

109TH CONGRESS  
2D SESSION

# S. 2370

---

## AN ACT

To promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-  
2       tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Palestinian Anti-Ter-  
5       rorism Act of 2006”.

1 **SEC. 2. LIMITATION ON ASSISTANCE TO THE PALESTINIAN**2 **AUTHORITY.**3 (a) DECLARATION OF POLICY.—It shall be the policy  
4 of the United States—5 (1) to support a peaceful, two-state solution to  
6 end the conflict between Israel and the Palestinians  
7 in accordance with the Performance-Based Roadmap  
8 to a Permanent Two-State Solution to the Israeli-  
9 Palestinian Conflict (commonly referred to as the  
10 “Roadmap”);11 (2) to oppose those organizations, individuals,  
12 and countries that support terrorism and violently  
13 reject a two-state solution to end the Israeli-Pales-  
14 tinian conflict;15 (3) to promote the rule of law, democracy, the  
16 cessation of terrorism and incitement, and good gov-  
17 ernance in institutions and territories controlled by  
18 the Palestinian Authority; and19 (4) to urge members of the international com-  
20 munity to avoid contact with and refrain from sup-  
21 porting the terrorist organization Hamas until it  
22 agrees to recognize Israel, renounce violence, disarm,  
23 and accept prior agreements, including the Road-  
24 map.

1       (b) AMENDMENTS.—Chapter 1 of part III of the For-  
2 eign Assistance Act of 1961 (22 U.S.C. 2351 et seq.) is  
3 amended—

4               (1) by redesignating the second section 620G  
5               (as added by section 149 of Public Law 104–164  
6               (110 Stat. 1436)) as section 620J; and

7               (2) by adding at the end the following new sec-  
8               tion:

9       **“SEC. 620K. LIMITATION ON ASSISTANCE TO THE PALES-**

10               **TINIAN AUTHORITY.**

11       “(a) LIMITATION.—Assistance may be provided  
12 under this Act to the Hamas-controlled Palestinian Au-  
13 thority only during a period for which a certification de-  
14 scribed in subsection (b) is in effect.

15       “(b) CERTIFICATION.—A certification described in  
16 subsection (a) is a certification transmitted by the Presi-  
17 dent to Congress that contains a determination of the  
18 President that—

19               “(1) no ministry, agency, or instrumentality of  
20 the Palestinian Authority is effectively controlled by  
21 Hamas, unless the Hamas-controlled Palestinian Au-  
22 thority has—

23               “(A) publicly acknowledged the Jewish  
24 state of Israel’s right to exist; and

1                   “(B) committed itself and is adhering to  
2                   all previous agreements and understandings  
3                   with the United States Government, with the  
4                   Government of Israel, and with the interna-  
5                   tional community, including agreements and  
6                   understandings pursuant to the Performance-  
7                   Based Roadmap to a Permanent Two-State So-  
8                   lution to the Israeli-Palestinian Conflict (com-  
9                   monly referred to as the ‘Roadmap’); and  
10                   “(2) the Hamas-controlled Palestinian Author-  
11                   ity has made demonstrable progress toward—

12                   “(A) completing the process of purging  
13                   from its security services individuals with ties to  
14                   terrorism;

15                   “(B) dismantling all terrorist infrastruc-  
16                   ture within its jurisdiction, confiscating unau-  
17                   thorized weapons, arresting and bringing terror-  
18                   ists to justice, destroying unauthorized arms  
19                   factories, thwarting and preempting terrorist  
20                   attacks, and fully cooperating with Israel’s se-  
21                   curity services;

22                   “(C) halting all anti-American and anti-  
23                   Israel incitement in Palestinian Authority-con-  
24                   trolled electronic and print media and in  
25                   schools, mosques, and other institutions it con-

4                   “(D) ensuring democracy, the rule of law,  
5                   and an independent judiciary, and adopting  
6                   other reforms such as ensuring transparent and  
7                   accountable governance; and

8                             “(E) ensuring the financial transparency  
9                             and accountability of all government ministries  
10                            and operations.

