



**Arab American University  
Faculty of Graduate Studies**

**Transitional justice mechanisms in light of human rights charters  
and the Palestinian situation  
(The experience of Morocco and South Africa as a case)**

By

**Ethar Hazim Sulieman Mohammed**

Supervisor

**Dr. Sania Faisal Al Hussein**

**This thesis was submitted in partial fulfillment of the  
requirements for  
the Master's degree in  
International law and Diplomacy**

**5 /2024**

**©Arab American University – 2024. All rights reserved.**

## Thesis Approval

### Transitional justice mechanisms in light of human rights charters and the Palestinian situation (The experience of Morocco and South Africa as a case)

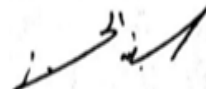
By  
**Ethar Hazim Sulieman Mohammed**

This thesis was defended successfully on 30/5/2024 and approved by:

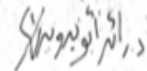
Committee members

Signature

1. Dr. Sania El-Husseini: Supervisor

 Dr. Sania El-Husseini

2. Dr. Raed Abubadawia: Internal Examiner



3. Dr. Issam Abdeen: External Examiner

 Dr. Issam Abdeen

## Declaration

I, Ethar Hazim Sulieman Mohammed, university ID 202112747, enrolled in the Master's program in International Law and Diplomacy, commit to fully adhering to the regulations of the Arab American University. I affirm that this research is original, solely my own work, and has not been copied, in whole or in part, from any other source or publication. I acknowledge that the university reserves the right to take any necessary disciplinary actions or measures in accordance with its policies if any violation is found.

The Name of The Student: Ethar Hazim Sulieman Mohammed

ID: 202112747

Signature: Ethar Hazim Sulieman Mohammed



Date: 17.6.2025

## Dedication

"يرفع الله الذين آمنوا منكم والذين أوتوا العلم درجات"

I owe all of this to the grace of God, for which I am profoundly grateful.

To my homeland, Palestine, which resides deeply in my heart.  
To all those who sacrificed their lives resisting injustice and  
evil in this world, may you rest in peace.

To my beloved family:

To my mother, Reem, whose unwavering love and  
support have driven my academic endeavors.

To my father, Hazim, whose encouragement and faith in me  
have been a constant source of inspiration. I am  
eternally grateful for his guidance and wisdom.

To my brothers, Waed, Ahed, Qasam, and Karam.  
To my soulmate and the best partner, Ruwa.  
To my brother-in-law, Momen.

To my sisters, Atheer and Al-Anood.  
To my sisters-in-law, Malak and Lisyane.  
To all my friends.

I also dedicate this work  
to my mentor, Sania Al-Husseini, whose expertise and guidance  
have been instrumental in shaping my research skills and  
knowledge. Her mentorship has been an invaluable asset  
to my academic and professional growth.

This work stands as a testament to the collective support, love, and encouragement of  
all who have stood by me throughout this journey.

## **Acknowledgment**

I would like to thank the following people, without whom I would not have been able to complete this research, and without whom I would not have made it through my master's degree!

The team at Arab American University, especially to my supervisor Dr Sania Al-Husseini, whose insight and knowledge into the subject matter steered me through this research.

To my beautiful family, to my wonderful fiancé, thank you from heart for everything you have done for me.

## **Abstract**

The current study aims to clarify the mechanisms and tools of transitional justice and Palestinian situation in this context, which faces occupation and settlement on one hand, and the internal Palestinian division on the other.

The 2007 division within the Palestinian Authority is marked as a critical juncture in Palestinian history, notable not only for the fatalities it inflicted but also for its role in territorial fragmentation. This schism undermined the bedrock of the national liberation movement, encompassing both resistance and settlement efforts, profoundly affecting all dimensions of Palestinian life and severely disrupting social relationships. The accumulated risks over the years have attracted significant attention from international and local stakeholders, dedicated to mending the division between the factions and terminating the Israeli occupation of Palestine. This study zeroes in on the feasibility and methods of enacting transitional justice within Palestinian society, tackling the ramifications of the division. It employs descriptive and analytical methodologies to elucidate the nature, features, and operations of transitional justice, and to examine the initiatives undertaken by the Palestinian National Authority in the West Bank and Hamas in the Gaza Strip, analyzing their impact on severe human rights breaches. The research identifies a pervasive failure to implement transitional justice in Palestinian territories, attributed to non-adherence to reconciliation agreements by Fatah and Hamas, despite concerted Palestinian and international efforts. It advocates for various strategies to foster reconciliation and transitional justice, highlighting the significance of mechanisms such as reparations, judicial pursuits, and compensation for victims. The study underscores the critical need for transitional justice in Palestine and the dearth of related research within this context, aiming to spotlight the issue of transitional justice in Palestine.

