusions.<sup>42</sup> In 2015, Interpol issued 22,753 diffusions. If Interpol were to vet every Red Notice and diffusion, it would have to review one request every 15 minutes, 24 hours a day, 365 days a year.

Red Notices and diffusions are not simply requests for the location, arrest, and extradition of an individual. They feed automatically into passport and visa systems around the world, making it difficult as well as risky for a named individual to travel, as the individual will lack valid travel documentation and will face the risk of arrest and imprisonment.<sup>43</sup> If a Red Notice is made public by a requesting nation, it will also feed into the Western financial system. This often leads banks to close the accounts of the named individual and to refuse to do business with an individual who is purportedly a criminal fugitive.<sup>44</sup> In addition, public Red Notices, even if later withdrawn, linger in on-line search engines, as well as national

and private databases around the world, and can cause reputational damage for years. All of this makes Red Notices and diffusions an effective and efficient form of harassment.

Interpol's *Repository of Practice* guidelines suggest at least three ways that the Palestinian Authority could use Interpol to target the friends of Israel around the world.<sup>45</sup>

□ **Limiting Free Speech.** Interpol notes that it will generally allow member nations to use its channels to punish speech “where the forbidden speech amounts to hate speech (e.g. distribution of neo-Nazi propaganda) or incitement to violence.” It further notes that “states are encouraged to criminalize” hate speech and allows states to use Interpol to pursue claims of “criminal defamation” of officials below the national level (such as mayors). The Palestinian Authority could claim, for example, that support for Zionism is hate speech, or that an assertion of Israel’s right to defend itself from Palestinian attacks is an incitement to violence against Palestinians, or that criticism of the corruption of Palestinian local officials is “criminal defamation.”<sup>46</sup>

□ **Limiting Freedom of Assembly.** Interpol argues that while it must respect the freedom of assembly, this freedom does not extend to principles that are inconsistent with democracy: “banning a party that promotes racial supremacy, for example, would probably be a permissible limitation on the freedom of association.” If Zionism is a form of racism as anti-Israeli activists proclaim, then anyone who belongs to or contributes to a political party that supports Zionism is a racist and, according to Interpol, can lawfully be charged with membership in a banned organization.

This might seem improbable because the Palestinian Authority has no jurisdiction outside its own territory, and there would be no nexus connecting a foreign individual to acts in the Authority’s territory, but Interpol does not require a member nation to establish that such a nexus exists. All it requires is an assertion that a court order has been law-

fully issued. In short, if the Authority banned membership in Zionist organizations, it could then request a Red Notice against a foreign individual who supported or belonged to such an organization, even if that individual had never visited the West Bank and had no obvious connection to it.

□ **Limiting Trade with Israel.** Interpol states that it will allow a member state to use its channels if the offense concerns a violation of embargo law. Interpol generally respects U.N. embargoes and sanctions and evaluates requests involving other international, regional, or unilateral sanctions on a case-by-case basis. The U.S. has blocked efforts to sanction Israel through the Security Council, but the General Assembly has called for sanctions on Israel in the past. More recently, since 2005, the BDS (Boycott, Divestment, and Sanctions) campaign against Israel has been supported by a variety of trade unions, universities, companies, artists, and government authorities, though not often at the national level.

Overall, this campaign has not succeeded in its aim of making Israel a pariah state, and, again, it would seem improbable that Interpol would issue a Red Notice at the request of the Authority on the basis of a charge that the individual had traded with or visited Israel.<sup>47</sup> But if purported sanctions against or embargoes on Israel become widespread, the Palestinian Authority might seek Red Notices on individuals who invest in or have a direct ownership stake in any firm that does business in Israel’s settlements in the West Bank.

This possibility is more urgent because the U.N. Human Rights Council is reportedly compiling a database of companies that operate in Israel’s West Bank settlements, a so-called blacklist that, in the words of Israel’s ambassador to the U.N., would turn the council into “the world’s biggest promoter of BDS.”<sup>48</sup> Moreover, similar efforts continue at the national level: In February 2018, the U.S. reportedly played a key role in “thwarting a recent effort by the Irish government to boycott Israel and make it a crime for Irish citizens to purchase

products made in contested areas of the Jewish state.”<sup>49</sup> In short, given Interpol’s stated position on embargoes and sanctions, and as the BDS campaign remains active and continues to evolve, a serious possibility exists that the Palestinian Authority might be able to use Interpol’s channels to support this campaign.

This is not an exhaustive list of the possible offenses of which the Palestinian Authority might accuse friends of Israel through Interpol’s channels. It might, in a remarkable instance of the pot calling the kettle black, accuse Israel’s supporters of membership in terrorist organizations or of involvement in terrorist activities against the Palestinian people. Or it might accuse them or members of the IDF of involvement in war crimes or crimes against humanity, an option already foreshadowed by Omar Awadallah, the head of the U.N. organizations department in the Authority’s Foreign Ministry, in an interview immediately after Palestine was admitted to Interpol.<sup>50</sup>

In short, in spite of the fact that Interpol is prohibited from any involvement in matters of a political, military, religious, or racial character, there is ample scope in Interpol’s understanding of the interpretation of these terms for the Palestinian Authority to use Interpol to harass friends of Israel, both in Israel and around the world. Similarly, the fact that the Palestinian Authority has promised to refrain from using Interpol for “any political, military, racial or religious interventions or activities” is meaningless, as there is nothing—now that the Authority is an Interpol member—to prevent it from following the example of other autocracies around the world and seeking to abuse Interpol and, through it, anyone who believes in the legitimacy of the Israeli state.<sup>51</sup>

**4. Pursuit of Palestinian Opponents of the Palestinian Authority.** While almost all of the commentary on the Palestinian Authority’s entry into Interpol has focused on the risks this poses to Israeli officials, the most likely targets of Authority abuse of the Interpol system are not Israeli officials or even friends of Israel. The most likely targets are in fact Palestinian opponents of the Palestinian Authority.<sup>52</sup>

The Authority has already made clear its intention to target its political opponents. Immediately after the vote admitting the Authority to Interpol, an aide to PA President Abbas stated that “Mohammed Dahlan, Mohammed Rashid, and Walid Najab are going to be on top of the list” of individuals the PA will pursue through Interpol. The official added that:

The main purpose of the PA joining Interpol was to have a membership of this very important organization and pursue dozens of criminals who escaped justice and resorted [*sic*] to other countries, particularly the ones who stole public funds, and Dahlan and his group are no exception.<sup>53</sup>

Another Palestinian official agreed that the PA’s purpose in joining Interpol was “to pursue criminals who commit crimes here and escape.” The official added that Dahlan would be one of the PA’s targets. This official spoke on condition of anonymity “because he was discussing internal Palestinian deliberations.”<sup>54</sup> Rafiq Bathseh, head of the Palestinian Anti-Corruption Organisation, agreed that “all [the individuals] convicted in Palestinian court, and currently at large, will be pursued through Interpol. Dozens of convicted criminals have escaped the country, and all will be pursued, with no exception.”<sup>55</sup> If its public words are to be trusted, the Palestinian Authority’s activities in Interpol will center on Dahlan and his associates or those who purportedly are associated with him.

The story of Mohammed Dahlan is complex. Martin S. Indyk, a veteran U.S. diplomat who worked with President Bill Clinton, has characterized Dahlan as “charismatic, smart, manipulative and a clear threat to the old Fatah guard [led by Abbas] in Ramallah.”<sup>56</sup> Dahlan controlled the security forces in the Gaza Strip until Hamas seized control in 2007, when he moved to the West Bank and served as Abbas’s interior minister until 2011. Then the two fell out and accused each other of corruption, to which Abbas added the charge that Dahlan had tried to overthrow him. Dahlan fled to Abu Dhabi, where he lives today in considerable comfort.

In the eyes of Egypt, Jordan, Saudi Arabia, and the United Arab Emirates (UAE), Dahlan is a favorite candidate to succeed Abbas, and he remains vigorous in his accusations of corruption against the PA in general and Abbas in particular. Grant Rumley, a fellow at the Foundation for Defense of Democracies, believes Dahlan's chances are poor, as Abbas "is in the twilight years of his reign, and he is easily one of the most cunning politicians in the region in terms of cutting the knees out from his opponents." But Peter Baker of *The New York Times* describes Abbas as "lash[ing] out at anyone perceived to support Mr. Dahlan. Arrests, purges, protests, and even gunfire mark a proxy battle pitting an old guard struggling for legitimacy against a new generation of leadership with its own checkered history."<sup>57</sup>

The right or wrongs of this Palestinian power struggle are beyond the scope of this paper. It is possible—in fact, it is probable—that Dahlan is corrupt. It is certain that Abbas is just as corrupt, if not more so.<sup>58</sup> But even within the West Bank, Abbas's pursuit of Dahlan has drawn criticism. Dahlan was not convicted of any offense until December 2016, five years after the alleged offense, when he was sentenced by an anti-corruption court for stealing public funds. This conviction, which Dahlan described as "an attempt of President Abbas to get rid of his political foes," came only two days after Abbas lifted the immunity of five members of the Palestinian parliament, including Dahlan, thus making it possible to prosecute them.<sup>59</sup> Even though this case is being fought in part with charges of corruption that may be true, it has every appearance of being deeply political.

Interpol's *Repository of Practice* on the application of Article 3 of its constitution does not address this precise scenario, but it does offer a number of guidelines that, collectively, strongly imply that the Palestinian pursuit of Dahlan (or his purported associates) would be a violation of Interpol's rules. The *Repository* notes that offenses "directed against the State and [which] exclusively affect the public and cause only public wrong" are usually criminal only because of their political character. As a result, Interpol cannot act on charges of this nature. Furthermore, Interpol accepts that

in assessing a case, it must consider a number of factors, including the "general context of the case." More specifically, in the case of politicians or former politicians, Interpol notes that the "general context of the case may provide an indication that the request is politically motivated."<sup>60</sup>

Dahlan has been convicted of stealing public funds, but the manner of this conviction was dubious at best. In any event, this is an offense that Interpol can consider only if it was committed for personal, as opposed to political, gain. Dahlan has also been accused (though not convicted) of participating in an attempted coup, which is clearly a political charge. Moreover, the broader context of the case makes it clear that Abbas's pursuit of Dahlan through Interpol is part of the knife fight among the Palestinians for control of the West Bank and the Gaza Strip. While Interpol must consider each case on its merits, the facts as they appear today make it extremely likely that the very reason that the PA itself gives for seeking to join Interpol constitutes an abuse of Interpol's rules.

Moreover, it is unlikely that Dahlan will be the last enemy that the PA will seek to pursue through Interpol. Palestinian officials have made it clear that Dahlan is only the first of "dozens" of similar cases. For the PA to pursue all or even some these individuals through Interpol would constitute a major abuse of Interpol. It would also amount to an attempt to conscript police forces and court systems around the world into fighting the Palestinians' battles for them through a process that appears to be legal but in reality is an extension of the PA's internal wars. Interpol has no business being involved in this, and few if any of the world's nations will want to encumber their courts with cases involving Palestinians attempting to deliver other Palestinians to the tender mercies of the judicial and prison systems of the Palestinian Authority.

It is of course true that the PA is hardly the only entity that uses Interpol to harass domestic opponents who have fled abroad. Russia is notorious for this form of Interpol abuse.<sup>61</sup> China's use of Interpol to pursue purportedly corrupt critics has drawn less attention—and even, on occasion, credulous approval—but is, if anything, even more

extensive.<sup>62</sup> Efforts to abuse Interpol by securing Red Notices only rarely focus on national leaders or officials. Most of them center on attempts to harass regime opponents or critics. In this respect, the PA's focus on Dahlan and his associates is entirely in keeping with the broader patterns of Interpol abuse that have emerged in recent years. Yet the fact remains: When the Authority states it joined Interpol to hunt down purported criminals who are also its internal political opponents, it tacitly admits that it does not intend to respect Interpol's rules, which require Interpol to avoid involvement in politics.

The remaining three risks of Palestinian membership in Interpol—those that pose problems for the Interpol system as a whole but not directly for individuals—are:

**5. Leakage or Misuse of Secret Information.**

Interpol holds, though it does not control, a vast amount of information in the databases it administers. The information in those databases remains the property of the nations that collected and contributed it. Similarly, it processes or transmits a wide range of secure communications, up to and including Red Notices, most of which are secret and do not appear on the public version of its website.

After the Palestinian Authority was admitted to Interpol, several commentators and the Israeli government itself expressed their concern that the PA, by virtue of its membership in Interpol, would now have access to this information, including any information that member states have contributed on terrorists, terrorist offenses, terrorist plots, and counterterrorist measures.<sup>63</sup> The PA itself publicly praises terrorism, and its access to the information held by Interpol raised fears that it would be able to assist terrorists or plot terrorism more effectively on its own behalf.

While these fears are not without merit, they should be understood in context. Undoubtedly, the fact that the PA can now access all the information that the democratic nations contribute to Interpol raises the risk that this information will be misused. Nor is this the first time that concerns about the ways Interpol's collection of data

might be exploited have been raised.<sup>64</sup> But the PA is hardly the only entity that supports terrorism while being a member of Interpol. Iran, for example, is in Interpol, as are Pakistan, Iraq, and Syria. In this context, it is perverse to be worried specifically about the PA. Frankly, given Interpol's membership, any nation that puts genuinely confidential law-enforcement information into the Interpol system is foolish. It is unlikely that the United States is as foolish as this and therefore unlikely that it has much to lose from misuse of its information deriving specifically from the PA.

It should be noted again that all data held by Interpol belong to the member nations that contributed the information, not to Interpol. Those member nations therefore have the right to block other Interpol member nations from accessing it. The U.S. already does not allow the ICC, Iran, Sudan, or Syria to access any data supplied by the U.S., except data related to a U.S. notice request.<sup>65</sup> If the U.S. is concerned about Palestinian misuse of its data or wishes to protest admission of the PA to Interpol, it would be entirely within its rights to prevent the PA from accessing any U.S.-supplied data. Because so many nations that sympathize with the PA are members of Interpol, an access ban would not eliminate the risk that U.S. data might be abused, but it would help to reduce that risk.

**6. Damage to the Peace Process.** Another concern widely expressed after the Palestinian Authority was admitted to Interpol was that this move would damage the peace process between the PA and Israel.<sup>66</sup> The basis for this concern is that the Oslo Accords, signed in 1993 and 1995, state in Article IX of the 1995 Accords that the Palestinian Council "will not have powers and responsibilities in the sphere of foreign relations, which sphere includes the establishment abroad of embassies, consulates or other types of foreign missions and posts."<sup>67</sup> The PA's efforts to exercise "responsibilities in the sphere of foreign relations," including by seeking membership in Interpol, are a blatant violation of the Accords that created it and, as a result, a fundamental blow to the creditability of any assertions it makes about its desire to work within the Oslo Process.