11        "(c) RECERTIFICATIONS.—Not later than 90 days  
12 after the date on which the President transmits to Con-  
13 gress an initial certification under subsection (b), and  
14 every six months thereafter—

15               “(1) the President shall transmit to Congress a  
16               recertification that the conditions described in sub-  
17               section (b) are continuing to be met; or

18               “(2) if the President is unable to make such a  
19               recertification, the President shall transmit to Con-  
20               gress a report that contains the reasons therefor.

21       “(d) CONGRESSIONAL NOTIFICATION.—Assistance  
22 made available under this Act to the Palestinian Authority  
23 may not be provided until 15 days after the date on which  
24 the President has provided notice thereof to the appro-  
25 priate congressional committees in accordance with the

1 procedures applicable to reprogramming notifications  
2 under section 634A(a) of this Act.

3       “(e) NATIONAL SECURITY WAIVER.—

4           “(1) IN GENERAL.—Subject to paragraph (2),  
5           the President may waive subsection (a) with respect  
6           to—

7               “(A) the administrative and personal secu-  
8               rity costs of the Office of the President of the  
9               Palestinian Authority;

10             “(B) the activities of the President of the  
11              Palestinian Authority to fulfill his or her duties  
12              as President, including to maintain control of  
13              the management and security of border cross-  
14              ings, to foster the Middle East peace process,  
15              and to promote democracy and the rule of law;  
16              and

17             “(C) assistance for the judiciary branch of  
18              the Palestinian Authority and other entities.

19           “(2) CERTIFICATION.—The President may only  
20           exercise the waiver authority under paragraph (1)  
21           after—

22             “(A) consulting with, and submitting a  
23              written policy justification to, the appropriate  
24              congressional committees; and

1                 “(B) certifying to the appropriate congressional  
2                 committees that—

3                     “(i) it is in the national security interest of the United States to provide assistance otherwise prohibited under subsection  
4                     5                     (a); and

7                     “(ii) the individual or entity for which assistance is proposed to be provided is not a member of, or effectively controlled by  
8                     9                     (as the case may be), Hamas or any other  
10                     11                     foreign terrorist organization.

12                 “(3) REPORT.—Not later than 10 days after exercising the waiver authority under paragraph (1), the President shall submit to the appropriate congressional committees a report describing how the funds provided pursuant to such waiver will be spent and detailing the accounting procedures that are in place to ensure proper oversight and accountability.

19                 “(4) TREATMENT OF CERTIFICATION AS NOTIFICATION OF PROGRAM CHANGE.—For purposes of this subsection, the certification required under paragraph (2)(B) shall be deemed to be a notification under section 634A and shall be considered in accordance with the procedures applicable to notifications submitted pursuant to that section.

1       “(f) DEFINITIONS.—In this section:

2               “(1) APPROPRIATE CONGRESSIONAL COMMIT-  
3               TEES.—The term ‘appropriate congressional com-  
4               mittees’ means—

5               “(A) the Committee on International Rela-  
6               tions and the Committee on Appropriations of  
7               the House of Representatives; and

8               “(B) the Committee on Foreign Relations  
9               and the Committee on Appropriations of the  
10               Senate.

11               “(2) FOREIGN TERRORIST ORGANIZATION.—  
12               The term ‘foreign terrorist organization’ means an  
13               organization designated as a foreign terrorist organi-  
14               zation by the Secretary of State in accordance with  
15               section 219(a) of the Immigration and Nationality  
16               Act (8 U.S.C. 1189(a)).

17               “(3) PALESTINIAN AUTHORITY.—The term  
18               ‘Palestinian Authority’ means the interim Pales-  
19               tinian administrative organization that governs part  
20               of the West Bank and all of the Gaza Strip (or any  
21               successor Palestinian governing entity), including  
22               the Palestinian Legislative Council.”.

23       (c) PREVIOUSLY OBLIGATED FUNDS.—The provi-  
24       sions of section 620K of the Foreign Assistance Act of  
25       1961, as added by subsection (b), shall be applicable to

1 the unexpended balances of funds obligated prior to the  
2 date of the enactment of this Act.