## Table of Contents

Thesis Approval -----	i
Declaration -----	ii
Dedication -----	iii
Acknowledgment-----	iv
Abstract -----	v
Chapter One -----	1
<i>Study problem</i> -----	2
<i>Study Question</i> -----	2
<i>Literature reviews</i> -----	3
Chapter Two -----	10
Theoretical and conceptual framework for transitional justice -----	10
<i>The first topic</i> -----	12
<i>The concept of transitional justice</i> -----	12
<i>The second topic</i> -----	19
<i>The problem of transitional justice</i> -----	19
Chapter Three-----	24
Transitional justice reality amid Palestinian internal division and Israeli occupation as main obstacle-----	24
<i>The first topic</i> -----	29
<i>The background of the division and its repercussions</i> -----	29
Transitional Justice and the Decline of the Palestinian Human Condition -----	37
(Repercussions of Internal Division) -----	37
Fifth: Economic Inheritance -----	41
<i>The second topic</i> -----	42
<i>Palestinian Reconciliation Agreements, Transitional Justice Tools, and Israeli Occupation</i> -----	42
First: Palestinian Reconciliation Agreements -----	43
Second: Transitional Justice mechanisms in Reconciliation Agreements -----	75
Analysis of the Community Reconciliation Committee formed by (Takaful) -----	81
Chapter Four -----	87
International conventions and comparative experiences in transitional justice -----	87
<i>The first topic</i> -----	87
<i>Transitional justice and core international human rights conventions</i> -----	87
<i>The second topic</i> -----	93
<i>Transitional justice - the experiences of states and Palestinian specificity (the experience of Morocco and South Africa)</i> -----	93
Morocco's Experience in Achieving Transitional Justice -----	94
South Africa's experience in achieving transitional justice -----	99

Chapter Five-----	118
Results-----	119
Recommendations-----	121
References-----	123
Appendices-----	130
المخلص-----	193

## **Chapter One**

### **study plan**

#### Introduction

Transitional justice encompasses the full range of procedures and mechanisms involved in a society's quest to come to terms with a wide range history of past conflicts, repression and abuses in order to ensure accountability, justice and reconciliation, as represented in judicial and non-judicial mechanisms, such as fact-finding, prosecution and reparations initiatives, as well as various steps to prevent the recurrence of violations, such as institutional, legal and constitutional reforming and adjusting, civil society building, memorialization efforts, cultural initiatives, Archives and change the way history is taught in these processes.

As a step towards reconciliation and preventing new crimes, transitional justice seeks to recognize victims, rebuild citizens' trust in government institutions, increase respect for human rights, and strengthen the rule of law.

As for the Palestinian reality, the Palestinians face two battles, first: a battle against the ongoing Israeli occupation, second: a battle for reconciliation between the Palestinian parties, the division between Fatah and Hamas, the two largest political parties, has blocked and delayed the prospects for achieving peace, transitional justice and Palestinian solidarity, and this division has become a major obstacle to resisting the Israeli occupation and colonial expansion, as well as the palestinian parties have no power whatsoever on their political decisions, but still an achievement could still be made between these parties. While the leaders of Fatah and Hamas have taken concrete steps to achieve reconciliation, it has not yet been reconciled.