At this point, however, complaints that PA actions might damage the peace process are beside the point. As a result of the PA's actions, the peace process no longer has any meaningful existence. The PA has clearly and avowedly embarked on a strategy that relies not on negotiations with Israel, but on unilateral efforts to secure international recognition of its *de jure* existence as a state. Admitting the PA to Interpol did not damage the peace process, because there is nothing left to damage. If the PA were committed to that process, it would not have sought to join Interpol in the first place. The reason why it was a mistake to admit the PA to Interpol is that the PA is not a responsible and law-abiding actor and therefore does not deserve the privileges that responsible states enjoy.<sup>68</sup> If it were responsible, it would have upheld the Oslo Process and in due course would have become a member of Interpol on merit. The question before the U.S. is not merely whether it should have opposed the admission of the PA as it is today to Interpol, but how the U.S. should respond to the PA's abandonment of the Oslo Process.<sup>69</sup>

**7. Debasing of Interpol.** The final concern is twofold. First, admitting the PA to Interpol means that just as Israeli officials are protected to a considerable extent from Red Notices by virtue of Israel's membership in Interpol, Palestinian officials now have a similar degree of protection. Second, admitting the PA to Interpol means one more vote in the Interpol General Assembly against Israel and the U.S., one more vote for irresponsible and abusive nations like Russia and China, and one more vote for terrorist regimes like Iran's.<sup>70</sup>

Both of these concerns are valid. True, while there is a serious campaign afoot to bring democratically elected Israeli officials to trial for their purported crimes, there is no comparable effort to bring anyone in Abbas's undemocratic regime to justice for their corruption and sponsorship of terrorism, so the near-immunity of PA officials from Interpol matters less than it otherwise might. The fact that the PA will add a vote to the side of the irresponsible in Interpol also matters less than it might, given that 75 nations voted to admit it in the first place while only 58 opposed or abstained. The irresponsible nations were already in the majority.

Nevertheless, every vote matters. The fact that Interpol is currently dominated by the votes of the irresponsible does not mean that it must always be that way. Admission of the PA makes it that much harder to push back on the irresponsible. Moreover, it is a bad and regrettable thing to see an international organization that, by and large, has been run responsibly and by the Western democracies throughout most of its post-war history being perverted and politicized by the autocracies and dictatorships.<sup>71</sup> The U.S. should not stand by as these trends take hold. If it does not act, they will worsen.

It is regrettably true that the Palestinian Authority is merely the latest example of a fundamental error inherent in the Interpol system: Interpol assumes that all requests made by all of its member nations deserve the same respect and consideration. That assumption is unwarranted. One of the differences between a democracy and an autocracy is that the latter often uses the instruments of criminal justice for political purposes. Autocracies are thus inherently unlikely to respect Interpol's requirement that they use its mechanisms only to pursue ordinary criminals. But the autocracies of the world have learned that Interpol can be a valuable instrument of oppression, and they are acting accordingly. Admission of the Palestinian Authority to Interpol will only make this bad situation worse.

### **Illusory "Advantages" of PA Membership**

It is revealing that virtually no one has offered any defense of PA membership in Interpol that is not political. Supportive newspaper articles almost invariably proceed from the assumption that admission of the PA is a good thing politically, not that it will be helpful in combatting ordinary crime—which, again, is Interpol's only legitimate purpose.<sup>72</sup>

A few authors have sought to make the case that the PA's membership is a net plus for law enforcement. Writing for Stratfor, Fred Burton, "an old counterterrorism agent," welcomed the decision to admit the PA as one that "makes perfect sense from a global law enforcement perspective" on the grounds that "cops tend to help other cops, regardless of politics or foreign policy." Burton regrets that because the PA was not a member of Interpol during his career, "I couldn't tap Interpol's services" during investigations of attacks by Palestinian groups "like

the Abu Nidal Organization and the Popular Front for the Liberation of Palestine,” or of Black September, the group responsible for the attack on the 1972 Olympic Games. He concludes that:

[T]he Palestinian cold case files should be a trove of materials that will enable the police services of many countries to close out long-standing terrorism investigations and uncover new leads. If I were still a counterterrorism agent, I would be welcoming the Palestinians’ addition to Interpol—as long as I could get access to their files.<sup>73</sup>

That, of course, is the problem. No nation has any responsibility whatsoever to provide any information to Interpol as a result of its membership in that organization. The PA is under no more obligation today to reveal what it knows about terrorist attacks, old or new, than it was before it was admitted to Interpol. If the PA wishes to disclose this information, it can and should do so. The fact that it has not done so strongly implies that membership in Interpol will do nothing to change its mindset or its policies.

More broadly, the argument that cops are cops the world over is disproven by the amount of political abuse that Interpol has experienced over the past decade. In fact, this argument reflects part of what is wrong with the U.S. approach to Interpol. In some nations, the police are genuinely apolitical, but in others, the courts and the police are politically controlled, or at least politically influenced. The U.S. failure to recognize that some nations value Interpol in part because it allows them to harass their opponents stems in part from the mistaken belief that law enforcement is inherently an apolitical activity.

### **PA’s Poor Record on Interpol Before and After Its Admittance**

It is beyond the scope of this paper to assess the overall record of the PA, but the PA’s track record on matters directly related to Interpol is relevant, and that track record is poor. In fact, in the short time since the PA was admitted to Interpol, almost every substantive public statement the PA has made about Interpol has been factually incorrect, abusive of its rules, or indicative of a desire to be abusive. For example:

- For years before the vote admitting the PA, Palestinian leaders made it clear that they sought

admission to Interpol not to pursue common-law criminals, but as part of their broader strategy of seeking to join the U.N. to “pave the way for us to pursue claims against Israel at the United Nations, human rights treaty bodies and the International Court of Justice.” President Abbas described this in 2011 as the “internationalization of the conflict as a legal matter, not only a political one,” thereby demonstrating the Palestinian confusion of law and politics.<sup>74</sup>

- Immediately after the vote admitting the PA, Omar Awadallah, the head of the U.N. organizations department in the Palestinian Foreign Ministry, stated that the Palestinians “now have the right to sue anyone.”<sup>75</sup> This statement bears no relationship to how Interpol works or what it does.
- Awadallah also stated that while the PA could use its new status to take legal steps against Israelis suspected of crimes in Palestinian territory, “this is a political issue and needs a political decision.”<sup>76</sup> Decisions to involve Interpol are not supposed to be based on politics.
- Immediately after the vote, Hanan Ashrawi asserted that “acceptance sends a clear message to the Israeli government that we are not population centers at its mercy; we believe in a system that is based on the global rule of law and due process, and one which enforces accountability and cooperation at the international level.”<sup>77</sup> That bears no relationship to Interpol’s purpose or to how it functions, as Interpol has no power to enforce anything at the international level.
- Also immediately after the vote, Palestinian Foreign Minister Riyad Malki described it as “a reflection of confidence in the Palestinian territories’ ability to enforce the law and abide by the fundamental values of the organization.”<sup>78</sup> That is false. Specifically:
  1. There is no substantive review of the overall record of Interpol applicants.
  2. Although Interpol’s new-membership process requires applicant states to promise that they have read and understood its constitution, Interpol considers only the record of the

police organization that will represent the applicant in Interpol. It does not consider the nature or record of any other police or security organizations in the applicant nation, or of its court system. It does not even consider whether the nation in question is a democracy. Even consideration of the applicant's designated police organization is limited and focuses almost entirely on whether it has the legal competence (not the practical competence) to be a police organization. When it comes to substance, Interpol does require that this organization meet "the high standards of the Interpol Constitution" and demonstrate "that it is able to comply with its mandates," but it provides no basis at all for making this assessment. Nor is being "able" to comply the same thing as actually complying.<sup>79</sup>

3. Given the number of autocratic and dictatorial nations in Interpol, it is obvious that membership in Interpol implies nothing of substance.

4. The PA chose to celebrate its admission as a political decision, which is exactly what it was.

- Shortly after the vote, an anonymous Palestinian official stated that "[t]he UAE will have no choice, either to extradite Dahlan or put him in jail, or he can go to [a country] which is not a member of Interpol." This is false: No nation can be forced to extradite an individual because of any action taken by or through Interpol.<sup>80</sup>
- As summarized above, the repeated Palestinian statements that the PA plans to use its membership in Interpol to pursue Mohammed Dahlan and his associates bear every hallmark of a politicized and abusive campaign that would violate Interpol's rules.
- President Abbas has continued to assert that he will use Interpol to wage a political war against Israel. On January 14, 2018, during a two-and-a-half-hour speech, he stated that the Palestinian Authority would "publish a blacklist of 150 companies who work with the settlements, and will publish the names of dozens of people suspected of bribery to Interpol" and that he would transfer a list of wanted persons "within 10 days" to Inter-

pol.<sup>81</sup> These statements, again, bear every hallmark of a politicized and abusive campaign that would violate Interpol's rules.

- Finally, in this context, the PA's success in winning admission to Interpol is clearly, as the PA itself has stated, part of its wider political campaign and thus an abuse of Interpol's apolitical purpose. Moreover, the decision to admit the PA was itself political, a fact recognized (and in some cases celebrated) by journalists, and this decision, made by a plurality of Interpol's member nations, is itself an abuse of Interpol.<sup>82</sup>

Admittedly, as the previously cited example of Serbia demonstrates, the Palestinian Authority is not the only nation that mischaracterizes Interpol. Even Interpol publicizes its actions in ways that create confusion about what it actually does.<sup>83</sup> But the record of the PA, though short in duration, is consistently bad.

### What the United States Should Do

The United States should take a wide range of actions to respond to the Interpol General Assembly's decision to admit the Palestinian Authority. While admission of the PA is a bad and undesirable step, it is only part of the wider politicization of Interpol. The U.S. response must reflect this fact.

It might appear tempting to argue that the U.S. should withdraw from Interpol and perhaps attempt to build up a replacement for it in response to the admission of the PA. This would be a serious error. The U.S. is by far the largest user of the Interpol system and played a leading role in its creation. There is no appetite internationally for creating a replacement for Interpol, and doing so would be expensive and time-consuming. Moreover, if the U.S. withdrew from Interpol, the deficiencies of the Interpol system that exist today would remain and might well become even worse, as the U.S. would not be there to oppose them. The politicization of Interpol, symbolized by admission of the PA, is disheartening, as it both debases Interpol and reflects broader trends in the international system, but the U.S. can combat those trends only by remaining in Interpol.

The U.S. can take several measures immediately by executive branch action:

- **Block Palestinian Authority access to all U.S.-supplied data held by Interpol.** As noted,

the U.S. already does not allow the ICC, Iran, Sudan, or Syria to access any data supplied by the U.S., except data related to a U.S. notice request. This ban should be extended immediately to the PA. The U.S. should also add Cuba, Venezuela, and Russia to this list, and other nations should be barred from accessing U.S. data as their actions in Interpol and elsewhere merit. The U.S. is entirely within its rights to take this step, as it is a clear Interpol principle that all data supplied to it remain the property of the supplying nation.

- **Announce a formal policy of refusing to act on Interpol notices or diffusions from Interpol members that are not allowed to access U.S.-supplied data.** In the late 1940s, the U.S. had a policy of ignoring Interpol notices published at the request of Communist dictatorships. The U.S. should act on this precedent by announcing formally that it will not act on any notices or diffusions that are published at the request of or transmitted by Interpol members that are not allowed to access the data that the U.S. has provided to Interpol, are published at the request of or transmitted by the ICC, are based on a claim of universal jurisdiction, or attempt to criminalize speech. Senator Benjamin Cardin (D-MD) has stated that any Red Notices issued by the PA “will not be recognized in many countries, including the United States.”<sup>84</sup> That is the correct approach, and it should be embodied in U.S. policy and extended to other abusive Interpol member nations. The U.S. is entirely within its rights to take this step, as no Interpol member nation is under any compulsion to act on any information or requests transmitted by Interpol.
- **Oppose Palestinian Authority requests through Interpol.** The U.S.—specifically, the U.S. National Central Bureau (NCB), the agency responsible for relations with Interpol—should adopt a policy of opposing all Palestinian Authority requests for Interpol notices and asking the Interpol Secretariat to review all Palestinian Authority diffusions sent through Interpol channels. The U.S. should be particularly concerned to oppose mass requests (simultaneous or nearly simultaneous requests by the Authority for notices on more than one individual), as these requests are particularly likely to be abusive.<sup>85</sup>

The Authority’s record implies that its requests are unlikely to comply with Interpol’s rules, and the U.S. should take it upon itself, with support from other Interpol member nations, to ensure that Interpol performs proper checks on any actions the Authority takes through Interpol. The U.S. is entirely within its rights to take this step: Interpol notes that “the NCBs have a supervision role with regard to other NCBs, i.e. whenever they have a doubt that the rules might not have been respected by another NCB, they may signal it to the General Secretariat, which will take appropriate measures to rectify the situation.”<sup>86</sup>

A second set of responses will require actions by both the executive and legislative branches but can be implemented rapidly:

- **Change Interpol’s international organization immunities.** Interpol has received legal immunities as an international organization through a series of executive orders issued by Presidents Ronald Reagan, Bill Clinton, and Barack Obama.<sup>87</sup> These immunities ultimately stem from the International Organizations Immunities Act (IOIA), adopted in 1945.<sup>88</sup>

At this point, it is effectively impossible to hold Interpol to account for actions taken by or through it in U.S. courts.<sup>89</sup> This is in large part because of Executive Order 12425, issued by President Reagan in 1983, which protected Interpol from the effects of a 1981 D.C. Circuit Court decision in *Steinberg v. International Criminal Police Organization* that Interpol could be sued in federal courts.<sup>90</sup> Leon Steinberg, the plaintiff, pleaded a strong case for defamation. Interpol had repeatedly issued notices falsely alleging that Steinberg was a wanted international criminal using the alias “Mark Moscowitz.” As a result, Steinberg sought damages from Interpol, a claim that was cut short by President Reagan’s executive order.

Section 1 of the IOIA gives the President wide-ranging discretion in the legal immunities that can be granted to an international organization:

The President shall be authorized, in the light of the functions performed by any such international organization, by appro-

appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity.

Among these immunities:

International organizations, their property and their assets, wherever located, and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract.

The President should limit Interpol's legal immunities by removing its immunity from judicial processes stemming from its publication or transmission of libelous notices or diffusions from entities that the U.S. does not recognize as states. This includes the Palestinian Authority and the ICC. After the U.S. takes this step, if the Authority abuses Interpol by using Interpol's channels to harass U.S. friends of Israel, Interpol will be financially liable for that abuse.

If Interpol were to lose a case in U.S. courts, it might refuse to pay. Congress should preempt this by creating a provision regarding the statutory contributions it pays annually to Interpol such that if Interpol loses a defamation case in U.S. courts and refuses to pay damages, those damages will be withheld from U.S. contributions and paid directly to the successful litigant on Interpol's behalf. In 2015, the U.S. paid \$9,536,832 to Interpol and was the single largest statutory contributor to its budget.<sup>91</sup>

By changing Interpol's legal immunities and conditioning its statutory contributions, the U.S. will make it clear to Interpol that any Interpol facilitation of Palestinian abuse will have direct, material, and predictable consequences for Interpol and its budget.