3 **SEC. 3. LIMITATION ON ASSISTANCE FOR THE WEST BANK  
4 AND GAZA.**

5 (a) AMENDMENT.—Chapter 1 of part III of the For-  
6 eign Assistance Act of 1961 (22 U.S.C. 2351 et seq.), as  
7 amended by section 2(b)(2), is further amended by adding  
8 at the end the following new section:

9 **“SEC. 620L. LIMITATION ON ASSISTANCE FOR THE WEST  
10 BANK AND GAZA.**

11 “(a) LIMITATION.—Assistance may be provided  
12 under this Act to nongovernmental organizations for the  
13 West Bank and Gaza only during a period for which a  
14 certification described in section 620K(b) is in effect with  
15 respect to the Palestinian Authority.

16 “(b) EXCEPTIONS.—Subsection (a) shall not apply  
17 with respect to the following:

18 “(1) ASSISTANCE TO MEET BASIC HUMAN  
19 NEEDS.—Assistance to meet food, water, medicine,  
20 health, or sanitation needs, or other assistance to  
21 meet basic human needs.

22 “(2) ASSISTANCE TO PROMOTE DEMOCRACY.—  
23 Assistance to promote democracy, human rights,  
24 freedom of the press, non-violence, reconciliation,  
25 and peaceful co-existence, provided that such assist-

1       ance does not directly benefit Hamas or any other  
2       foreign terrorist organization.

3           “(3) ASSISTANCE FOR INDIVIDUAL MEMBERS  
4       OF THE PALESTINIAN LEGISLATIVE COUNCIL.—As-  
5       sistance, other than funding of salaries or salary  
6       supplements, to individual members of the Pales-  
7       tinian Legislative Council who the President deter-  
8       mines are not members of Hamas or any other for-  
9       eign terrorist organization, for the purposes of facil-  
10      itating the attendance of such members in programs  
11      for the development of institutions of democratic  
12      governance, including enhancing the transparent and  
13      accountable operations of such institutions, and pro-  
14      viding support for the Middle East peace process.

15           “(4) OTHER TYPES OF ASSISTANCE.—Any  
16      other type of assistance if the President—

17               “(A) determines that the provision of such  
18      assistance is in the national security interest of  
19      the United States; and

20               “(B) not less than 30 days prior to the ob-  
21      ligation of amounts for the provision of such  
22      assistance—

23               “(i) consults with the appropriate con-  
24      gressional committees regarding the spe-

1                   cific programs, projects, and activities to  
2                   be carried out using such assistance; and

3                   “(ii) submits to the appropriate con-  
4                   gressional committees a written memo-  
5                   randum that contains the determination of  
6                   the President under subparagraph (A).

7        “(c) MARKING REQUIREMENT.—Assistance provided  
8 under this Act to nongovernmental organizations for the  
9 West Bank and Gaza shall be marked as assistance from  
10 the American people or the United States Government un-  
11 less the Secretary of State or, as appropriate, the Admin-  
12 istrator of the United States Agency for International De-  
13 velopment, determines that such marking will endanger  
14 the lives or safety of persons delivering such assistance  
15 or would have an adverse effect on the implementation of  
16 that assistance.

17        “(d) CONGRESSIONAL NOTIFICATION.—Assistance  
18 made available under this Act to nongovernmental organi-  
19 zations for the West Bank and Gaza may not be provided  
20 until 15 days after the date on which the President has  
21 provided notice thereof to the Committee on International  
22 Relations and the Committee on Appropriations of the  
23 House of Representatives and to the Committee on For-  
24 eign Relations and the Committee on Appropriations of  
25 the Senate in accordance with the procedures applicable

1 to reprogramming notifications under section 634A(a) of  
2 this Act.

3       “(e) DEFINITIONS.—In this section:

4           “(1) APPROPRIATE CONGRESSIONAL COMMIT-  
5           TEES.—the term ‘appropriate congressional commit-  
6           tees’ means—

7               “(A) the Committee on International Rela-  
8               tions and the Committee on Appropriations of  
9               the House of Representatives; and

10               “(B) the Committee on Foreign Relations  
11               and the Committee on Appropriations of the  
12               Senate.

13               “(2) FOREIGN TERRORIST ORGANIZATION.—  
14               The term ‘foreign terrorist organization’ means an  
15               organization designated as a foreign terrorist organi-  
16               zation by the Secretary of State in accordance with  
17               section 219(a) of the Immigration and Nationality  
18               Act (8 U.S.C. 1189(a)).”.