Transitional justice in the Palestinian case acquires a special treatment , especially after the division, the flagrant and severe violations that took place in the West Bank and Gaza Strip, including extrajudicial executions, widespread arbitrary detention, torture practices, ill-treatment inside prisons and detention centers, silencing voices and restrictions on cyberspace,

violations of the right to peaceful assembly and the right to association, closure of dozens of associations and human rights, and other gross violations of the Palestinian Basic Law (Al-Dustour), International conventions, especially the basic human rights conventions to which the State of Palestine acceded without reservations, such as the International Covenant on Civil and Fundamental Rights, the International Covenant on Social Economic and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

#### Study problem

Despite the paramount importance of transitional justice in the Palestinian context, substantial obstacles persist primarily due to the ongoing occupation. Additionally, challenges related to political will and the reconciliation process continue, despite being addressed in various reconciliation agreements.

#### Study Question

The main question

What is the importance and role of the transitional justice program and mechanisms in turning the page on the internal Palestinian division, democratic transition, respect for the rule of law, the human rights system and human dignity in the State of Palestine?

#### Secondary questions

- What are the means and mechanisms for implementing transitional justice in the Palestinian case?
- What obstacles have been encountered in the implementation of transitional justice mechanisms in Palestinian reconciliation agreements?
- What are the tools that could be learnt from the experiences of other states in the light of the Palestinian case?

### Concepts and terminology

- Transitional justice: The concept of transitional justice is still ambiguous to many, as some see it as "adapting justice in a way that suits societies in transition following an era of rampant human rights violations, by paying attention to a set of mechanisms to confront violations with the aim of creating a more just and democratic future."<sup>1</sup>
- The Palestinian division: The elections held in 2007 resulted in a split between the Palestinian parties, and the division does not date back to 2007 only, as the competition or disagreement over legal and political powers dates back to before that, in terms of competition between two projects and two different ideologies between Fatah and Hamas, especially after the Oslo Accords in 1993<sup>2</sup>.

### Literature reviews

- Arabic Studies:

**Mohammed Askar's study entitled (International Standards for Transitional Justice and the Mechanisms of their Application)**, where this study reviews the concept of transitional justice and the extent of diversity in its definitions, and also dealt with the lack of completion of many special experiences in transitional justice in many countries, which requires a detailed study of the most important factors affecting it, and the idea of transitional justice has not been legally regulated under an international agreement, and this in fact requires the study of many different experiences, but some of them are incomplete on the ground, the researcher used the analytical and descriptive approach, one of the most important findings is that no society can easily overcome the past gross violations of human rights until the elimination of the effects it

---

<sup>1</sup> Hamid, Khamis Daham & Khalaf, Hamsa Qahtan. 2015. Transitional justice in South Africa. Journal of International Studies. Baghdad. No. 61. p. 93.

<sup>2</sup> Jadallah, Aya Zuhair. 2019. (Palestinian Division 2007, Circumstances and Repercussions). Hebron University. Palestine. p. 24-26.

has caused, and transitional justice differs from national rules and laws that achieve justice itself, the United Nations clarified in this regard multiple criterias for achieving transitional justice, which is represented in the rule of law directly and expanding The tasks of the scope of participation and the design of its mechanisms, and that the best way to achieve transitional justice in the political transition is judicial trials and the other way is through independent national commissions on human rights, and the fact-finding committees work in accordance with international standards that are determined by the United Nations, as the benefits of this study are the processes of developing the justice system with regard to all rights and freedoms, studying the reality accurately and evaluating the state that requires it to make a radical political change, Dealing with transitional justice mechanisms as an integrated and indivisible strategy and avoiding any ambiguity regarding transitional justice so it does not diminish its effectiveness during implementation.

**Hawari Qada's study entitled (Transitional Justice. The Other Face of Justice)** dealt with an aspect in which it clarified the gross violations of human rights that still exist in the international community, and transitional justice is one of the aspects in which justice is achieved by not being affected by people, time and place, as transitional justice has taken its share since the dawn of Islam, so that study focused on the positive effects of the role it plays to protect human rights, the most important question was How can judicial and quasi-judicial bodies act to mitigate the tug-of-war that follow the end of conflict?, The descriptive approach was used to describe the development of the phenomenon under study, and the analytical method was also used, one of the most important results reached was that the path of transitional justice is heading in the direction set for it, also illustrates the success of transitional justice, which is represented through the diversity of formal and informal procedures in the application of justice and opening the door for frankness and discussion due to the state huge funds that were originally smuggled abroad and societies that were suffering under civil wars and various crimes retain part of Therefore, the importance of this study was crystallized in

strengthening the role of official and non official institutions and the extent of their commitment to the tasks assigned to them, working to find channels of communication to identify the phenomenon subject to violations, exile and outcast any person proven to be involved in acts contrary to human rights from the state institutions and inviting all human rights specialists, especially the Office of the High Commissioner for Human Rights as a team to promote human rights.