- **Cut U.S. funding to the Palestinian Authority in proportion to the size of the international organizations the Authority joins.** According to the Congressional Research Service, the U.S. has provided bilateral assistance to the Palestinian Authority from FY 2011 to FY 2017 in amounts ranging from \$545.7 million (FY 2011) to \$304.3 million (FY 2016). In FY 2017, the U.S. provided \$363.6 million. In addition, the U.S. has provided so-called humanitarian assistance to purported Palestinian refugees through the U.N. Relief and Works Agency (UNRWA) in amounts averaging over \$250 million annually since 2007. Total U.S. aid to the Authority and to the purported refugees has been well over \$500 million annually every year since FY 2011.<sup>92</sup> In January 2018, the U.S. decided to withhold \$65 million of its UNRWA funding as a response to the Palestinian refusal to return to peace negotiations.<sup>93</sup>

It might appear tempting to withhold U.S. funding to the Authority in proportion to the size of the dues the Authority pays to the international organizations it joins. In the case of Interpol, however, this would be a meaningless gesture, as the Authority will only be asked to pay dues worth 0.03 percent of the Interpol budget, or about \$15,000 annually. Withholding such a nominal sum from the Authority would make no impression.

Instead, the executive branch should immediately adopt a policy of withholding aid to the Authority in proportion to the combined statutory contributions of the international organizations it joins. Congress should then embody this policy in appropriations legislation. In 2016, Interpol received \$52.783 million in statutory contributions from its member nations. The U.S. should therefore reduce the aid it provides to the Authority in FY 2018 by \$52.783 million. This standard provides a predictable way to respond to successful Authority efforts to join international organizations. It cuts U.S. aid to the Authority in proportion to the size of the organizations it joins and, because it is predictable, may help to discourage the Authority from pursuing this strategy.<sup>94</sup> Starting with its membership in Interpol and in the future, the direct financial costs to the Authority of its diplomatic offensive must be clear, automatic, and large.

- **Add State Department management and National Security Council oversight to the U.S. National Central Bureau.** The U.S. NCB is managed by the Department of Justice and the Department of Homeland Security. If Interpol were solely an apolitical organization, this management structure would be appropriate, but as autocratic nations have sought to politicize it, the U.S. can no longer treat either Interpol or its General Assembly as apolitical organizations of law enforcement officials.

The fundamental difficulty is that the NCB is not staffed or structured in a way that is conducive to strategic planning in the realm of international politics. By and large, its leadership tends to come from the law enforcement community. This leadership has been experienced and capable, but it has not included diplomats. It has been made up of individuals who, as law enforcement officials, have been trained to avoid politics at the domestic level and who have no background in politics at the international level. A diplomat would not know how to locate and arrest a fugitive, and a law enforcement official cannot be expected to know how to deal with Palestinian manipulation of Interpol.

Reflecting this fact, when Congress has imposed objectives on the U.S. in its relations with Interpol, it has tended to do so by requiring action by the Department of State. For example, on March 18, 2016, President Obama signed into law a bill requiring the Secretary of State to “develop a strategy to obtain observer status for Taiwan in Interpol.”<sup>95</sup> However, the State Department has limited involvement in and no responsibility for or control over the conduct of U.S. relations with Interpol. It is therefore unclear how the department can develop the strategy mandated by Congress.<sup>96</sup> The result is that neither State nor the NCB appears able to devise and implement a strategy, even when State is required by Congress to do so.

The United States has failed to devise an effective strategy to resist and roll back the politicization of Interpol. If it does not act, Interpol, which is used heavily by U.S. law enforcement, will continue to lose credibility in ways that will damage

both it and the interests of the U.S. To remedy this state of affairs:

1. The executive branch should change the management structure of the U.S. NCB by requiring that it have two deputy directors, one from the Department of Justice or Homeland Security and one from the State Department. The director of the NCB, as is the case today, should come from Justice or Homeland Security, with the agency not holding the directorship holding one of the deputy director positions.

The job of the deputy director from State should be threefold: to prepare for and assist in staffing the U.S. delegation to the General Assembly in order to enable members of the delegation to assess effectively proposals that domestic law enforcement officials may not be properly equipped to evaluate; to develop and implement strategies to resist and push back against the politicization of Interpol; and, with the advice of the NCB’s legal counsel, to maintain and update a “white list” of victims of Interpol abuse.

In this connection, the deputy director should devote particular attention to assessing Interpol candidate nations; candidates for its Executive Committee; and candidates for and reforms in the Commission for the Control of Files (CCF), a quasi-appellate body responsible for ensuring that Interpol’s activities comply with its rules, and to vetting authors for any special reports commissioned by the Executive Committee or General Assembly. The deputy director should also be responsible for implementing strategic initiatives for Interpol mandated by Congress, developing new proposals to oppose the politicization of Interpol, proposing suitable authors of special reports, and taking actions in the U.S., and in collaboration with other nations, to protect individuals from the politicized abuse of Interpol by other nations.

2. The executive branch should ensure that the National Security Council receives regular updates on the strategic side of the NCB’s work from the new deputy director and should sec-

ond an official to the NCB to help it prepare for meetings of the General Assembly and to accompany the U.S. delegation to the meeting.

3. Congress should transfer its existing Interpol-related mandates to the new deputy director and should require the publication by this official, through the NCB, of annual progress reports on these mandates and any new mandates that it creates.
4. The new deputy director should receive and assess reports of potentially abusive Interpol actions against U.S. citizens and aliens legally in the United States. If the allegations of abuse are well founded, the deputy director should coordinate with the Department of Homeland Security and the Office of the Attorney General to prevent abusive Interpol notices from being used in legal proceedings in the U.S. and should propose that victims of the abuse be placed on the “white list.”

These proposals may be criticized on the grounds that they seek to politicize Interpol. The fact is that Interpol is being and has been politicized both by nations such as Russia, China, and Iran and by entities such as the Palestinian Authority. The U.S. cannot respond to this politicization by continuing to treat Interpol as a mere mechanism of law enforcement. It must respond at the political level, not to politicize Interpol, but to recognize political abuse for what it is and thereby to depoliticize Interpol. Contrary to the claims made by some observers, calling attention to abuse is not playing politics; it is resisting the efforts of other nations and entities to politicize Interpol.<sup>97</sup>

A third and final set of responses will require action primarily by the executive branch, with some support from the legislative branch, but cannot be implemented as rapidly.

- **Seek to build consensus and support action by like-minded states.** The vote in the General Assembly to admit the Palestinian Authority to Interpol was 24 votes against, 34 abstentions, and 75 votes in favor. That is a discouraging balance

against the U.S. and Israel, and the fact that the U.S. reportedly provided diplomatic support to Israel in advance of the vote makes the outcome all the more discouraging.<sup>98</sup> But the fact remains that, apart from the U.S. and Israel, there are 22 nations on the U.S. side in Interpol and another 34 that may be persuadable. Furthermore, while Interpol does not reveal how nations voted in its General Assembly, it is likely that most of the opposition to the Authority came from Western-aligned nations that are among its largest funders. In practice, while this funding weapon is weaker than it once was, it remains the single most effective method that the U.S. and like-minded nations can use to advance a reform agenda. If Interpol is to change, it is likely to be because its democratic funders tie their funding to the advancement of specific reforms.<sup>99</sup>

The U.S. will not win any votes in the General Assembly unless it both rallies the other 23 nations that opposed the Authority and puts pressure—in some cases friendly, in other cases less so—on Interpol’s remaining 167 nations. Some of these nations will never abstain, much less side with Israel, but others may be willing to reconsider. More broadly, the U.S. should encourage as many nations as possible to follow its lead in blocking Authority access to its information, officially refusing to act on Authority notices and diffusions, and expressing official concerns about Authority actions to Interpol’s General Secretariat. Finally, the new U.S. NCB deputy director, following the priorities set out above, should work to build consensus to resist the wider politicization of Interpol.

- **Establish a goal of enforcing Interpol’s suspension mechanism.** Interpol cannot prevent autocratic nations from making requests for politicized Red Notices; it can only refuse to issue them. The responsibility for not making politicized requests rests with Interpol’s member nations, but Interpol’s rules make it clear that if a nation persistently makes requests that seek to break Interpol’s rules, its access to Interpol’s systems can be suspended. It will not ultimately be possible to protect Interpol from abuse unless nations face consequences for seeking to abuse it. Without an effective deterrent, the abuse will continue.

On its own authority, Interpol's General Secretariat can suspend, for a period not longer than three months, the processing operations of any NCB and/or suspend the access rights granted to the NCB's users. If the General Secretariat wishes to propose a long-term suspension of an NCB, it must submit proposals to the Executive Committee.<sup>100</sup> The General Secretariat can also take a variety of other actions to assist NCBs or to assess how effectively they are fulfilling their obligations.

The difficulty is that there is no evidence that Interpol has ever suspended an NCB for any period of time or expelled a member nation.<sup>101</sup> Former Interpol Secretary General Ron Noble has asserted that the mere idea that nations that abuse Interpol's rules should not be allowed to use its channels was "one of the most dangerous proposals I have heard," even though Interpol's own rules clearly make this possible.<sup>102</sup> The long-term goal of the United States and like-minded nations should be to ensure that Interpol suspends and, if necessary, expels persistently abusive nations.

To that end, at the 2018 meeting of the Interpol General Assembly, the U.S. should propose a resolution affirming that Interpol has the power to suspend abusive nations; stating that it has the responsibility to do so; and directing Interpol's General Secretariat to carry out a factual study, to be published at the 2019 General Assembly meeting, on which nations have submitted the most requests, as well as the highest proportion of requests, that it rejected as abusive during the 2017 calendar year. This report should also include the results of Interpol's reportedly ongoing review of up to 40,000 existing Red Notices, broken down in the same way as the data from the 2017 calendar year.

- **Propose an annual resolution to expel the Palestinian Authority from Interpol.** The U.S. should not take its 2017 defeat lying down. It should annually compile a running report of statements by the Palestinian Authority that evince an intention to abuse Interpol and Authority actions that are actually abusive. It should present this report at the annual meeting of the General Assembly, coupled with a resolution that its evidence justifies the expulsion of the Author-

ity from Interpol. On the basis of the previously cited evidence, this report should not be short of material.

The U.S. and Israel cannot expect to win this vote soon or even in the foreseeable future, but as Elliott Abrams notes, Israel has enjoyed considerable success in diminishing its diplomatic isolation.<sup>103</sup> The U.S. should keep building its case and making it clear that, leaving aside any wider considerations about the peace process, it does not regard the Authority as a fit member of Interpol. It is true that similar reports about abusive behavior could be compiled about many other Interpol member nations and that the U.S. should not focus its resistance to the politicization of Interpol solely on the Palestinian Authority, but the Authority is unique: It is a newly admitted autocracy that in a short time has expressed a repeated intention to abuse Interpol and was admitted with the active support of less than half of Interpol's member nations. The U.S. position should always be that only nations that can live up to the requirements of membership should be admitted to Interpol. The U.S. must draw a line somewhere, and the Authority's membership is the best place to draw it.

- **Do not support regional oversight of Interpol.** One of the emerging proposals for reforming Interpol, or for limiting the damage caused by abuse of it, is that Interpol should be assisted or perhaps overseen by the European Union.<sup>104</sup> This is a bad idea for three reasons.
  1. If the EU were given a special status, there is no reason why Russia's Eurasian Union or the African Union could not insist on being granted a similar status. The result would likely be the further politicization of Interpol.
  2. Interpol is supposed to be an organization of sovereign states, not a collection of regional entities. Admission of the PA violated this rule; giving regional entities a special position in Interpol would violate it again in a way that would be very difficult to repair: Once the EU, the Eurasian Union, and the African Union were given a special role, they would never abandon it.

3. The EU is in no position to tell Interpol how to run a system of extradition requests. The EU's signature instrument in this area is the European Arrest Warrant (EAW). The EAW operates on the basis that all of the EU is a single judicial area and makes extradition for its list of agreed-upon offenses an automatic procedure across the entire EU. (Properly speaking, the EAW is a removal rather than an extradition system.) The EAW assumes that all EU member states have the same legal and judicial standards, but this assumption is unwarranted, and the EAW as a result has faced substantial and ongoing criticism from legislators, human rights nongovernmental organizations (NGOs), and victims of abuse committed by EU member nations such as Romania. Especially given this context, it would be ridiculous to give the EU a special position of any sort in Interpol, and the U.S. should firmly oppose any proposals for regional oversight of Interpol.<sup>105</sup>

- **Publish Interpol's full budget and all of its sources of income.** As noted, the single best weapon in the arsenal of the United States and other Western-aligned nations that want Interpol to be the apolitical organization dedicated to fighting ordinary crime that it is supposed to be are their sizable contributions to its budget. In 2015, 14 of the top 15 dues-paying nations were Western-aligned democracies.<sup>106</sup> The financial balance in Interpol, at least as far as statutory contributions go, is overwhelmingly on the side of the West.

But the share of Interpol's budget that derives from statutory contributions (dues) has shrunk rapidly in recent years. In 2016, Interpol's consolidated revenue was €113.7 million, of which only €54 million came from statutory contributions. The remainder came from "other contributions" to the Regular Budget (€37.2 million) and "Trust Fund and Special Account contributions" (€22.5 million). Thus, member state dues provided less than half (48 percent) of Interpol's income in 2016.<sup>107</sup> Interpol's claim that its "principal source of funding is the annual statutory contribution" provided by each of its member nations is not fully accurate: Its core budget is nominally

paid for by statutory contributions, but its overall budget relies heavily on in-kind contributions (primarily seconded staff, which is entirely reasonable) and its Trust Fund and Special Account. The Trust Fund and Special Account contributions, in turn, derive from three main sources: government agencies (€18.57 million in 2016); the private sector (€1.54 million); and foundations, international organizations, and NGOs (€1.8 million). Interpol states that "this funding supports different types of activities in line with our strategic and corporate priorities, and which are agreed in advance with the different contributors."<sup>108</sup> In other words, Interpol is hiring itself out to governments, corporations, and NGOs.

Interpol does have due diligence guidelines that supposedly protect its independence, but in spite of these guidelines, Interpol has shown a remarkable ability to sign deals with bad actors in the international and private sectors. In 2015, it was revealed that Interpol had taken €20 million from FIFA, the corrupt international soccer federation, purportedly to assist FIFA in fighting corruption. This agreement was terminated shortly after it attracted public attention.<sup>109</sup> Interpol also has a memorandum of understanding with the International Olympic Committee (IOC) that includes IOC payments to Interpol.<sup>110</sup> Like FIFA, the IOC has been embroiled in repeated corruption scandals.<sup>111</sup>

Remarkably, just as the U.S. government ordered Kaspersky Lab's antivirus software off its systems in 2017 out of concern that Kaspersky is linked with Russian security and intelligence services, Interpol signed an agreement to cooperate with Kaspersky in fighting cybercrime.<sup>112</sup> Interpol has also signed deals with Philip Morris International to pay for efforts to disrupt tobacco counterfeiting and with 29 large pharmaceutical firms to fight fake drugs.<sup>113</sup>

Finally, there is the Interpol Foundation for a Safer World, which has pledged to contribute €50 million to Interpol over the 2016–2020 period; at least €3 million was received in 2016.<sup>114</sup> Although the foundation purports to be an independent philanthropic body, it is actually a conduit for funding from the United Arab Emirates.<sup>115</sup> Not

surprisingly, the 2018 meeting of the Interpol General Assembly will be held in Dubai.<sup>116</sup>

Interpol tends to reveal little about these so-called partnerships: Its audited financial statements refer only to “monies received from external sponsors for a specific, defined purpose,” although it has made available a list of supporting government agencies, international organizations, and private entities.<sup>117</sup> These private-sector contracts, as well as some contracts with international organizations, are undesirable for at least six reasons.