19       (b) OVERSIGHT AND RELATED REQUIREMENTS.—

20               (1) OVERSIGHT.—For each of the fiscal years  
21               2007 and 2008, the Secretary of State shall certify  
22               to the appropriate congressional committees not  
23               later than 30 days prior to the initial obligation of  
24               amounts for assistance to nongovernmental organi-  
25               zations for the West Bank or Gaza under the For-

1 eign Assistance Act of 1961 that procedures have  
2 been established to ensure that the Comptroller Gen-  
3 eral of the United States will have access to appro-  
4 priate United States financial information in order  
5 to review the use of such assistance.

6 (2) VETTING.—Prior to any obligation of  
7 amounts for each of the fiscal years 2007 and 2008  
8 for assistance to nongovernmental organizations for  
9 the West Bank or Gaza under the Foreign Assist-  
10 ance Act of 1961, the Secretary of State shall take  
11 all appropriate steps to ensure that such assistance  
12 is not provided to or through any individual or entity  
13 that the Secretary knows, or has reason to believe,  
14 advocates, plans, sponsors, engages in, or has en-  
15 gaged in, terrorist activity. The Secretary shall, as  
16 appropriate, establish procedures specifying the  
17 steps to be taken in carrying out this paragraph and  
18 shall terminate assistance to any individual or entity  
19 that the Secretary has determined advocates, plans,  
20 sponsors, or engages in terrorist activity.

21 (3) PROHIBITION.—No amounts made available  
22 for fiscal year 2007 or 2008 for assistance to non-  
23 governmental organizations for the West Bank or  
24 Gaza under the Foreign Assistance Act of 1961 may  
25 be made available for the purpose of recognizing or

1       otherwise honoring individuals who commit, or have  
2       committed, acts of terrorism.

3                   (4) AUDITS.—

4                   (A) IN GENERAL.—The Administrator of  
5       the United States Agency for International De-  
6       velopment shall ensure that Federal or non-  
7       Federal audits of all contractors and grantees,  
8       and significant subcontractors and subgrantees,  
9       that receive amounts for assistance to non-  
10      governmental organizations for the West Bank  
11      or Gaza under the Foreign Assistance Act of  
12      1961 are conducted for each of the fiscal years  
13      2007 and 2008 to ensure, among other things,  
14      compliance with this subsection.

15                   (B) AUDITS BY INSPECTOR GENERAL OF  
16      USAID.—Of the amounts available for each of  
17      the fiscal years 2007 and 2008 for assistance to  
18      nongovernmental organizations for the West  
19      Bank or Gaza under the Foreign Assistance  
20      Act of 1961, up to \$1,000,000 for each such  
21      fiscal year may be used by the Office of the In-  
22      spector General of the United States Agency for  
23      International Development for audits, inspec-  
24      tions, and other activities in furtherance of the  
25      requirements of subparagraph (A). Such

1           amounts are in addition to amounts otherwise  
2           available for such purposes.

3 **SEC. 4. DESIGNATION OF TERRITORY CONTROLLED BY THE**  
4           **PALESTINIAN AUTHORITY AS TERRORIST**  
5           **SANCTUARY.**

6           It is the sense of Congress that, during any period  
7 for which a certification described in section 620K(b) of  
8 the Foreign Assistance Act of 1961 (as added by section  
9 2(b)(2) of this Act) is not in effect with respect to the  
10 Palestinian Authority, the territory controlled by the Pal-  
11 estinian Authority should be deemed to be in use as a  
12 sanctuary for terrorists or terrorist organizations for pur-  
13 poses of section 6(j)(5) of the Export Administration Act  
14 of 1979 (50 U.S.C. App. 2405(j)(5)) and section 140 of  
15 the Foreign Relations Authorization Act, Fiscal Years  
16 1988 and 1989 (22 U.S.C. 2656f).