Regarding the Palestinian situation, **Aya Zuhair Jadallah's study entitled (The Palestinian Division 2007, Conditions and Repercussions)** explained the cause of the Palestinian division and its roots before the Oslo Accords to the real division in 2007 and the subsequent negative effects on the Palestinian cause, as this division left devastating effects on the Palestinian society at all levels: political, social, media and others. The significant negative impact of the division is that it has given Israel a great opportunity to evade. This conflict has led to the total destruction of the people, the loss of the Palestinian cause and the denial of the rights of refugees to return to Palestine. As for the position of the factions, their position was characterized by weakness and ineffectiveness, as there were those who opposed the division and challenged it, there were those who reserved their opinion and did not express any position that favors the reconciliation or ending the status quo, another result related to regional Arab and international positions according to which each of these countries has its own strategic and special interests and therefore there are those who wanted and supported this division, because this serves their interests, whether these interests are political, economic or geographical.

**Al-Hussein Al-Owaimer's study entitled (The Foundations of Reparations in Transitional Justice: A Reading in the Experience of the Equity and Reconciliation Commission)** summarized that reparations are of widespread importance in countries that have tried to apply transitional justice, as international human rights law pays special attention to it, as reparations are the best alternative to revealing the truth, here the study used the analytical approach from the statement of the definition of transitional justice and the statement of the importance of

reparations, among the most important findings of that study was Which is represented in the formation of the reconciliation experience, after which the basis for reparation and an important point towards democratic transformation and the consolidation of the rule of law, as the Commission gave great importance to reparation in special experiences in truth commissions, and the Commission was able to redress the victims materially by enabling their relatives to obtain financial compensation, the benefit of that study was represented in the work of the committees in reparation for the damages that were subjected to many human rights violations, as the state must compensate all victims in multiple ways.

**Sharifa Klaa's study entitled (The Experience of Transitional Justice in South Africa: A Study in Privacy, Contexts and Outcomes)** illustrated the experience of transitional justice in South Africa by focusing on the main problem centered on the effectiveness and impact of the transitional justice experience in order to bring about reform and arrangements in constitutional, cultural and economic institutions to achieve political reform and the establishment of transitional justice, through democratic transition, the extent to which truth and reconciliation commissions influence their political tracks, the extent to which National reconciliation and conflict resolution between the white minority and the rest of South African population, the adoption of political reform, the scope of it, institutional and constitutional arrangements for the democratic transition in South Africa.

- Foreign Studies:

**Amanda C. Baril 's study entitled: "Moving beyond transitions towards transformation: The interaction between transitional justice & constitution building"**

Where this study is centered on the basis of the interaction between the forms of political settlements and transitional justice and then building the constitution according to transitional contexts and has reviewed some of the concepts, frameworks on the subject of research and the most important comparative approaches, such as justice, truth, reparations and finally

guarantees of non-repetition, where the rapid and increasing spread of political transitions after the period of internal conflicts is witnessing very important attention, especially with regard to transitional justice as well as constitution building, as a great deal of attention has not been given to the issue of understanding the contribution of the interaction between the two aforementioned fields in achieving the desired goals effectively, as the researcher believes that these two processes must happen together and exist on the ground, but there is an urgent need for practitioners in both fields to increase the awareness and understanding of this coexistence between transitional justice and constitution building and consider the most important factors affecting them.

### **Commenting on previous studies**

- Previous studies dealt with definitions of transitional justice and the historical background of its origin, characteristics and mechanisms according to international standards and resolutions of the General Assembly and the United Nations and this is what previous studies have shared.
- Previous studies helped the researcher form a general and comprehensive perception of transitional justice issues, its strategies and mechanisms in particular.
- The findings of previous studies in the field of transitional justice requirements and different contexts helped the researcher in realizing the value of transitional justice in the Palestinian context.