1. It would not be right for a U.S. police department to make a contract with a private firm for which it receives funds in exchange for concentrating on matters of particular interest to that firm. The police are supposed to serve the public good, not to be contracted out for hire. Even though Interpol is not a police department, the same considerations apply to it.
2. It is hard to escape the sense that FIFA and firms like Kaspersky are working with Interpol because they want to trade on Interpol’s good name to distract attention from the suspicions that surround them.
3. If Interpol were not making contracts with soccer federations, tobacco firms, and drug companies, it would likely not focus on corrupt athletes, tobacco smugglers, and drug pirates. There is an inescapable risk that these contracts are shaping Interpol’s priorities.
4. These contracts create obvious concerns about conflicts of interest. If Interpol takes money from FIFA and Kaspersky, it may well be less than zealous in pursuing their misdeeds.
5. Interpol is not supposed to set its own law enforcement priorities; it is supposed to serve as a conduit for its member nations. By contracting to focus on crimes of its choosing, Interpol is coming perilously close to acting as a supranational police agency.
6. These independent funding sources reduce the significance of member nation dues and thus reduce the effective ability of the mem-

ber nations collectively to control Interpol.<sup>118</sup> Nominally, external funds can be applied only to agreed purposes, but in its statement of operating expenses, Interpol uses external funds to help meet staff costs,<sup>119</sup> and its audited financial statement for 2016 states explicitly that projects under this heading “share Regular Budget resources and infrastructure.”<sup>120</sup> In practice, then, these external funds are supporting portions of Interpol’s core budget and thereby diminishing member nations’ control of the organization. It is difficult to understand why Interpol would sign contracts with private firms if the money from them did not subsidize its core operations. The only other explanation is that Interpol is engaging in empire-building and that it seeks to grow merely because its leaders want it to be bigger. Either explanation is discreditable.

What makes Interpol’s increasing effort to develop independent revenue sources unacceptable in the context of admission of the Palestinian Authority is that these sources, which are outside the effective control of any Interpol member nation, reduce the leverage that the Western nations should enjoy within Interpol as a result of the fact that they provide the overwhelming share of its statutory contributions and, indeed, its national contributions outside of those statutory contributions.

It is clear that Interpol has no intention of disclosing in a regular and transparent way all of its sources of funding and the resultant activities that it undertakes, at least some of which appear to be problematic. It is also clear that Interpol is becoming less dependent on statutory contributions by its member nations. The U.S. should act to remedy these defects. Specifically:

1. The executive branch should require the U.S. NCB to publish full information, regardless of any secrecy clauses contained in any of the contracts, on all of Interpol’s sources of funding, and this requirement should be backed by a congressional mandate.
2. At the next meeting of the Interpol General Assembly, the U.S. should present a resolution

calling for full and public transparency on all sources of past and present Interpol income; Interpol's exclusive future reliance on national statutory contributions; a reduction in peripheral activities sufficient to allow Interpol to live within its nationally provided means, coupled if need be with an increase in statutory contributions to support essential activities currently undertaken with voluntary national contributions; immediate cancellation of all contracts entered into for purposes of raising funds and the return of any funds received to the other contracting party; and Interpol's refusal to accept donations in the future from any purportedly private source or from any government except through the mechanism of statutory contributions.

- **Improve the quality of information published on the abuse of Interpol.** A U.S. effort to secure the publication of data on failed efforts to abuse Interpol, as set out above, is only part of the answer. Interpol must also do a better job of publishing data on successful efforts to abuse it. The appropriate venue for this is the CCF, the quasi-appellate body responsible for ensuring that Interpol's activities comply with its rules. Under the leadership of Interpol Secretary General Jürgen Stock, Interpol has made significant reforms in the CCF's rules and structure, though it is too soon to know whether these reforms have been effective.<sup>121</sup>

However, the data the CCF provides on its operations and decisions, while improving, are still insufficient. The U.S. should work in advance with democratic nations to propose a General Assembly resolution commending the CCF for the improvements it has made while requiring it to publish decision excerpts so as to create case law on which attorneys and other experts can rely; publish such excerpts in a timely, reliable, and regular manner;<sup>122</sup> and publish annual reports containing full and standardized information on the requests it received, the actions it took, and the nations that were involved. Currently, the CCF's annual reports, though useful, are too poorly organized and not sufficiently standardized to make them reliable sources of comparative data.<sup>123</sup>

- **Work with selected democracies to create a white list of victims of Interpol abuse.** It will never be possible to prevent all cases of political abuse of Interpol, but as things stand now, victims of this abuse have few alternatives. Their only option is to turn to the CCF, which can stop the abuse but cannot impose damages on the nation that abused the system or restore the victim's reputation, ability to travel, or ability to access the international financial system. Again, there are limits to the power of the United States to achieve these ends, but the U.S. can do more than it is doing now. In light of the Palestinian Authority's admission to Interpol and the ongoing efforts of Russia, Iran, China, and others to abuse Interpol, the need to do so is urgent.

The fundamental problem is that the U.S. NCB does not see itself as having a role as the advocate for U.S. citizens who suffer abuse through Interpol. The NCB sees its job as catching the accused, not as protecting the unjustly accused. While it is true that the vast majority of the NCB's work will always center on the pursuit of accused criminals, it should accept that (as Interpol itself recognizes) it also has a secondary role of helping to police the Interpol system itself against abuse and that this involves a special responsibility for actively protecting U.S. citizens from such abuse.

The U.S. should work with a carefully selected group of democracies to create a white list of victims of Interpol abuse.<sup>124</sup> This group should start with the United Kingdom and Germany. The group would not be based on a treaty or comprise a new international organization. It would be united only by a shared goal and a few basic procedures. Admission to the group would be by unanimous agreement of the existing members, with only the most trustworthy nations allowed to join. The group would have four purposes:

1. **Creation and Maintenance of a White List.** The list should be composed of victims of Interpol abuse. Its founding members should be Ilya Katsnelson (United States);<sup>125</sup> William Browder (United Kingdom); and Dogan Akhanli (Germany), all of whose cases have been the subject of political attention at the highest levels. Inclusion in the list should be

by unanimous agreement of all members of the group after a 14-day waiting period. In the U.S, the new deputy director of the NCB would be responsible, with the advice and cooperation of the NCB's legal counsel, for updating, maintaining, and proposing additions to the white list and for ensuring that abusive Interpol notices are not used as evidence in federal legal proceedings in the United States.

**2. Mutual Diplomatic Support.** If any group member's NCB made a protest to the Interpol General Secretariat, the CCF, or the Interpol General Assembly concerning a member of the white list, the other members of the group would agree to join and support this protest. They would also agree to work jointly to seek support from NCBs that are not group members.

**3. Protection of Freedom of Movement.** All group members would agree to prevent any members of the list from having their passports, visas, or other travel documents affected by any future Interpol action. This would be done by requiring the automated systems in the NCB to consult the white list before passing any Interpol notice or diffusion on to national travel documentation systems.

**4. Protection of Freedom of Commerce.** All group members would agree to publish the white list through their authorities responsible for financial sanctions (in the case of the U.S., the Treasury) and to inform banks, know-your-customer firms, and other financial actors officially that they will not be investigated and will suffer no penalties as a result of doing business with any individual on the white list if that individual is the subject of Interpol action. Furthermore, these firms should be notified that if they do take adverse action on the basis of an Interpol notice or diffusion against one of these individuals, the U.S. NCB and the Department of Justice will support that individual in any lawsuit he or she chooses to bring.

No white list can prevent all abuse or remedy all of its consequences, but it is not reasonable for the

U.S. to require its citizens to face the power that abusive nations (and now the Palestinian Authority) can wield through Interpol on their own.

- **Hold congressional hearings into abuses indirectly and directly associated with Interpol.** To date, the concerns about Interpol have focused on the ways that Interpol unwittingly facilitates the abuse perpetrated by autocratic states. In these cases, Interpol is not committing the abuse: It is failing to do its duty and prevent the abuse. Even if Interpol's involvement in these cases is entirely indirect, however, it is still in the wrong. Congress should emphasize its concern by holding hearings on the abuse of Interpol and should include in these hearings an assessment of the consequences of the Authority's admission to Interpol and of future U.S. policy.

This indirect abuse of Interpol is bad enough, but there are worrying hints that Interpol may be a direct and willing participant in the perversion of justice. Particularly troubling are the allegations that Interpol was directly involved in a corrupt deal between the Iranian regime and the government of Argentina. In 1994, a Hezbollah agent bombed a Jewish community center in Argentina, killing 85 people and injuring hundreds. After an investigation, the Argentine government, led by Néstor Kirchner, sought and obtained Red Notices on several senior Iranian officials for their role in directing the attack.<sup>126</sup>

After a new Argentine government headed by Cristina Fernández de Kirchner, the late President's wife, came to power in 2010, the Argentine and Iranian regimes began to cooperate in a supposedly impartial investigation of the bombing. Argentine Prosecutor Alberto Nisman continued to work the case but was murdered in 2015 shortly after he charged Cristina Kirchner with covering up the Iranian role in the attack. An Argentine judge has alleged, as did Nisman himself, that Iran and Argentina had a secret deal to drop the Red Notices. Surprisingly, this claim was confirmed by Iran itself in late 2017.<sup>127</sup>

What is not confirmed is the claim that Interpol was aware of this deal and that it colluded with Argentina and Iran to drop the Red Notices. For-

mer Director General Noble has strongly denied these allegations, and Interpol's press release on a 2013 meeting between Noble and the Argentine Foreign Minister backs up his assertion. On the other hand, if Interpol was indeed colluding with Argentina and Iran, its press releases would naturally not reveal this fact, and the fact that the 2013 press release explicitly states that the arrangement between Iran and Argentina did not require Interpol to cancel the Red Notices makes it clear that rumors about the deal were current at the time.<sup>128</sup>

This is a complicated case, and it is difficult to have confidence in any of the national or judicial authorities involved in it, but dispositive evidence that Interpol was directly involved in covering up Iran's responsibility for a major terrorist attack would raise the gravest possible issues for U.S. relations with Interpol and make it clear that the influence wielded by the totalitarian regimes inside Interpol is greater than even those most concerned about it had believed possible. Congress's hearings should include an investigation into Interpol's role in the collusion between Iran and Argentina, both in order to clear the air on this case and to make it clear to all concerned that admission of the Palestinian Authority—a grave error on its own merits—must not lead Interpol to facilitate, either directly or indirectly, any abuses that the Authority attempts to perpetrate.

### **An Enormous Step Backward**

Being a member of Interpol is in the national interest of the United States. The U.S. is the single largest user of Interpol. It benefits from using Interpol's systems to pursue fugitives abroad and because other nations use those systems to alert it to the presence of foreign criminals in the United States.<sup>129</sup> Precisely because Interpol is supposed to be limited to ordinary crime, it cannot be used against some genuinely bad actors.<sup>130</sup> That is the price that the U.S. has paid—and paid willingly—to keep Interpol away from politics. Nor have the abusive member nations that reject or ignore Interpol's apolitical mandate had it all their own way: Interpol's adoption of a new policy on refugees and improvements to the CCF, though not perfect, deserve recognition and praise.<sup>131</sup>

However, admission of the Palestinian Authority is an enormous step backward. The West Bank,

governed by the Authority, has a “Not Free” ranking from Freedom House. Its overall ranking is 6 out of 7, with 7 being “Least Free.” It scores 7 out of 7 on political rights and 5 out of 7 on civil liberties.<sup>132</sup> This places the Authority in the bottom quarter of the world rankings, alongside nations like Russia, Belarus, Egypt, and Iraq. President Abbas is currently starting the 13th year of his four-year term of office. He calls murderers “heroic brothers” and repeatedly and publicly defends Palestinian Authority payments to terrorists.<sup>133</sup> One of the most recent Palestinian terrorist attacks came on September 26, 2017, just hours before Interpol voted to admit the Palestinian Authority to membership.<sup>134</sup>

When it joined Interpol, as a number of Palestinian leaders appear to have recognized,<sup>135</sup> the Authority formally committed itself to respect the core principles of Interpol's constitution and to abide by that constitution and its associated regulations and rules.<sup>136</sup> When the Authority signed 15 treaties in 2014, however, it did so in spite of the fact that it was in clear violation of at least 11 of them.<sup>137</sup>

In fact, the Authority sought to join Interpol in clear violation of its own explicit commitments in the Oslo Accords: Its very membership application was based on a breach of faith. Having broken the promises that brought it into existence, the Authority now pledges to abide by Interpol's rules. This latest promise is valueless, and crediting it only encourages the Palestinians' belief that they can continue to break their promises without challenge and be rewarded for their dishonesty.<sup>138</sup> The Palestinian request to join Interpol was not an act of law: it was an act of lawfare.

In many respects, the Palestinian Authority is not all that unusual. It is just another autocratic entity like many others in Interpol.<sup>139</sup> The kinds of abuse it will likely perpetrate through Interpol are not new: other autocratic Interpol members have blazed the trail ahead of it, as the many examples of abuse cited in this paper demonstrate. The only things that make the Authority unusual are that:

- Although it is not a state, it is being treated as if it were one;
- By seeking admission to Interpol, it broke the agreement that brought it into existence;
- It sought admission for political purposes;

- It benefits from a political campaign on its behalf and from being held to low or nonexistent standards; and
- It openly promises to use its membership in Interpol for purposes that violate Interpol's constitution, which it has pledged to uphold.

The broader reason why admission of the Palestinian Authority to Interpol is a regrettable error is that it strikes a blow against the idea that international organizations should have basic standards for membership. It stands to reason that if an international organization seeks to accomplish particular goals or to embody certain values, the nations in it should have a track record of contributing to those goals or upholding those values. Just as it would be ridiculous to put an unrepentant bank robber in charge of security at a bank, it makes no sense to allow supporters of terrorism into organizations charged with fighting it or to allow a nation with thoroughly politicized law enforcement and judicial systems into organizations (like Interpol) that are required to avoid politics and to focus exclusively on ordinary crime.

The Palestinian Authority's application to join Interpol was thus a valuable opportunity for its members to advance this principle of standards for membership, but Interpol's members instead decided to accept the argument that as long as the bank robber promises to be good, he is entirely fit to be placed in charge of security at a bank. This was a lost opportunity. It was also part of the wider politicization of international organizations and a demonstration of the weakness of the opposition to it.<sup>140</sup> It will inevitably invite further politicization and further abuse.