17 **SEC. 5. DENIAL OF VISAS FOR OFFICIALS OF THE PALES-**  
18           **TINIAN AUTHORITY.**

19           (a) IN GENERAL.—Except as provided in subsection  
20 (b), a visa should not be issued to any alien who is an  
21 official of, under the control of, or serving as a representa-  
22 tive of the Hamas-led Palestinian Authority during any  
23 period for which a certification described in section  
24 620K(b) of the Foreign Assistance Act of 1961 (as added

1 by section 2(b)(2) of this Act) is not in effect with respect  
2 to the Palestinian Authority.

3 (b) EXCEPTION.—The restriction under subsection  
4 (a) should not apply to—

5 (1) the President of the Palestinian Authority  
6 and his or her personal representatives, provided  
7 that the President and his or her personal represent-  
8 atives are not affiliated with Hamas or any other  
9 foreign terrorist organization; and

10 (2) members of the Palestinian Legislative  
11 Council who are not members of Hamas or any  
12 other foreign terrorist organization.

13 **SEC. 6. TRAVEL RESTRICTIONS ON OFFICIALS AND REP-**  
14 **RESENTATIVES OF THE PALESTINIAN AU-**  
15 **THORITY AND THE PALESTINE LIBERATION**  
16 **ORGANIZATION STATIONED AT THE UNITED**  
17 **NATIONS IN NEW YORK CITY.**

18 (a) IN GENERAL.—Notwithstanding any other provi-  
19 sion of law, and except as provided in subsection (b), the  
20 President should restrict the travel of officials and rep-  
21 resentatives of the Palestinian Authority and of the Pal-  
22 estine Liberation Organization, who are stationed at the  
23 United Nations in New York City to a 25-mile radius of  
24 the United Nations headquarters building during any pe-  
25 riod for which a certification described in section 620K(b)

1 of the Foreign Assistance Act of 1961 (as added by section  
2 2(b)(2) of this Act) is not in effect with respect to the  
3 Palestinian Authority.

4 (b) EXCEPTION.—The travel restrictions described in  
5 subsection (a) should not apply to the President of the  
6 Palestinian Authority and his or her personal representa-  
7 tives, provided that the President and his or her personal  
8 representatives are not affiliated with Hamas or any other  
9 foreign terrorist organization.

10 **SEC. 7. PROHIBITION ON PALESTINIAN AUTHORITY REP-  
11 RESENTATION IN THE UNITED STATES.**

12 (a) PROHIBITION.—Notwithstanding any other provi-  
13 sion of law, it shall be unlawful to establish or maintain  
14 an office, headquarters, premises, or other facilities or es-  
15 tablishments within the jurisdiction of the United States  
16 at the behest or direction of, or with funds provided by,  
17 the Palestinian Authority during any period for which a  
18 certification described in section 620K(b) of the Foreign  
19 Assistance Act of 1961 (as added by section 2(b)(2) of  
20 this Act) is not in effect with respect to the Palestinian  
21 Authority.

22 (b) ENFORCEMENT.—

23 (1) ATTORNEY GENERAL.—The Attorney Gen-  
24 eral shall take the necessary steps and institute the

1 necessary legal action to effectuate the policies and  
2 provisions of subsection (a).

3 (2) RELIEF.—Any district court of the United  
4 States for a district in which a violation of sub-  
5 section (a) occurs shall have authority, upon petition  
6 of relief by the Attorney General, to grant injunctive  
7 and such other equitable relief as it shall deem nec-  
8 essary to enforce the provisions of subsection (a).

9 (c) WAIVER.—Subsection (a) shall not apply if the  
10 President determines and certifies to the appropriate con-  
11 gressional committees that the establishment or mainte-  
12 nance of an office, headquarters, premises, or other facili-  
13 ties is vital to the national security interests of the United  
14 States.

15 **SEC. 8. INTERNATIONAL FINANCIAL INSTITUTIONS.**

16 (a) REQUIREMENT.—The President should direct the  
17 United States Executive Director at each international fi-  
18 nancial institution to use the voice, vote, and influence of  
19 the United States to prohibit assistance to the Palestinian  
20 Authority (other than assistance described under sub-  
21 section (b)) during any period for which a certification de-  
22 scribed in section 620K(b) of the Foreign Assistance of  
23 1961 (as added by section 2(b)(2) of this Act) is not in  
24 effect with respect to the Palestinian Authority.