### **What makes this study differ from previous studies**

- The current study focuses on the general Palestinian context, the current state of division and the effectiveness of the Palestinian political context in applying a Palestinian form of transitional justice based on national unity and supportive of the achievement of the tasks of national liberation and democratic construction.

- Most of the previous studies in light of transitional justice took place in an environment that does not face internal political division and does not face occupation. What distinguishes the current study is its attempt to acquire a special Palestinian model of transitional justice in a state of internal political division.
- Most of the previous studies were conducted in independent countries and seek through transitional justice to transform from dictatorial regimes and violations of the human rights laws to states of democratic regimes. What distinguishes this study is that it seeks to build a model of transitional justice for a people and a political system under occupation that has not yet gained its independence.

### **The importance of the study**

Palestine's adherence to international human rights treaties is pivotal for legislative, political, and practical progress. Civil society entities, including human rights groups, women's rights organizations, labor unions, and media, drive public discourse. They push West Bank and Gaza leadership towards advancing transitional justice, transitioning from oppression to inclusive rule of law.

### **Objectives of the study**

Turning the page on the internal Palestinian division and its destructive effects on the entire human rights system, the peaceful democratic and civilized transition to the era of rights, freedoms, equality, non-discrimination and respect for human dignity.

### **Study Methodology**

- Descriptive approach: to clarify the nature of transitional justice, its concept, characteristics, and mechanisms of action.

- Analytical approach: To explain the activities carried out by the Palestinian National Authority in the West Bank and Hamas in the Gaza Strip to analyze its role in reaching gross and severe violations of human rights.

**study Tools**

International legal references represented in the international conventions on human rights, resolutions, recommendations of international organizations and relevant conventions signed by the State of Palestine were relied upon by referring to books, studies and researches that raised the studied topic, conducting interviews with experts in the field of study, as well as using libraries and websites.

**Limitations of the study**

- Temporal boundaries: Focusing the study on the violations happened in the years 2006-2007 as a major incidence.
- Spatial boundaries: Territories occupied since 1967, West Bank and Gaza Strip.

## Chapter Two

### Theoretical and conceptual framework for transitional justice

#### Historical background

The historical background of transitional justice is intricately linked to the significant political and social transformations experienced throughout the 20th century and beyond.

The concept of transitional justice has evolved in response to the imperative of addressing human rights violations and injustices during periods of political transition. Below is a brief history:

Phase 1: In the immediate aftermath of World War II, the objectives of transitional justice were realized through the criminalization of war crimes and the establishment of international trials, such as: Nuremberg Trials (1945-1946) These trials represented an early endeavor towards transitional justice, prosecuting leaders of Nazi Germany for war crimes, crimes against peace, and crimes against humanity<sup>3</sup>.

Phase 2: Following the collapse of the Soviet Union and subsequent political transformations across Europe, including Germany and Czechoslovakia, there emerged a need for mechanisms beyond trials. This period saw the rise of truth and reconciliation commissions: - Truth and reconciliation commissions became prominent in the late 20th century, with the first such commission established in Uganda in 1974. The South African Truth and Reconciliation Commission (1995-1998) is among the most renowned<sup>4</sup>.

---

<sup>3</sup> International Military Tribunal. 1946. Trial of Major War Criminals before the International Military Tribunal: Nuremberg, November 14, 1945 – October 1, 1946. Nuremberg. [https://tile.loc.gov/storage-services/service/ll/lmlp/2011525338\\_NT\\_Vol-XXII/2011525338\\_NT\\_Vol-XXII.pdf](https://tile.loc.gov/storage-services/service/ll/lmlp/2011525338_NT_Vol-XXII/2011525338_NT_Vol-XXII.pdf)

<sup>4</sup> Tutu, D. 1999. No Future Without Forgiveness. Chapter 3.