The newly adopted Interpol procedure for admission makes this possibility all too real. Unfortunately, Interpol has not released the Corell report that provided the basis for the admissions procedure, but the procedure itself is revealing, as are the publicly expressed opinions of Hans Corell. In 2014, he retweeted (among other similar pieces) an article critical of Israel's conduct in the Gaza conflict, predicated on the idea that because Israel has a reasonably effective missile defense system, it needs to show more tolerance of Hamas's missile attacks on it. One might as well argue that the attack on Pearl Harbor in 1941 would have been no problem if the

Japanese aircraft had been intercepted before dropping their bombs.

Corell has focused much of his online energy on praising the International Criminal Court; criticizing the supposed crimes associated with American exceptionalism, including aligning himself with a demand for the prosecution of American officials; declaiming against the so-called wrongs of the post-9/11 era; supporting the Law of the Sea Treaty; attacking British efforts to draft a British Bill of Rights; campaigning for a global "Crimes Against Humanity" Convention; and backing claims for "climate justice."<sup>141</sup> When it comes to foreign policy, the two nations he regularly singles out for criticism are the U.S. and Israel. He calls on the U.S. to "subject" itself to the ICC, but when it comes to China, he takes a rather different attitude: "Some...criticize China for not being a democracy. I say, 'What would you do if you were the president of China tomorrow? Would you now say, 'We will instill democracy'? This is not how things are done.'"<sup>142</sup>

Corell's position is that national sovereignty, as manifested in the will of the people, is the only plausible basis for international affairs. That is a reasonable position, but he then argues that the will of the people is misinformed if it manifests itself in anything other than subjection of the nation to supranational organizations such as the ICC, which are to be advised by individuals such as himself. Moreover, in his view, these supranational organizations should include as many nations as possible but need not be very fussy about whether those nations are democracies, because the development of democracy is a "methodical process."

Corell is not so bothered by the lack of democracy in China, but he is very troubled about the ignorant American public and emphasizes the need for the right kind of education, "not least in the most powerful democracies in the world, because the level of ignorance sometimes frightens me also there."<sup>143</sup> The point of the supranational institutions he praises is thus partly to judge the guilty, partly to subject all of those institutions' member nations (and especially the democracies among them) to their authority, and partly to educate democracies and ultimately their peoples to govern themselves as Corell would prefer that they do.<sup>144</sup>

In short, while Corell wants to put U.S. officials on trial, he applies no meaningful standards to China—or the Palestinian Authority. He wants climate jus-

tice and war crimes trials for the U.S., but his standards for much of the rest of the world are much less demanding. He applies high standards to the places that already have high standards while being content with low standards in places that have low standards. What is missing here is any sense that all states should have a common standard of behavior that, if not excessively high, does require respect for a limited but vital set of rights. What is equally missing is a sense that putative states should be assessed in light of their demonstrated ability and desire to meet this common standard.

Corell's report thus raises significant issues in the realm of state recognition: the theory and practice of why and how new nations come into official existence. Legal scholars today are divided between two theories of state recognition:

The constitutive theory provides that a state is only a state upon the political act of recognition by other states. The declaratory theory, on the other hand, opines that recognition is merely acknowledgement of the existing statehood status, and that the act of recognition does not confer status. Rather, statehood is acquired by satisfaction of objective criteria.<sup>145</sup>

The Interpol procedure for admission (as well as, most likely, the Corell report that formed the basis for it) is based on the declaratory theory: The Palestinian Authority was eligible for membership in Interpol because it has territory, a population, a government; the capacity to enter into relations with other states; and non-member state status at the U.N. The Interpol procedure ignores the constitutive theory, which argues that states, at least in their international capacity, do not come into existence until they are recognized by other states. That, in turn, raises the question of what conduct and values the recognizing states expect the putative state to manifest before they recognize it.

In sum, both common sense and international law offer a basis for arguing that Interpol should be selective in its membership, but all the Interpol procedure requires of the applying entity, apart from fulfilling bureaucratic niceties about timing, is that it promise to uphold Interpol's rules. The admissions procedure asks no questions of the entity's government; it applies its standards (which are of legal competence, not administrative or technical compe-

tence) exclusively to the official police authority in the entity seeking admission.

This division between the government and the police is clever, and it has a basis in the fact that Interpol is legally an organization of police organizations, not of governments. In practice, however, Interpol does not speak or act on this basis. It refers, for example, to its "member countries," not to member police organizations.<sup>146</sup> Thus, the distinction the Corell report makes does not reflect Interpol's reality. Moreover, it is fundamentally fallacious, because it implies that a totalitarian government might still have a respectable and reliably apolitical police force. Such a state of affairs does not exist in reality.

Worse, Interpol's constitution rests on the recognition that a separation between politics and law cannot be assumed: It must be assured in each case that Interpol handles. The new Interpol admission procedure, by contrast, begins with the assumption that the police are inherently separate from the political government.

This assumption is unsafe and unwise. Because it focuses narrowly on the police and thereby ignores abuses perpetrated by the government, it also is a policy of low standards for places that already have low standards. In other words, it is entirely consonant with Corell's previously expressed views, and it opens the way for Interpol to admit future applicants that do not deserve admission while offering a shield to current abusers. In future, nations like Russia will be able to point to Interpol's admissions policy and argue that its wider record is irrelevant: All that matters is that its police force has adequate legal competence.

Over the past decade, dictators have discovered how to abuse Interpol. The abusive nations are quite clever enough to make use of this new defense. What is most striking about the rise of Interpol abuse is the fact that the abusive nations were quick to find ways to manipulate the system, while the democratic nations were slow to find ways to defend it. The dictators, in other words, are good learners. It is now not uncommon for undemocratic nations like Turkey or China to brag openly about their success in pursuing fugitives through Interpol.<sup>147</sup> These fugitives are commonly accused of easily falsifiable crimes like corruption, or of politicized offenses like speech crimes, or confronted with spurious accusations of terrorism.

Today, Interpol's president is a former minister of state security from the People's Republic of China,

and the European representative on its Executive Committee is a Russian official who bears a direct and personal responsibility for Russia's serial abuse of Interpol.<sup>148</sup> Interpol Secretary General Jürgen Stock has shown a commendable willingness to begin to confront the abuse of Interpol, but he is responsible for Interpol's operational management, not its organizational policy and direction, which is the prerogative of the Executive Committee. It is difficult to escape the perception that the democracies in Interpol are on their back feet, an impression that is strengthened by the admission of the Palestinian Authority.

Having secured this influence, the totalitarian regimes can be relied upon to seek to defend it. The admission of the Palestinian Authority is part of that defense: Interpol's General Assembly has established a precedent that even discreditable and undemocratic regimes like the Palestinian Authority that support terrorism have a place in Interpol. The dictators are also likely to make the perverse argument that anyone who resists their politicization of Interpol is responsible for politicizing Interpol. Individuals working in a lobbying or legal capacity have already made this claim in what gives the appearance of being a defense of Turkey's abuse of Interpol.<sup>149</sup>

## Conclusion

The Interpol General Assembly's decision to admit the Palestinian Authority was a mistake, both because the Authority is likely to seek to politicize Interpol and because it sought admission to Interpol as a part of its political campaign against Israel. Its admission was thus a defeat both for Israel and for the United States and the other Western democracies that supported Israel. While the risk of Palestinian abuse of individuals—Israelis, friends of Israel, and Palestinian opponents of the Authority—is the most serious consequence of the admission of the Authority, the General Assembly's decision also both increased the prominence of authoritarian nations in Interpol and strengthened their ability to resist Western pressure aimed at ensuring that Interpol lives up to its obligation to remain strictly apolitical.

Unfortunately, this pressure has been too long in coming. Nor has it been applied with the consistency and energy that the rise of the authoritarians merits. If—but only if—the admission of the Palestinian Authority causes the Western democracies to rethink their approach to Interpol and to rededicate themselves to opposing its politicization, the Interpol General Assembly's bad decision will have at least that good and necessary result.

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## Endnotes

1. This summary of Interpol's activities is heavily abbreviated. For a more detailed account, see Ted R. Bromund and David Kopel, "Necessary Reforms Can Keep Interpol Working in the U.S. Interest," Heritage Foundation *Backgrounder* No. 2861, December 11, 2013, <http://www.heritage.org/global-politics/report/necessary-reforms-can-keep-interpol-working-the-us-interest>.
2. Ted Bromund, "Interpol Did Not Reject the Palestinian Authority's Bid for Membership," *Forbes*, November 30, 2016, <https://www.forbes.com/sites/tedbromund/2016/11/30/interpol-did-not-reject-the-palestinian-authoritys-bid-for-membership/#47a607723171> (accessed February 5, 2018).
3. Ibid. and Ted Bromund, "Will Interpol Be Able to Create Fair Standards for Membership?" *Forbes*, November 30, 2016, <https://www.forbes.com/sites/tedbromund/2016/11/30/will-interpol-be-able-to-create-fair-standards-for-membership/#515392d935d3> (accessed October 30, 2017).
4. See Resolution No. 1, "Subject: The Process for Membership of Interpol," General Assembly Resolution GA-2017-86-RES-01, adopted at 86th session of Interpol General Assembly, Beijing, People's Republic of China, September 26-29, 2017, [https://www.interpol.int/content/download/35971/465741/version/10/file/GA-2017-86-RES-01%20E%20\(17Y1600\).pdf](https://www.interpol.int/content/download/35971/465741/version/10/file/GA-2017-86-RES-01%20E%20(17Y1600).pdf) (accessed February 5, 2018). Cited hereafter as Interpol Resolution No. 1, September 26-27, 2017.
5. For additional information, see Bromund and Kopel, "Necessary Reforms Can Keep Interpol Working in the U.S. Interest," and Ronald K. Noble, "Interpol Makes the World a Safer Place," *The Telegraph*, May 28, 2013, <http://www.telegraph.co.uk/news/uknews/law-and-order/10082582/Interpol-makes-the-world-a-safer-place.html> (accessed January 17, 2018).
6. For additional information, see Bromund and Kopel, "Necessary Reforms Can Keep Interpol Working in the U.S. Interest," and Ted R. Bromund, "The U.S. Must Challenge Autocratic Regimes at the Beijing Interpol Meeting," Heritage Foundation *Issue Brief* No. 4766, September 21, 2017, <http://www.heritage.org/global-politics/report/the-us-must-challenge-autocratic-regimes-the-beijing-interpol-meeting>.
7. Michael Wisner, "The Inside Story: Did Russia Play the US on the Palestinian Interpol Bid?" *The Jerusalem Post*, October 6, 2017, <http://m.jpost.com/Arab-Israeli-Conflict/The-Inside-Story-Did-Russia-play-Trump-on-Palestinian-Interpol-bid-506820> (accessed January 23, 2018).
8. The U.S. reportedly supports Kosovo's admission to Interpol. There is no question that this is the right goal, but Kosovo should gain admission to Interpol only when it is able to be a full and effective member of that organization, capable of upholding and with a demonstrated willingness to uphold all of Interpol's standards. It is beyond the bounds of this paper to assess whether Kosovo is currently at that point. If it is not, the U.S. and its allies should support reforms in Kosovo that would enable it to meet Interpol's standards. See InSerbia Today, "US, UK and France Wants [sic] Kosovo in UN and Interpol," November 16, 2017, <https://inserbia.info/today/2017/11/us-uk-france-wants-kosovo-un-interpol/> (accessed April 6, 2018).
9. See Bromund, "Interpol Did Not Reject the Palestinian Authority's Bid for Membership."
10. Title IV, § 410, "International Organizations," Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Public Law 103-236, 108 Stat. 382, 103rd Cong., April 30, 1994, <https://www.gpo.gov/fdsys/pkg/STATUTE-108/pdf/STATUTE-108-Pg382.pdf> (accessed March 19, 2018), and Title IV, § 414, "International Organizations and Commissions," Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, Public Law 101-246, 104 Stat. 15, 101st Cong., February 16, 1990, <https://www.gpo.gov/fdsys/pkg/STATUTE-104/pdf/STATUTE-104-Pg15.pdf> (accessed March 19, 2018).
11. Annex 1, "Guidelines for Request for Membership of Interpol," in Interpol Resolution No. 1, September 26-27, 2017.
12. Brett D. Schaefer, "Do Not Reward UNESCO for Granting the Palestine Authority Membership," Heritage Foundation *Issue Brief* No. 3508, February 16, 2012, <http://www.heritage.org/global-politics/report/do-not-reward-unesco-granting-the-palestine-authority-membership>.
13. The U.N. recognizes this by including Interpol in its list of organizations that participate as observers (not as U.N. affiliates) in the General Assembly. See "List of Non-Member States, Entities and Organizations Having Received a Standing Invitation to Participate as Observers in the Sessions and Work of the General Assembly," U.N. General Assembly, A/INF/72/5, October 19, 2017, <http://undocs.org/en/A/INF/72/5> (accessed October 30, 2017).
14. Sean Savage, "Palestinian Membership in Interpol Could Mark Latest Arrest for the Peace Process," Jewish News Syndicate, September 28, 2017, <http://www.jns.org/latest-articles/2017/9/28/palestinian-membership-in-interpol-could-mark-latest-arrest-for-the-peace-process#.WfI0sWhSzcs> (accessed March 20, 2018).
15. Ted R. Bromund, "Putin's Long Arm," *The Weekly Standard*, March 2, 2015, <http://www.weeklystandard.com/putins-long-arm/article/859638> (accessed March 20, 2018).
16. The *Guardian's* comment that Israeli concerns are misplaced because "Interpol cannot issue arrest warrants" is a partial misstatement of the truth. Red Notices are not arrest warrants, but Israeli concerns are based on other consequences that might result from actions that Interpol could take at the request of the Palestinian Authority. Peter Beaumont, "Interpol Votes to Admit Palestine as Full Member," *The Guardian*, September 27, 2017, <https://www.theguardian.com/world/2017/sep/27/interpol-votes-to-admit-palestine-as-full-member> (accessed March 20, 2018).
17. Interpol itself has estimated that only about 3 percent of requests are referred to its legal staff for a full review. See Bromund and Kopel, "Necessary Reforms Can Keep Interpol Working in the U.S. Interest," p. 10. Attorney Michelle Estlund, who has extensive experience with cases involving Interpol Red Notices, has characterized Interpol's relationship with its member nations as one of "seemingly blind trust." See

