

Closing Statement

Conference on

Political Rights in Palestine: Between the Anvil of Internal Political Divide and Prospects of National Reconciliation

Panellists discussed the Palestinian political context after the Palestinian national reconciliation effort has materialised, including reflections on legal, administrative and political structures in the West Bank and Gaza Strip. In the Conference sessions, the current context of public rights and freedoms within the Palestinian legal system was also examined. Presentations provided a review of and potential approach to dealing with legal and administrative consequences and positions created after the internal Palestinian political divide has ended. An investigation of the right of assembly under the Palestinian legal system focused on relevant variables on the Palestinian scene as well as current regulation of political parties. The Conference was concluded with a treatise on the Palestinian electoral system and outlook for future legal and partisan approaches.

In Palestine, public rights and freedoms, particularly political rights, have been affected by several domestic setbacks. Most notably, the internal Palestinian political divide has disrupted the majority of political rights. In several spheres, the principle of the rule of law has been manipulated so as to infringe on political rights, including the right of assembly, right to run for office, etc. Public rights and freedoms have seen a major decline in terms of public participation, right to freedom of expression, and other political rights.

Encroachments on fundamental human rights, including the right of assembly, right to freedom of association and right to vote, have manifested even after the internal Palestinian political divide came to an end and the national reconciliation agreement was concluded. Recurrent impingements have affected fundamental human rights and freedoms. The national consensus government has encountered many challenges, most notably the future of legal and administrative positions created by the internal Palestinian political split. The government is also challenged by national elections, political parties, and consolidation of dichotomous public authorities.

In the Palestinian context, a legal environment espouses public accountability. However, this framework is incomplete, defective or absent. In addition to lacking a law on political parties, the Law on Public Assembly imposes constraints or allows unconstitutional encroachments on political rights. An integrated package of legislation that safeguards enjoyment and exercise of political rights is lacking. Absent legislature and oversight bodies have negatively impacted public accountability.

According to treatises addressed in the Conference, participants came up with a set of conclusions and indicators of the status of political rights in Palestine. Marking a clear discrepancy between the relevant legal framework and current practice, major conclusions include:

1. The internal Palestinian political divide has adversely impacted exercise of public rights and freedoms in the West Bank and Gaza Strip. Consequences of the internal divide are still evident despite the fact that a Palestinian national reconciliation agreement was concluded.
2. The Executive dominates other authorities, clearly breaching the principle of balanced separation of powers.
3. Fundamental rights, including the right of assembly, right to freedom of association, and right to vote, continue to be violated even after the internal Palestinian political divide came to an end.
4. The Legislative Authority and oversight bodies are dysfunctional, resulting in absent accountability for encroachments on political rights.
5. During the internal Palestinian political split and after national reconciliation was maintained, Palestinian citizens' rights and freedoms, and political rights in particular, have been affected by the political context. These have been constantly compromised by both governments in the West Bank and Gaza.
6. In both the West Bank and the Gaza Strip, the internal political divide affected formation of and membership on political parties. Various restrictions were imposed on persons based on their political affiliations. The political divide also disrupted an important mechanism of formation of new political parties: rapprochement between the Palestinian Legislative Council (PLC) and electoral committees require an active parliamentary life and periodic elections.
7. The legal framework regulating political parties is inadequate.
8. Palestinian human rights are in a constant state of instability, ebbing and flowing in line with understandings or agreements reached by divided parties. Public rights are at the mercy of progress or decline of the Palestinian national reconciliation effort.
9. The internal Palestinian political divide accommodated various forms of legislative activity. Passed in both the West Bank and the Gaza Strip, hundreds of regulations have created legal positions and devised administrative changes. After the internal split come to a real end, these enactments should be subject to a comprehensive review.

Recommendations

The Conference was summed up by a set of purposeful recommendations for official authorities and civil society organisations:

1. End the internal Palestinian political split between the West Bank and Gaza Strip. The national reconciliation agreement should be translated into reality. Procedures provided by the agreement should be implemented.
2. Carry out necessary legal reviews of legislative and institutional structures and examine legal positions created during the internal Palestinian political divide. In tandem with the Palestinian Authority's policy of legislative consolidation, potential solutions will be elaborated and devised to harmonise pieces of legislation passed in the West Bank and Gaza.
3. Review regulations on the electoral system with a view to reflect the Palestinian society's trends and desires. A new body of legislation will enhance the role of small parties and blocs, ensuring an equitable participation in political life. Party quotas will be avoided in the process of drafting electoral laws. Political parties are advised to shift from factional to organised partisan activity. Legal frameworks of political parties need to be reviewed.
4. Put an end to the Executive intervention in functions of associations and in peaceful assemblies. Based on relevant legal principles and international conventions, the Executive dominance over other authorities will be terminated. The legislative framework regulating association activities will be reviewed.
5. Revisit and bring regulations on the right of public assembly in line with relevant international standards.
6. Promote and put into effect Palestinian citizens' rights by implementing the principle of constitutional, judicial and civil control over the exercise of these rights. Public rights will not be subject to political rivalries or partisan caprices.
7. Take immediate action to revoke restrictions on the right to freedom of association. Current impediments include security vetting, certificates of clearance, approvals required from Jerusalemites, and ban of travel. Restrictions can only be applicable by special permissions.
8. As a key protector of public freedoms, rejuvenate the Judicial Authority's role so as to support and promote political rights. Judicial and administrative bodies will be established and guided by a firm belief in protection of public rights and freedoms. These will not appear as a component of the current security and political context, nor will they be a subsidiary of the Palestinian political system.
9. Enhance the role of administrative judicial branch, enact a law on the High Court of Justice, and work diligently towards establishing a High Administrative Court to challenge High Court decisions. This can help avoid errors associated with untenable objection against definitive decisions, which sometimes imply unchangeable precedents.
10. Approve an agreed electoral system, which takes account of national interests, puts an end to monopoly of power, and allows the largest number of parties and lists to participate in the elections. Lessons will be learnt from previous elections, which resulted in a monopoly of power and consolidated political exclusion. To ensure

freedom of expression, the society from across the spectrum will be engaged in any upcoming electoral system. Palestinians abroad should also be involved in the electoral process, ensuring that public participation reflects a democratic and civilised image of the Palestinian people, supports the just question of Palestine, and improves visibility of the State of Palestine.

11. Promote the role of the constitutional judicial branch, provide necessary technical support, and consolidate the Constitutional Court's oversight of legislation.
12. Enact a law on political parties that responds to the current Palestinian context and contributes to creating a political system, in which partisan activity is exercised freely. The law will ensure that partisan activity is not restrained or rendered meaningless. It will provide immunity to political party offices, documents, and members. These can only be accessed by a court order and in line with justifiable causes.
13. Avoid confusion of political pluralism with partisan pluralism in the process of producing legislative enactments, including constitutional instruments. Both are mutually exclusive and each has a distinct meaning.
14. Promulgate new laws for regulation of associations of all types. Ensuring full compliance with relevant international standards, these enactments will safeguard a consolidated legal framework of association activities in both the West Bank and the Gaza Strip.