Phase 3: The era beyond the creation of Ad hoc Tribunals and the International Criminal Court was marked by: The establishment of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in 1993 and the International Criminal Tribunal for Rwanda (ICTR) in 1994 in response to conflicts in the former Yugoslavia and Rwanda, respectively. Rwanda's transitional justice journey post-1994 genocide is notable and multifaceted, involving various mechanisms<sup>5</sup>:

**Gacaca Courts:** A distinctive feature of Rwanda's transitional justice, these community courts were developed to address the vast number of cases and foster reconciliation.

**International Criminal Tribunal for Rwanda:**

Established to prosecute key genocide perpetrators, this tribunal faced challenges related to trial durations and costs.

**Unity and Reconciliation Commission:**

Created to promote ethnic unity and dialogue, addressing the genocide's root causes.

Trials for the Giseni and Cyangugu massacres underscored efforts to prosecute pre-genocide atrocities.

Despite progress in some areas, Rwanda's transitional justice efforts have faced criticisms, including concerns over achieving criminal justice, limited political opposition space, and the fairness and inclusiveness of some mechanisms. The country has made strides in rebuilding and fostering unity but continues to navigate challenges and discussions on the effectiveness of justice mechanisms.<sup>6</sup>

**Latin American transformations:**

---

<sup>5</sup> Bassiouni, C. M. 1996. The Statute of the International Criminal Tribunal for the Former Yugoslavia: A Commentary, p. 72-85.

<sup>6</sup> Clark, P., & Kaufman, Previous reference, p. 145-150.

The late 20th century witnessed numerous Latin American countries transitioning from authoritarian rule to democracy, with countries like Argentina and Chile addressing past human rights violations.<sup>7</sup>

**Post-communist transitions:**

The fall of communist regimes in Eastern Europe prompted countries, including Germany, to confront past human rights abuses through purges and prosecutions.<sup>8</sup>

**Post-apartheid South Africa:**

South Africa's shift from apartheid to democracy led to the founding of the Truth and Reconciliation Commission in 1995<sup>9</sup>.

The evolution of transitional justice underscores the global commitment to addressing impunity, enhancing accountability, and fostering reconciliation amid significant political shifts and conflicts. As the field adapts to new challenges, it continues to contribute to the discourse on justice, reconciliation, and the prevention of future violations.

## **The first topic** **The concept of transitional justice**

Transitional justice represents a field of both study and practice, focused on addressing how societies reckon with legacies of widespread or systematic human rights violations amidst transitions from periods of violent conflict or repression towards states of peace, democracy, the rule of law, and respect for both individual and collective rights<sup>10</sup>.

---

<sup>7</sup> Feierstein, D. 2010. The Genocide in Argentina: The Military Coup of 1976. In *Genocide as Social Practice*, p. 75-94.

<sup>8</sup> Verdery, K. 1999. *The Political Lives of Dead Bodies: Reburial and Postsocialist Change*. Columbia University, p. 112-118.

<sup>9</sup> Tutu, Previous reference, p. 145.

<sup>10</sup> What is transitional justice?. International Center for Transitional Justice (ICTJ), <https://www.ictj.org/what-transitional-justice>

It embodies an integrated suite of mechanisms and strategies designed to confront and redress past abuses, aiming to reveal the truth, hold perpetrators accountable, provide reparation and rehabilitation for victims, and ultimately facilitate national reconciliation. This process involves preserving and documenting collective memory, establishing guarantees against repeat offenses, and transitioning from tyranny to democracy, thereby contributing to the fortification of the human rights framework<sup>11</sup>.

Transitional justice is further characterized as society's arsenal of methodologies to pursue justice during pivotal historical moments, whether in the aftermath of a revolution or the cessation of conflict. This period marks the end of oppressive authoritarian rule and the commencement of a democratic phase, necessitating the confrontation of human rights violations encompassing economic, material, and political dimensions<sup>12</sup>.

Kretz interprets transitional justice as an intricate and inclusive endeavor intrinsic to burgeoning democracies, extending beyond mere legal frameworks to encompass broader societal transformations. This perspective highlights the dynamic interplay between justice pursuit, democratic consolidation, and the establishment of new norms, underscoring the societal challenges in reconciling a painful past with the imperative to forge a just and democratic future<sup>13</sup>.