- Michelle A. Estlund, "Blind Faith: INTERPOL's Relationship with Its Member Countries," *Red Notice Law Journal*, July 20, 2011, <https://www.jdsupra.com/legalnews/blind-faith-interpols-relationship-wit-72610/> (accessed March 20, 2018). Attorney Yuriy L. Nemets, who has similar experience, argues that Interpol has a "hesitancy to always interpret and enforce INTERPOL's regulations in favor of individuals rather than governments," that this hesitancy stems from the "lack in the INTERPOL framework of all guarantees inherent to the modern democratic due process," and that this deficiency "is behind the setbacks the organization has been facing while trying to maintain its neutrality and avoid involvement in politically motivated and other unlawful prosecutions conducted by its member countries." See Yuriy L. Nemets, "Due Process and the Presumption of Innocence in the Interpretation and Enforcement of INTERPOL's Rules," last revised May 31, 2017, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2928438](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2928438) (accessed March 20, 2018).
18. Associated Press, "Interpol Reviewing 40,000 Wanted Notices for Political Abuse," *Business Insider*, December 1, 2017, <http://www.businessinsider.com/ap-interpol-reviewing-40000-wanted-notices-for-political-abuse-2017-12?r=UK&IR=T> (accessed March 20, 2018).
  19. Interpol, *Repository of Practice: Application of Article 3 of INTERPOL's Constitution in the Context of the Processing of Information via INTERPOL's Channels*, 2nd ed., February 2013, <https://www.interpol.int/content/download/34480/452435/version/6/file/article%203-english-february%202013vb%20CD.pdf> (accessed March 20, 2018).
  20. Radio Free Europe/Radio Liberty, "Interpol Explains Removal of Yanukovich Figures from Public Wanted List," January 23, 2016, <https://www.rferl.org/a/ukraine-yanukovich-figures-removed-interpol-wanted-list/27506549.html> (accessed March 20, 2018).
  21. Bromund and Kopel, "Necessary Reforms Can Keep Interpol Working in the U.S. Interest," p. 27.
  22. "Interpol Agrees to Issue Yingluck 'Blue Notice,'" *Bangkok Post*, October 12, 2017, <https://www.bangkokpost.com/archive/interpol-agrees-to-issue-yingluck-blue-notice/1340847> (accessed March 20, 2018).
  23. Jonathan Head, "Thailand Court Ousts PM Yingluck Shinawatra," *BBC News*, May 7, 2014, <http://www.bbc.com/news/world-asia-27292633> (accessed January 2, 2018).
  24. Fatos Bytyci, "Kosovo Says 'False' Arrest Warrant for PM Undermines Dialogue with Serbia," *Reuters*, November 10, 2017, <https://www.reuters.com/article/us-kosovo-interpol/kosovo-says-false-arrest-warrant-for-pm-undermines-dialogue-with-serbia-idUSKBN1DA1SY?il=0> (accessed January 2, 2018).
  25. Filip Rudic, "Serbia's Fears About Kosovo Joining Interpol 'Unfounded,'" *Balkan Insight*, August 4, 2017, <http://www.balkaninsight.com/en/article/serbia-s-fear-of-kosovo-in-interpol-unfounded-experts-08-03-2017> (accessed January 2, 2018).
  26. InSerbia Today, "US, UK and France Wants [sic] Kosovo in UN and Interpol."
  27. Reuters, "Kosovo PM Removed from International Arrest Warrant: Minister," December 1, 2017, <https://www.reuters.com/article/us-kosovo-primeminister/kosovo-pm-removed-from-international-arrest-warrant-minister-idUSKBN1DV62E> (accessed March 20, 2018), and B92, "'Only Belgrade Can Withdraw Arrest Warrant for Haradinaj,'" December 4, 2017, [https://www.b92.net/eng/news/politics.php?yyyy=2017&mm=12&dd=04&nav\\_id=102947](https://www.b92.net/eng/news/politics.php?yyyy=2017&mm=12&dd=04&nav_id=102947) (accessed March 20, 2017).
  28. Camila Domonoske, "Judge in Spain Issues International Arrest Warrant for Catalan President," *NPR*, November 3, 2017, <https://www.npr.org/sections/thetwo-way/2017/11/03/561972750/judge-in-spain-issues-international-arrest-warrant-for-catalan-president> (accessed March 20, 2018), and Ben Keith, "Spain Is Using the European Arrest Warrant as a Political Snare to Trap Ex-Catalan Leader," *The Times*, November 9, 2017, <https://www.thetimes.co.uk/edition/law/spain-is-using-the-european-arrest-warrant-as-a-political-snare-to-trap-ex-catalan-leader-r7wl5cps6> (accessed March 20, 2018).
  29. Laurel Wamsley, "Spain Withdraws International Arrest Warrant for Catalan Separatist Leader," *NPR*, December 5, 2017, <https://www.npr.org/sections/thetwo-way/2017/12/05/568637467/spain-withdraws-international-arrest-warrant-for-catalan-separatist-leader> (accessed March 20, 2018).
  30. Dr. Alan Baker, former Legal Adviser to the Israeli Foreign Ministry, while regretting Interpol's decision to admit the Authority, points out that the Authority's membership is a double-edged sword, as it raises the possibility that other member nations will request Red Notices on Authority officials. As Dr. Baker puts it, "I'm not sure they thought about that possibility." On the other hand, the fact that the Palestinian Authority is a member of Interpol gives their officials a considerable degree of immunity from Red Notices requested by any other Interpol member nation. See Shimon Cohen, "PA Acceptance to Interpol a 'Double-Edged Sword,'" *Arutz Sheva*, October 25, 2017, <https://www.israelnationalnews.com/News/News.aspx/237160> (accessed March 19, 2018).
  31. According to one observer, while Interpol could "take an aggressive Palestinian-friendly interpretation...and ignore objections by Israel and its allies...the Israeli legal system deems this unlikely, based on Interpol's track record and the negative consequences that could have on Interpol receiving cooperation from Israel and its allies." Yonah Jeremy Bob, "Who Will Try to Arrest Israelis First, ICC or Interpol?" *The Jerusalem Post*, October 10, 2017, <http://www.jpost.com/Israel-News/Who-will-try-to-arrest-Israelis-first-ICC-or-Interpol-507118> (accessed March 20, 2018).
  32. In November 2017, the State Department stated that it would shut down the offices of the Palestine Liberation Organization in Washington, D.C. U.S. law allows the Secretary of State to close the offices if the PLO acts against Israel at the ICC, a provision that Palestinian Authority President Mahmoud Abbas triggered by calling for an ICC investigation of Israeli settlements in his September speech at the U.N. The department later decided only to impose restrictions on the PLO office. See Associated Press, "US Backtracks on Decision to Close Palestinian Office in DC," November 24, 2017, [https://www.washingtonpost.com/world/national-security/administration-backtracks-on-closing-palestinians-office-in-washington/2017/11/24/2d748734-d17e-11e7-9d3a-bcbe2af58c3a\\_story.html?utm\\_term=.b1be9b398611](https://www.washingtonpost.com/world/national-security/administration-backtracks-on-closing-palestinians-office-in-washington/2017/11/24/2d748734-d17e-11e7-9d3a-bcbe2af58c3a_story.html?utm_term=.b1be9b398611) (accessed March 20, 2018).
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33. Mahmoud Abbas, "The Long Overdue Palestinian State," *The New York Times*, May 16, 2011, <http://www.nytimes.com/2011/05/17/opinion/17abbas.html> (accessed January 16, 2018).
  34. In late 2016, a Palestinian journalist claimed that the Palestinian Authority was collecting the names and photographs of "hundreds" of Israeli soldiers with the intention of bringing them to the ICC. See "Abbas Confidant: We'll Take 'Hundreds' of IDF Soldiers to ICC This Year," *The Times of Israel*, December 26, 2016, <https://www.timesofisrael.com/abbas-confidant-we-will-take-hundreds-of-idf-soldiers-to-icc-this-year/> (accessed January 2, 2018).
  35. David Bosco, "The Palestinian Authority's Handling of the ICC Inquiry," *Lawfare*, June 9, 2017, <https://www.lawfareblog.com/palestinian-authoritys-handling-icc-inquiry> (October 31, 2017).
  36. "H.E. President Mahmoud Abbas' Statement to the UN General Assembly 72nd Session (2017)," State of Palestine, Negotiation Affairs Department, September 20, 2017, <https://www.nad.ps/en/media-room/speeches/he-president-mahmoud-abbas-statement-un-general-assembly-72nd-session-2017> (accessed January 2, 2018).
  37. Naftali Balanson, "The UN's Top Priority for Palestine: \$18 Million for More NGO-Linked Anti-Israeli Lawfare," *NGO Monitor*, October 29, 2017, <https://www.ngo-monitor.org/uns-top-priority-palestine-18-million-ngo-linked-anti-israel-lawfare/> (accessed October 31, 2017).
  38. For a summary, see Bromund, "The U.S. Must Challenge Autocratic Regimes at the Beijing Interpol Meeting."
  39. For other examples and a wider analysis, see Council of Europe, Parliamentary Assembly, *Abusive Use of the Interpol System: The Need for More Stringent Legal Safeguards*, Document No. 42477, March 29, 2017, <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=23524&lang=en> (accessed March 20, 2018); Bromund and Kopel, "Necessary Reforms Can Keep Interpol Working in the U.S. Interest"; and Fair Trials International, *Strengthening Respect for Human Rights, Strengthening INTERPOL*, November 26, 2013, <https://www.fairtrials.org/wp-content/uploads/Strengthening-respect-for-human-rights-strengthening-INTERPOL5.pdf> (accessed March 20, 2018). For expressions of concern by newspapers, see Editorial, "Reforming Interpol," *The Washington Post*, November 19, 2016, [https://www.washingtonpost.com/opinions/reforming-interpol/2016/11/19/24b3dd24-ab65-11e6-8b45-f8e493f06fcd\\_story.html?utm\\_term=.2336807b19f8](https://www.washingtonpost.com/opinions/reforming-interpol/2016/11/19/24b3dd24-ab65-11e6-8b45-f8e493f06fcd_story.html?utm_term=.2336807b19f8) (accessed March 20, 2018); Andrew Higgins, "How Moscow Uses Interpol to Pursue Its Enemies," *The New York Times*, November 6, 2016, <https://www.nytimes.com/2016/11/07/world/europe/how-moscow-uses-interpol-to-pursue-its-enemies.html> (accessed March 20, 2018); Radio Free Europe/Radio Liberty, "Central Asian Dissidents: Persecuted at Home, Harassed Abroad," November 27, 2016, <https://www.rferl.org/a/28142480.html> (accessed March 20, 2018); Editorial, "Interpol Should Not Be Abused as Putin's Tool of Revenge," *The Washington Post*, October 24, 2017, [https://www.washingtonpost.com/opinions/interpol-should-not-be-abused-as-putins-tool-of-revenge/2017/10/24/93270214-b81f-11e7-be94-fabb0f1e9ffb\\_story.html?utm\\_term=.9c0c7ddeb2f1](https://www.washingtonpost.com/opinions/interpol-should-not-be-abused-as-putins-tool-of-revenge/2017/10/24/93270214-b81f-11e7-be94-fabb0f1e9ffb_story.html?utm_term=.9c0c7ddeb2f1) (accessed March 20, 2018); and Jared Genser, "Interpol Needs to Stop Helping Dictators," *The Washington Post*, October 2, 2017, [https://www.washingtonpost.com/news/democracy-post/wp/2017/10/02/interpol-needs-to-stop-helping-dictators/?utm\\_term=.08eb982f5908](https://www.washingtonpost.com/news/democracy-post/wp/2017/10/02/interpol-needs-to-stop-helping-dictators/?utm_term=.08eb982f5908) (accessed January 9, 2018).
  40. "Merkel Says Turkey Must Not 'Abuse' Interpol in Writer's Case," *The Guardian*, August 20, 2017, <https://guardian.ng/news/merkel-says-turkey-must-not-misuse-interpol-in-writers-case/> (accessed March 20, 2018).
  41. TurkeyPurge, "Sweden, Germany Urge EU to Act Against Turkey's Interpol Abuses," September 8, 2017, <https://turkeypurge.com/sweden-germany-urge-eu-to-act-against-turkeys-interpol-abuses> (accessed March 20, 2018).
  42. For a recent example, see Andrew Rettman, "Russia Used Interpol 'Loophole' Against EU Activist," *EU Observer*, October 23, 2017, <https://euobserver.com/foreign/139582> (accessed March 20, 2018). The assertion that this is a "loophole" is incorrect: Diffusions are a recognized part of the Interpol system.
  43. For a recent example, see Rettman, "Russia Used Interpol 'Loophole' Against EU Activist," and Carol Morello, "U.S. Lifts Travel Restrictions on British Businessman Targeted by Vladimir Putin," *The Washington Post*, October 24, 2017, [https://www.washingtonpost.com/world/national-security/us-lifts-travel-ban-on-british-businessman-targeted-by-vladimir-putin/2017/10/24/b21a5b8d-fc67-4b0b-a99f-bd5980097810\\_story.html?utm\\_term=.2f87be68451f](https://www.washingtonpost.com/world/national-security/us-lifts-travel-ban-on-british-businessman-targeted-by-vladimir-putin/2017/10/24/b21a5b8d-fc67-4b0b-a99f-bd5980097810_story.html?utm_term=.2f87be68451f) (accessed January 9, 2018).
  44. Bromund, "Putin's Long Arm," and Tamsin Allen, "World Check Database: Due Diligence or Blacklist?" Bindmans, September 27, 2016, <https://www.bindmans.com/insight/blog/world-check-database-due-diligence-or-blacklist> (accessed March 20, 2018).
  45. Interpol, *Repository of Practice*.
  46. The equation of Zionism with racism is at least as old as the notorious U.N. General Assembly Resolution 3379, adopted in 1975. This resolution was revoked in 1991, but claims that echo the resolution are commonplace. See Daniella J. Greenbaum, "Zionism Is Not Racism," *Commentary*, February 23, 2017, <https://www.commentarymagazine.com/politics-ideas/zionism-not-racism/> (accessed October 31, 2017).
  47. Jonathan Marks, "Is BDS a Bust?" *Commentary*, February 16, 2017, <https://www.commentarymagazine.com/anti-semitism/is-bds-a-bust/> (accessed October 31, 2017).
  48. CNBC, "Israel Races to Head Off UN Settlement 'Blacklist,'" November 26, 2017, <https://www.cnbc.com/2017/11/26/israel-races-to-head-off-un-settlement-blacklist.html> (accessed March 20, 2018).
  49. Adam Kredo, "Trump Admin Thwarts Irish Effort to Boycott Israel, Criminalize Trade," *The Washington Free Beacon*, February 5, 2018, <http://freebeacon.com/national-security/trump-admin-thwarts-irish-effort-boycott-israel-criminalize-trade/> (accessed March 6, 2018).
  50. Angela Charlton, "Interpol Approves Palestinian Membership, Angering Israel," *US News & World Report*, September 27, 2017, <https://www.usnews.com/news/world/articles/2017-09-27/interpol-approves-state-of-palestine-as-member-state> (accessed October 31, 2017).
  51. *Ibid.*
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52. One of the very few authors to recognize this fact was Jonathan S. Tobin. See Jonathan S. Tobin, "Interpol and the Palestinians: Where's a Cop When You Need One?" Jewish News Syndicate, September 29, 2017, <http://www.jns.org/latest-articles/2017/9/29/interpol-and-the-palestinians-wheres-a-cop-when-you-need-one#.Wflyy2hSzcs> (accessed March 20, 2018).
  53. "Palestine to Seek Dahlan's Arrest Through Interpol, Officials Say," *Middle East Eye*, September 29, 2017, <http://www.middleeasteye.net/news/palestine-seek-dahlans-arrest-through-interpol-officials-say-23623380> (accessed November 3, 2017).
  54. Charlton, "Interpol Approves Palestinian Membership, Angering Israel."
  55. "Palestine to Seek Dahlan's Arrest Through Interpol, Officials Say."
  56. Peter Baker, "In Muhammad Dahlan's Ascent, a Proxy Battle for Legitimacy," November 2, 2016, *The New York Times*, <https://www.nytimes.com/2016/11/03/world/middleeast/muhammad-dahlan-palestinian-mahmoud-abbas.html> (accessed November 3, 2017).
  57. *Ibid.*
  58. The Abbas-Dahlan case raises one of the most troubling dilemmas facing Interpol: what to do when a corrupt government charges a corrupt official with corruption. On one hand, the charges may well be true; on the other hand, they are being advanced by a government that at one point may have been a willing participant in the corruption it now condemns. Interpol's "predominance" test offers no satisfactory answers in cases such as this, for it rests on the assumption that while governments may be political, they are not criminal. Yet it is entirely possible for a government to accuse an official of corruption but for that accusation, even though accurate, to be based not on politics, but on a desire to get a bigger share of the spoils. Interpol urgently needs to resolve this dilemma. Much the same is true of the troubling phenomenon of mass requests, whereby an Interpol member nation requests a large number of Red Notices more or less simultaneously. There is a common-sense basis for believing that mass requests are inherently very likely to be political—criminals are not so obliging as to commit their crimes in convenient groups—but Interpol has not yet addressed this phenomenon.
  59. "Palestine to Seek Dahlan's Arrest Through Interpol, Officials Say."
  60. Interpol, *Repository of Practice*, pp. 7, 8, and 11.
  61. For another case, see Radio Free Europe/Radio Liberty, "Finnish Court OKs Extradition of Russian Opposition Figure," February 19, 2016, <https://www.rferl.org/a/finland-russia-extradition-popov/27561790.html> (accessed March 21, 2018).
  62. Xinhua, "Interview: Argentine Interpol Chief Lauds China's Anti-Corruption Drive," January 4, 2018, [http://www.xinhuanet.com/english/2018-01/04/c\\_136871780.htm](http://www.xinhuanet.com/english/2018-01/04/c_136871780.htm) (accessed March 21, 2018), and Bill Gertz, "Report Says Dissident Under Cyber, Information Attack from China," *The Washington Free Beacon*, November 16, 2017, <http://freebeacon.com/national-security/report-says-dissident-cyber-information-attack-china/> (accessed March 21, 2018). In January 2018, Xinhua reported that 100 former Chinese officials have been the subject of a Red Notice since October 2014 and that 34 of these "have either been captured or persuaded to turn themselves in." See Mu Xuequan, "China Investigates 23 Former Senior Officials in 2017," Xinhua, January 11, 2018, [http://www.xinhuanet.com/english/2018-01/11/c\\_136886023.htm](http://www.xinhuanet.com/english/2018-01/11/c_136886023.htm) (accessed January 11, 2018).
  63. "Interpol Rejects Palestinian Bid for Membership," *The Tower*, November 8, 2016, <http://www.thetower.org/4126-interpol-rejects-palestinian-bid-for-membership> (accessed March 20, 2018); Bethany Allen-Ebrahimi, "Palestine Just Joined Interpol. Is That Bad for Israel?" *Foreign Policy*, September 27, 2017, <http://foreignpolicy.com/2017/09/27/palestine-just-joined-interpol-is-that-bad-for-israel-police-middle-east-china/> (accessed March 20, 2018); Noga Tarnopolsky, "Interpol Accepts Palestinian Authority as a Member Despite U.S., Israeli Objections," *Los Angeles Times*, September 27, 2017, <http://www.latimes.com/world/middleeast/la-fg-palestinians-interpol-20170927-story.html> (accessed March 20, 2018); Beaumont, "Interpol Votes to Admit Palestine as Full Member"; and Cohen, "PA Acceptance to Interpol a 'Double-Edged Sword.'"
  64. Bromund and Kopel, "Necessary Reforms Can Keep Interpol Working in the U.S. Interest," pp. 16-17.
  65. *Ibid.*, p. 16.
  66. "Interpol Rejects Palestinian Bid for Membership"; Charlton, "Interpol Approves Palestinian Membership, Angering Israel"; Savage, "Palestinian Membership in Interpol Could Mark Latest Arrest for the Peace Process"; Tarnopolsky, "Interpol Accepts Palestinian Authority as a Member Despite U.S., Israeli Objections"; and Cohen, "PA Acceptance to Interpol a 'Double-Edged Sword.'"
  67. Israel Ministry of Foreign Affairs, "The Israeli-Palestinian Interim Agreement," September 28, 1995, <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the%20israeli-palestinian%20interim%20agreement.aspx> (accessed March 21, 2018).
  68. Tobin, "Interpol and the Palestinians: Where's a Cop When You Need One?"
  69. Caroline Glick, "Holding the PLO (and the State Department) Accountable," November 21, 2017, <http://carolineglick.com/holding-the-plo-and-the-state-department-accountable/> (accessed January 9, 2018).
  70. Dr. Alan Baker comments on the wider risks of debasing Interpol in Cohen, "PA Acceptance to Interpol a 'Double-Edged Sword.'" See also "Interpol Rejects Palestinian Bid for Membership."
  71. "Interpol Rejects Palestinian Bid for Membership"; Cohen, "PA Acceptance to Interpol a 'Double-Edged Sword'"; and Tobin, "Interpol and the Palestinians: Where's a Cop When You Need One?"
  72. See, for example, Beaumont, "Interpol Votes to Admit Palestine as Full Member."
  73. Fred Burton, "Interpol: Where Politics Takes a Back Seat to Fighting Crime," *Stratfor*, October 21, 2017, <https://worldview.stratfor.com/article/interpol-where-politics-takes-back-seat-fighting-crime> (accessed January 9, 2018).
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74. Abbas, "The Long Overdue Palestinian State."
75. Charlton, "Interpol Approves Palestinian Membership, Angering Israel."
76. Ibid.
77. Tarnopolsky, "Interpol Accepts Palestinian Authority as a Member Despite U.S., Israeli Objections."
78. Ahmed el-Komi, "Palestine Takes Its First Step as Interpol Member State," *Al-Monitor*, October 29, 2017, <https://www.marsad.ps/en/2017/10/29/palestine-takes-first-step-interpol-member-state/> (accessed March 21, 2018). Similar comments are reported in Charlton, "Interpol Approves Palestinian Membership, Angering Israel."
79. Annex 1, Interpol Resolution No. 1, September 26–27, 2017.
80. "Palestine to Seek Dahlan's Arrest Through Interpol, Officials Say."
81. Jack Khoury, "Abbas Declares Oslo Accords Dead: 'Trump's Peace Plan Is a Slap, We'll Slap Back,'" *Haaretz*, January 15, 2018, <https://www.haaretz.com/middle-east-news/palestinians/abbas-declares-oslo-accords-dead-trump-s-peace-plan-is-a-slap-1.5730759> (accessed March 21, 2018), and Dalit Halevi, "What Else Is Abbas Planning?" Arutz Sheva, January 16, 2018, <https://www.israelnationalnews.com/News/News.aspx/240723> (accessed January 16, 2018).
82. See, for example, Beaumont, "Interpol Votes to Admit Palestine as Full Member." Beaumont incorrectly asserts that the U.N. General Assembly's 2012 decision to upgrade the PA to "non-member state" status "had important legal implications in allowing the Palestinians access to international bodies, should they choose to join." In fact, the PA had no right to "access" Interpol as a result of the U.N. General Assembly's action. See also "Interpol Rejects Palestinian Bid for Membership" and Charlton, "Interpol Approves Palestinian Membership, Angering Israel." Dr. Alan Baker rightly comments that "[t]he very fact that the Palestinians were accepted to Interpol is a serious act that violates Interpol's own principles." See Cohen, "PA Acceptance to Interpol a 'Double-Edged Sword.'"
83. Estlund Law, "How INTERPOL Contributed to the Confusion About Its Role in the Abduction of a Mexican Minor to the United States," *Red Notice Law Journal*, April 27, 2015, <http://www.jdsupra.com/legalnews/how-interpol-contributed-to-the-confusio-29333/> (accessed March 21, 2018).
84. Charlton, "Interpol Approves Palestinian Membership, Angering Israel."
85. Yuriy L. Nemets, "Turkey and Ukraine Trying to Involve INTERPOL in Mass Prosecutions?" *Red Notice Abuse Report*, December 24, 2017, <http://rednoticeabuse.com/mass-prosecutions-interpol-red-notice-abuse/> (accessed March 21, 2018), and Bromund, "The U.S. Must Challenge Autocratic Regimes at the Beijing Interpol Meeting."
86. Interpol, "Compliance with the Rules," <https://www.interpol.int/About-INTERPOL/Legal-materials/Compliance-with-the-rules> (accessed March 21, 2018).
87. For a full history of this development, see Bromund and Kopel, "Necessary Reforms Can Keep Interpol Working in the U.S. Interest," pp. 18–20.
88. International Organizations Immunities Act, Public Law 79–201, 59 Stat. 669, 79th Cong., December 29, 1945, <http://archive.ipu.org/finance-e/PL79-291.pdf> (accessed March 23, 2018).
89. Occasional suits naming Interpol in other nations have rarely, if ever, resulted in Interpol's being held liable, as Interpol is widely if not universally accorded legal immunities similar to those it has been accorded in the U.S. The most recent example is noted in Ade Adesomaju, "Maina Sues AGF, EFCC, INTERPOL for Being Declared Wanted, Demands Damages," *The Punch*, January 10, 2018, <https://punchng.com/maina-sues-agf-efcc-interpol-for-being-declared-wanted-demands-damages/> (accessed March 21, 2018).
90. 762 F2d 927 (1981).
91. Interpol, "INTERPOL Member Country Statutory Contributions 2015," <https://www.interpol.int/content/download/29081/384750/version/1/file/INTERPOL%20member%20country%20statutory%20contributions%202015.pdf> (accessed March 21, 2018).
92. Jim Zanotti, "U.S. Foreign Aid to the Palestinians," Congressional Research Service *Report for Members and Committees of Congress*, December 16, 2016, <https://fas.org/sgp/crs/mideast/RS22967.pdf> (accessed March 21, 2018).
93. Josh Rogin, "Tillerson Prevails over Haley in Palestinian Funding Debate," *The Washington Post*, January 16, 2018, [https://www.washingtonpost.com/news/josh-rogin/wp/2018/01/16/tillerson-prevails-over-haley-in-palestinian-funding-debate/?utm\\_term=.94e0b8998623](https://www.washingtonpost.com/news/josh-rogin/wp/2018/01/16/tillerson-prevails-over-haley-in-palestinian-funding-debate/?utm_term=.94e0b8998623) (accessed January 17, 2018).
94. It is worth noting that in his January 14, 2018, speech, President Abbas asserted that the U.S. should not do the Authority "any favors by paying us money." Itamar Marcus and Nan Jacques Zilberdik, "Special Report: The PA and Fatah Mock US President Trump, Demonize US, and Reject US Aid, in Official Statements and Cartoons," Palestinian Media Watch, January 17, 2018, [http://palwatch.org/STORAGE/special%20reports/PA\\_Demonization\\_of\\_Pres\\_Trump\\_110118.pdf](http://palwatch.org/STORAGE/special%20reports/PA_Demonization_of_Pres_Trump_110118.pdf) (accessed March 21, 2018).
95. Wendy Zeldin, "Taiwan/United States: Support for Taiwan's Interpol Participation," Library of Congress, Law Library, *Global Legal Monitor*, May 6, 2016, <http://www.loc.gov/law/foreign-news/article/taiwanunited-states-support-for-taiwans-interpol-participation/> (accessed March 21, 2018).
96. A State Department briefing in November 2016, almost eight months after this obligation was imposed on the Secretary of State, makes it clear that the U.S. had done little if anything to advance Taiwan's cause. See John Kirby, Assistant Secretary and Department Spokesperson, Bureau of Public Affairs, "State Department Briefing for Foreign Media," U.S. Department of State, November 2, 2016, <https://2009-2017-fpc.state.gov/264072.htm> (accessed March 21, 2018). The State Department was required to submit a report on its strategy by June 18, 2016. This report is not publicly available, but evidence suggests that the report limits itself to generalities and does not constitute a strategy in