1 (b) EXCEPTIONS.—The prohibition on assistance de-  
2 scribed in subsection (a) should not apply with respect to  
3 the following types of assistance:

4 (1) Assistance to meet food, water, medicine, or  
5 sanitation needs, or other assistance to meet basic  
6 human needs.

12 (c) DEFINITION.—In this section, the term “inter-  
13 national financial institution” has the meaning given the  
14 term in section 1701(c)(2) of the International Financial  
15 Institutions Act (22 U.S.C. 262r(c)(2)).

16 SEC. 9. DIPLOMATIC CONTACTS WITH PALESTINIAN TER-  
17 ROR ORGANIZATIONS.

18        No funds authorized or available to the Department  
19        of State may be used for or by any officer or employee  
20        of the United States Government to negotiate with mem-  
21        bers or official representatives of Hamas, Palestinian Is-  
22        lamic Jihad, the Popular Front for the Liberation of Pal-  
23        estine, al-Aqsa Martyrs Brigade, or any other Palestinian  
24        terrorist organization (except in emergency or humani-  
25        tarian situations), unless and until such organization—

10 SEC. 10. ISRAELI-PALESTINIAN PEACE, RECONCILIATION  
11 AND DEMOCRACY FUND.

12 (a) ESTABLISHMENT OF FUND.—Not later than 60  
13 days after the date of the enactment of this Act, the Sec-  
14 retary of State shall establish a fund to be known as the  
15 “Israeli-Palestinian Peace, Reconciliation and Democracy  
16 Fund” (in this section referred to as the “Fund”). The  
17 purpose of the Fund shall be to support, primarily,  
18 through Palestinian and Israeli organizations, the pro-  
19 motion of democracy, human rights, freedom of the press,  
20 and non-violence among Palestinians, and peaceful coex-  
21 istence and reconciliation between Israelis and Palestin-  
22 ians.

23 (b) ANNUAL REPORT.—Not later than 60 days after  
24 the date of the enactment of this Act, and annually there-  
25 after for so long as the Fund remains in existence, the

1 Secretary of State shall submit to the appropriate congressional  
2 committees a report on programs sponsored and  
3 proposed to be sponsored by the Fund.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
5 authorized to be appropriated to the Secretary of State  
6 \$20,000,000 for fiscal year 2007 for purposes of the  
7 Fund.

8 **SEC. 11. REPORTING REQUIREMENT.**

9 Not later than 90 days after the date of the enactment  
10 of this Act, and annually thereafter, the Secretary  
11 of State shall submit to the appropriate congressional  
12 committees a report that—

13 (1) describes the steps that have been taken by  
14 the United States Government to ensure that other  
15 countries and international organizations, including  
16 multilateral development banks, do not provide direct  
17 assistance to the Palestinian Authority for any  
18 period for which a certification described in section  
19 620K(b) of the Foreign Assistance Act of 1961 (as  
20 added by section 2(b)(2) of this Act) is not in effect  
21 with respect to the Palestinian Authority; and

22 (2) identifies any countries and international  
23 organizations, including multilateral development  
24 banks, that are providing direct assistance to the

1      Palestinian Authority during such a period, and de-  
2      scribes the nature and amount of such assistance.

3 **SEC. 12. DEFINITIONS.**

4      In this Act:

5                (1) APPROPRIATE CONGRESSIONAL COMMIT-  
6      TEES.—The term “appropriate congressional com-  
7      mittees” means—

8                        (A) the Committee on International Rela-  
9      tions and the Committee on Appropriations of  
10     the House of Representatives; and

11                        (B) the Committee on Foreign Relations  
12      and the Committee on Appropriations of the  
13      Senate.

14                (2) PALESTINIAN AUTHORITY.—The term “Pal-  
15      estinian Authority” has the meaning given the term  
16      in section 620K(e)(2) of the Foreign Assistance Act  
17      of 1961 (as added by section 2(b)(2) of this Act).

Passed the Senate June 23, 2006.

Attest:

*Secretary.*

109TH CONGRESS  
2D SESSION **S. 2370**

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**AN ACT**

To promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.