Conversely, Mino's examination of transitional justice delves into its ethical and moral underpinnings, viewing it not just as a legal or political process, but as an ethical endeavor necessitating a careful balance between accountability and reconciliation. Emphasizing the significance of memory and storytelling, Mino explores the role these elements play in crafting collective narratives and fostering a sense of shared responsibility, addressing the

---

<sup>11</sup> Transitional justice and human rights, Human Rights, 2012. <https://www.ohchr.org/en/transitional-justice>

<sup>12</sup> Al-Balli, Masoud & Aqaqaba, Abdulaziz. 2017. *Transitional Justice – A Political-Human Rights Approach*, p. 50.

<sup>13</sup> Kritz, N. J. 1995. *Transitional Justice: How Emerging Democracies Reckon with Former Regimes. Visions of Governance in the 21st Century*, p. 30.

psychological and emotional facets of post-conflict societies amidst their quest for justice and tolerance<sup>14</sup>.

Through these diverse definitions, transitional justice emerges as a multifaceted set of mechanisms aimed at addressing past human rights violations, with a consensus around the importance of accountability, reconciliation, and the documentation of collective memory. This consensus underscores the necessity of confronting the past to build a just and democratic future, thus positioning transitional justice as a crucial field in guiding societies from periods of repression towards democratic transitions, employing context-specific mechanisms to achieve sustainable peace and reconciliation.

Most definitions also agree on the importance of accountability and reconciliation through the documentation of collective memory to come to terms with the painful past and the need to build a just and democratic future.

Therefore, transitional justice is a field of study and practice that focuses mainly on how society deals with the legacy of large-scale human rights violations, moving from a period of repression to a transitional phase that requires the use of mechanisms tailored to the reality of the situation, to finally reach a stage embodied by democracy.

- Characteristics of transitional justice:

There are 3 characteristics of transitional justice<sup>15</sup>:

1. Holistic and Integrated Approach: This encompasses not only the investigation of crimes and the identification and punishment of perpetrators but also extends to

---

<sup>14</sup> Minow, M. 1998. *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence*, p. 72.

<sup>15</sup> Belkosh, Al-habib. 2014. *Transitional Justice in Arab Contexts*. II. Arab Organization for Human Rights, p. 40.

reparations, compensation, rehabilitation, and redress for victims. It involves efforts to prevent future violations, rebuild trust between citizens and the state, and strengthen democratic institutions.

2. **Adaptability:** Transitional justice exhibits the capacity to maintain a necessary balance to serve varying goals tailored to each society's unique characteristics and the prevailing power dynamics.
3. **Victim-Centered Approach:** Emphasizing the rehabilitation and redress for victims as one of its core objectives.

For the purposes of this research, transitional justice is defined as the comprehensive processes and mechanisms employed by societies to come to terms with a legacy marked by severe human rights abuses. It seeks to turn the page on such abuses through accountability, justice administration, and the achievement of genuine and lasting reconciliation via international mechanisms and best practices drawn from successful global experiences.

In countries like Morocco, Tunisia, South Africa, and those in Latin America, transitional justice is built upon several foundational pillars, varying from one experience to another, yet unified in their essence to address human rights violations, promote democratization, and strengthen the rule of law.

- The five pillars of transitional justice are as follows<sup>16</sup>:

1. **accountability:** Investigating and holding accountable those responsible for serious human rights abuses.

---

<sup>16</sup> Al-tayyeb, Heidi Ali. 2014. Transitional Justice in Arab Contexts. II. Arab Organization for Human Rights, p. 41-49.

2. Truth Commissions: Conducting fact-finding missions within the scope of the transitional justice program, proposed to begin from the onset of the Palestinian division in 2007 as a timeframe for the State of Palestine's transitional justice program.
3. Reparations and Compensation: Addressing grave human rights violations during the period of internal Palestinian division, including financial compensation and formal public apologies to the Palestinian people.
4. Institutional Reform: Encompassing the Palestinian justice system, security apparatus, and official and oversight institutions among others.
5. Commemoration: Establishing a museum and memorial for the victims of severe violations during the internal Palestinian division to raise moral awareness, prevent future occurrences, and draw lessons from these grave crimes.