- the commonly accepted sense of that word. See Susan V. Lawrence and Wayne M. Morrison, "Taiwan: Issues for Congress," Congressional Research Service *Report for Members and Committees of Congress*, October 30, 2017, <https://fas.org/sgp/crs/row/R44996.pdf> (accessed March 6, 2018).
97. Rutsel Silvestre J. Martha and Stephen Bailey, "Interpol and the EU: Don't Play Politics," *EU Observer*, October 16, 2017, <https://euobserver.com/opinion/139446> (accessed January 17, 2018).
  98. Tarnopolsky, "Interpol Accepts Palestinian Authority as a Member Despite U.S., Israeli Objections."
  99. Estlund Law, "Interpol Reform Efforts on This Side of the Pond," *Red Notice Law Journal*, September 13, 2016, <http://www.jdsupra.com/legalnews/interpol-reform-efforts-on-this-side-of-81084/> (accessed March 21, 2018).
  100. Article 131, "Corrective Measures Applicable to National Central Bureaus and International Entities," in Interpol, "INTERPOL's Rules on the Processing of Data," III/IRPD/GA/2011, 2016, <https://www.interpol.int/content/download/13042/90082/version/37/file/OLA%20RPD%20UPDATE-EN-11%2016%20.pdf> (accessed March 21, 2018).
  101. In 1984, the People's Republic of China was admitted to Interpol. Taiwan could have continued to participate formally if it had been willing to accept the status of a province of the PRC within Interpol, but it rightly rejected this alternative and instead chose to quit the organization.
  102. Noble, "Interpol Makes the World a Safer Place."
  103. Elliott Abrams, "Is Israel's International Isolation Diminishing?" Council on Foreign Relations *Expert Brief*, January 17, 2018, <https://www.cfr.org/expert-brief/israels-international-isolation-diminishing> (accessed March 21, 2018).
  104. Hints of this idea can be found in TurkeyPurge, "Sweden, Germany Urge EU to Act Against Turkey's Interpol Abuses"; Rettman, "Russia Used Interpol 'Loophole' Against EU Activist"; and Andrew Rettman, "EU in Talks with Interpol on Political Abuse," *EU Observer*, October 5, 2017, <https://euobserver.com/justice/139292> (accessed January 23, 2018).
  105. Martin Banks, "European Commission 'Should Urgently Consider Reform of European Arrest Warrant' #EAW," *EU Reporter*, October 18, 2017, <https://www.eureporter.co/frontpage/2017/10/18/46948/> (accessed March 21, 2018).
  106. The top 15 contributors in 2015 were the U.S., Japan, Germany, the UK, France, Italy, Canada, China, Spain, the Netherlands, Australia, the Republic of Korea, Switzerland, Sweden, and Mexico. China contributed \$1,510,649; Russia paid in a mere \$709,404, and no other nondemocracy contributed more than \$500,000. The top 14 democracies paid in \$39.20 million, or 74 percent, of the \$52.783 million received from Interpol's 190 member nations in statutory contributions in 2015. Interpol, "INTERPOL Member Country Statutory Contributions 2015."
  107. Interpol, "Funding: Introduction," <https://www.interpol.int/About-INTERPOL/Funding/Introduction> (accessed March 21, 2018). These figures do not appear to reflect later revisions made in the 2016 budget, which raised Interpol's total operating revenue to €123 million. This increase was caused almost entirely by an increase of €21.8 million in Interpol's "Reimbursements and Recoveries," which relate to its "Trust Funds and Special Accounts" and thus to its contracts with external sources of funding. See Interpol, "Funding: Financial Statements: Financial Statements, 2016," June 30, 2017, p. 28, <https://www.interpol.int/About-INTERPOL/Funding/Introduction> (accessed April 9, 2018).
  108. Interpol, "Funding: External Funding," <https://www.interpol.int/About-INTERPOL/Funding/External-funding> (accessed April 6, 2018).
  109. Jake Wallis Simons, "How Interpol Got into Bed with FIFA," *Politico*, June 3, 2015, <https://www.politico.eu/article/fifa-funded-interpol-policing/> (accessed March 21, 2018); Jake Wallis Simons, "Interpol Severs Ties with FIFA," *Politico*, June 12, 2015, <https://www.politico.eu/article/interpol-severs-controversial-links-with-fifa/> (accessed January 18, 2018).
  110. News release, "IOC-INTERPOL Partnership Helps Tackle Competition Manipulation," International Olympic Committee, September 15, 2017, <https://www.olympic.org/news/ioc-interpol-partnership-helps-tackle-competition-manipulation> (accessed March 21, 2018), and news release, "IOC Steps Up Fight for Clean Sport with INTERPOL MOU and New Intelligence System," International Olympic Committee, January 30, 2014, <https://www.olympic.org/news/ioc-steps-up-fight-for-clean-sport-with-interpol-mou-and-new-intelligence-system> (accessed January 18, 2018).
  111. BBC, "Brazilian Police Raids Amid 2016 Olympics Corruption Probe," September 5, 2017, <http://www.bbc.com/news/world-latin-america-41163264> (accessed March 21, 2018).
  112. News release, "INTERPOL and Kaspersky Lab Strengthen Partnership with New Threat Intelligence Exchange Agreement," Kaspersky Lab, October 12, 2017, [https://www.kaspersky.com/about/press-releases/2017\\_interpol-and-kaspersky-lab-strengthen-partnership](https://www.kaspersky.com/about/press-releases/2017_interpol-and-kaspersky-lab-strengthen-partnership) (accessed March 21, 2018).
  113. Simons, "How Interpol Got into Bed with FIFA."
  114. Interpol, "Funding: Financial Statements: Financial Statements, 2016," p. 30. On its website, Interpol asserts that €10 million was received in 2016. See Interpol, "Funding: Foundation for a Safer World," <https://www.interpol.int/About-INTERPOL/Funding/Foundation-for-a-Safer-World> (accessed April 6, 2018). This discrepancy, like others between Interpol's audited financial accounts and its website summary, cannot be explained.
  115. News release, "UAE Pledges EUR 50 Million to Support Seven Key INTERPOL Projects," Interpol, March 27, 2017, | <https://www.interpol.int/News-and-media/News/2017/N2017-038> (accessed March 21, 2018).
  116. Interpol, "The 2018 INTERPOL General Assembly Will Be Hosted by Dubai, United Arab Emirates," Tweet, September 28, 2017, [https://twitter.com/interpol\\_hq/status/913651487481278464?lang=en](https://twitter.com/interpol_hq/status/913651487481278464?lang=en) (accessed March 21, 2018).
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117. Interpol, "Funding: Financial Statements: Financial Statements for the Year Ended 31 December 2015," April 28, 2016, p. 18, <https://www.interpol.int/About-INTERPOL/Funding/Introduction> (accessed April 6, 2018). This list is incomplete, as Interpol will not publish information about "certain [private-sector] contributors" without permission. Nevertheless, the list makes it clear that with the exception of China (€156,000) and Qatar (€826,000), Interpol's national funders are all Western democracies. If anything, therefore, these voluntary national contributions actually increase Western financial dominance in Interpol. However, there are still serious objections to allowing Interpol to become dependent on one-off funders instead of regular statutory contributions. See Interpol, "Funding: External Funding: External Contributors 2016: Additional Contributions, 1 January to 31 December 2016," <https://www.interpol.int/About-INTERPOL/Funding/External-funding> (accessed April 9, 2018).
118. Interpol, "Funding: External Funding."
119. Interpol, "Funding: Financial Statements: Financial Statements, 2016," p. 22.
120. *Ibid.*, p. 12.
121. Nemets, "Due Process and the Presumption of Innocence in the Interpretation and Enforcement of INTERPOL's Rules."
122. The reforms made to the CCF in 2016 require that it "endeavour" to make its decisions public but do not create a regular publication schedule. As of late 2017, the CCF appeared to be publishing reasoned opinions on a regular basis, but it is still desirable to make this practice mandatory. Michelle A. Estlund, "INTERPOL's CCF to Begin Publication of Decisions (Part 2 of RNLJ's New Rules Series)," *Red Notice Law Journal*, April 7, 2017, <http://www.rednoticelawjournal.com/2017/04/interpol-s-ccf-to-begin-publication-of-decisions-part-2-of-rnljs-new-rules-series/> (accessed March 21, 2018), and Michelle A. Estlund, "The CCF Uses Tough Love on INTERPOL's National Central Bureaus," *Red Notice Law Journal*, November 28, 2017, <https://www.rednoticelawjournal.com/2017/11/the-ccf-uses-tough-love-on-interpol-s-national-central-bureaus/> (accessed March 21, 2018).
123. Estlund Law, "INTERPOL and Politically Motivated Red Notices—What We Can Learn from INTERPOL's Annual Reports," *Red Notice Law Journal*, August 23, 2016, <http://www.jdsupra.com/legalnews/interpol-and-politically-motivated-red-68128/> (accessed March 21, 2018). The fundamental problem with the CCF's annual reports is that they record the number of complaints received and the number of cases involving different Interpol member nations, but they do not connect the complaints to the nations, reveal the CCF's rulings, or connect the rulings to the complaints or to the nations. It is therefore impossible to determine, for example, whether the 32 cases involving the United States in 2016 or the 71 involving Russia relate to individuals with a justifiable complaint or whether they concern the significant number of individuals who complain to the CCF about Interpol's involvement where it does not actually exist. See Commission for the Control of INTERPOL's Files, *Activity Report of the Commission for the Control of INTERPOL's Files for 2016*, <https://www.interpol.int/content/download/36118/467371/version/1/file/Annual%20Report%20of%20the%20CCF%202016.pdf> (accessed March 21, 2018).
124. "Interpol Needs to Stop Helping Dictators."
125. For a summary of the Katsnelson case, see Bromund and Kopel, "Necessary Reforms Can Keep Interpol Working in the U.S. Interest," and Bromund, "Putin's Long Arm."
126. Dexter Filkins, "Death of a Prosecutor," *The New Yorker*, July 20, 2015, <https://www.newyorker.com/magazine/2015/07/20/death-of-a-prosecutor> (accessed March 21, 2018).
127. Carolina Krauskopf, "Three Years After His Death, Will Alberto Nisman's Work Bring Justice to the AMIA Victims?" *The Tower*, January 17, 2018, <http://www.thetower.org/5849-three-years-after-his-death-will-alberto-nismans-work-bring-justice-to-the-amia-victims/> (accessed March 21, 2018); Daniel Politi, "Former Interpol Chief Says Argentina Bungled Investigation of '94 Attack," *The New York Times*, December 15, 2017, <https://www.nytimes.com/2017/12/15/world/americas/argentina-iran-terrorist-attack-interpol.html?ref=topics> (accessed March 21, 2018); and Ben Cohen, "Iranian Foreign Minister Zarif Confirms Kirchner Government in Argentina Asked Interpol to Revoke 'Red Notices' for AMIA Bombing Planners," *The Algemeiner*, December 13, 2017, <https://www.algemeiner.com/2017/12/13/iranian-foreign-minister-zarif-confirms-kirchner-government-in-argentina-asked-interpol-to-revoke-red-notices-for-amia-bombing-planners/> (accessed January 24, 2018).
128. Politi, "Former Interpol Chief Says Argentina Bungled Investigation of '94 Attack," and news release, "Argentine Foreign Minister's Visit to INTERPOL Focuses on International Police Collaboration," Interpol, May 30, 2013, <https://www.interpol.int/News-and-media/News/2013/PR066> (accessed March 21, 2018).
129. For a recent case, see Timothy Meads, "ICE Nabs Jamaican Fugitive in NYC After Interpol Request," Townhall, December 2, 2017, <https://townhall.com/tipsheet/timothymeads/2017/12/02/ice-nabs-jamaican-fugitive-in-nyc-after-interpol-request-n2417248> (accessed January 18, 2018).
130. See, for example, Al Jazeera News, "Yusuf al-Qaradawi Removed from Interpol Wanted List," September 10, 2017, <http://www.aljazeera.com/amp/news/2017/09/yusuf-al-qaradawi-removed-interpol-wanted-list-170910150600972.html> (accessed March 21, 2018).
131. Estlund Law, "INTERPOL Red Notice Removal Cases—A Sample of Results from 2016, Part 3," *Red Notice Law Journal*, February 27, 2017, <http://www.jdsupra.com/legalnews/interpol-red-notice-removal-cases-a-73666> (accessed March 21, 2018); Yuriy L. Nemets, "Interpol's New Policy on Refugees: Is Everything Settled?" *Red Notice Law Journal*, September 30, 2016, <https://www.rednoticelawjournal.com/2016/09/1351/> (accessed March 21, 2018); and news release, "INTERPOL General Assembly Adopts Data Processing Policy on Refugees," Interpol, September 29, 2017, <https://www.interpol.int/News-and-media/News/2017/N2017-125> (accessed March 21, 2018).
132. Freedom House, "West Bank," *Freedom in the World 2018*, 2018, <https://freedomhouse.org/report/freedom-world/2018/west-bank> (accessed March 21, 2018).

133. Eli Lake, "Palestinian President Shows the World Who He Really Is," *Bloomberg View*, January 16, 2018, <https://www.bloomberg.com/view/articles/2018-01-16/palestinian-president-shows-the-world-who-he-really-is> (accessed March 21, 2018), and Noah Pollak, "The New York Times Won't Let Mahmoud Abbas Have His YOLO Moment," *The Washington Free Beacon*, January 15, 2018, <http://freebeacon.com/blog/new-york-times-wont-let-mahmoud-abbas-yolo-moment/> (accessed March 21, 2018).
134. Adam Abrams, "3 Israelis Killed, 1 Severely Injured in Palestinian Terror Attack Near Jerusalem," Jewish News Syndicate, September 26, 2017, <http://www.jns.org/latest-articles/2017/9/26/3-israelis-killed-1-severely-injured-in-palestinian-terror-attack-near-jerusalem> (accessed March 20, 2018).
135. Tarnopolsky, "Interpol Accepts Palestinian Authority as a Member Despite U.S., Israeli Objections"; Charlton, "Interpol Approves Palestinian Membership, Angering Israel"; and Savage, "Palestinian Membership in Interpol Could Mark Latest Arrest for the Peace Process."
136. Interpol Resolution No. 1, September 26-27, 2017.
137. "Special Report: Palestinians in Flagrant Violation of at Least 11 of 15 Treaties Abbas Just Signed," *The Tower*, April 2, 2014, <http://www.thetower.org/0096-special-report-palestinians-in-flagrant-violation-of-11-of-15-conventions-signed-this-week/> (accessed January 18, 2018).
138. Savage, "Palestinian Membership in Interpol Could Mark Latest Arrest for the Peace Process," and Cohen, "PA Acceptance to Interpol a 'Double-Edged Sword.'"
139. Interpol's 1956 constitution applied to 57 nations, most of which were Western democracies or Western-aligned autocracies or monarchies, the only clear exceptions being Egypt and the renegade Communist regime of Yugoslavia. In 2018, when Interpol's membership (with the exception of North Korea) largely mirrors that of the U.N., the situation is very different: The West and its allies are clearly outnumbered.
140. "Interpol Rejects Palestinian Bid for Membership."
141. Bromund, "Will Interpol Be Able to Create Fair Standards for Membership?"
142. *Ibid.*
143. *Ibid.*
144. The previous four paragraphs of this paper draw heavily on material previously published in Bromund, "Will Interpol Be Able to Create Fair Standards for Membership?"
145. William Thomas Worster, "Law, Politics, and the Conception of the State in State Recognition Theory," *Boston University International Law Journal*, Vol. 27, No. 115 (2009), p. 118, <http://www.bu.edu/law/journals-archive/international/volume27n1/documents/worster.pdf> (accessed March 21, 2018).
146. Interpol, "About Interpol," <https://www.interpol.int/en> (accessed April 6, 2018).
147. Daily Sabah with Anadolu Agency, "Over 100 Criminals from 32 Countries Extradited to Turkey in 2017, Security Officials Say," *Daily Sabah*, January 4, 2018, <https://www.dailysabah.com/investigations/2018/01/04/over-100-criminals-from-32-countries-extradited-to-turkey-in-2017-security-officials-say> (accessed January 23, 2018), and Mu Xuequan, "China Investigates 23 Former Senior Officials in 2017." See also Michelle A. Estlund, "Turkey Continues to Challenge INTERPOL by Abusing Its Red Notice System," *Red Notice Law Journal*, October 23, 2017, <https://www.rednoticelawjournal.com/2017/10/turkey-continues-to-challenge-interpol-by-abusing-its-red-notice-system/> (accessed March 21, 2018).
148. Radio Free Europe/Radio Liberty, "Russian Police Official Elected Interpol's Vice President for Europe," November 10, 2016, <http://www.rferl.org/a/russia-china-interpol-leadership/28108170.html> (accessed March 21, 2019); Robbie Gramer, "China and Russia Take the Helm of Interpol," *Foreign Policy*, November 10, 2016, <http://foreignpolicy.com/2016/11/10/china-and-russia-take-the-helm-of-interpol/> (accessed March 21, 2018); Editorial, "A Troubling New President for Interpol," *The New York Times*, November 14, 2016, <https://www.nytimes.com/2016/11/14/opinion/a-troubling-new-president-for-interpol.html?ref=topics> (accessed March 21, 2018); and Ted R. Bromund, "Way to Go, Interpol," *Newsday*, December 4, 2016, <https://www.newsday.com/opinion/way-to-go-interpol-1.12700451> (accessed January 24, 2018).
149. See Martha and Bailey, "Interpol and the EU: Don't Play Politics," and, in reply, Yuriy Nemets, "On Interpol's Former General Counsel's Statement Regarding EU Calls to Reform Interpol," *Red Notice Abuse Report*, December 28, 2017, <http://rednoticeabuse.com/on-interpol-former-general-counsel-statement-eu-calls-reform-interpol/> (accessed March 21, 2018).