### **The Importance of Transitional Justice**

Transitional justice represents an essential framework for societies emerging from the shadows of conflict or authoritarian regimes. This multifaceted approach is pivotal in addressing the legacies of human rights violations and fostering a transition towards peace, democracy, and the rule of law. Drawing upon scholarly insights, the significance of transitional justice in the reconstruction of societies is underscored through various perspectives.

Title highlights the critical role of transitional justice in promoting accountability and confronting human rights violations' legacies. Title emphasizes that transitional justice provides a necessary framework for societies to reconcile with their past, addressing both individual perpetrators and systemic injustices. This process is foundational for transitioning from a state of conflict or authoritarian rule to a stable and just society, as ineffective transitional justice mechanisms may impede this progress<sup>17</sup>.

---

<sup>17</sup> Teitel, R. G. 2000. *Transitional Justice*, p. 3.

Heiner articulates the centrality of truth commissions within the transitional justice spectrum, advocating for the importance of truth-telling in acknowledging and documenting past atrocities. Truth commissions offer victims a platform to voice their experiences, thereby contributing to the creation of a comprehensive historical record. This process is instrumental in facilitating societal healing and reconciliation, underscoring the significance of unveiling the truth for a collective understanding of historical injustices<sup>18</sup>.

The impact of transitional justice can be encapsulated in five critical areas<sup>19</sup>:

1. Accountability and Deterrence:

At the heart of transitional justice lies the accountability for past human rights abuses. De Greiff<sup>20</sup> underscores the necessity of holding perpetrators accountable not only to deliver justice to victims but also to deter future violations. This emphasis on accountability establishes a societal foundation rooted in the rule of law.

2. Rebuilding trust and social cohesion:

Heiner, B.<sup>21</sup> elucidates the role of transitional justice, particularly truth commissions, in mending trust and fostering social cohesion. By elucidating the truths of past atrocities, these mechanisms significantly contribute to the healing process, knitting back together societies fragmented by conflict. Establishing a unified narrative is crucial for reconciliation.

3. Prevent the recurrence of violence:

---

<sup>18</sup> Hayner, P. B. 2011. *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, p. 25.

<sup>19</sup> Hinton, A. L. 2010. *Transitional Justice: Global Mechanisms and Local Realities After Genocide and Mass Violence*, p. 16-18.

<sup>20</sup> De Greiff, P. 2006. *The Handbook of Reparations*, p. 45.

<sup>21</sup> Hayner, Previous reference, p. 67.

Minow, M.<sup>22</sup> advocates for a comprehensive and nuanced approach to transitional justice, beyond mere truth-telling, to avert the recurrence of violence. Addressing both the surface-level symptoms and the deep-seated structural and systemic causes of conflict is imperative for sustaining peace.

#### 4. Restoring the rule of law:

Teitel<sup>23</sup> examines transitional justice's role in reinstating the rule of law in post-conflict or post-authoritarian contexts. These mechanisms are vital in reestablishing a legal order that respects human rights and justice principles, essential for institutional rebuilding and fostering a society governed by justice and accountability.

#### 5. Empowering victims and communities:

Reflecting on the Rwandan context, Clark and Kaufman<sup>24</sup> discuss how transitional justice to empowers victims and aids community healing. Recognizing victims' suffering and ensuring access to justice are key to empowerment. Transitional justice facilitates a process of acknowledgment, enabling individuals and communities to reclaim agency, nurture a sense of justice, and contribute to the healing journey.

In essence, transitional justice emerges as an indispensable instrument for societies navigating the aftermath of conflict or authoritarian governance. Its comprehensive application in enhancing accountability, restoring trust, preventing future violence, reinstating the rule of law, and empowering victims lays the groundwork for a reconciled, stable, and just future. The cited works, including Hayner's exploration of truth commissions, further accentuate the

---

<sup>22</sup> Minow, Previous reference, p. 112.

<sup>23</sup> Teitel, Previous reference, p. 78-79

<sup>24</sup> Clark, P., & Kaufman, Z. D. 2009. *After Genocide: Transitional Justice, Post-Conflict Reconstruction, and Reconciliation in Rwanda and Beyond*, p. 92

multifaceted importance of transitional justice, advocating for a holistic approach to tackle the complexities inherent in post-conflict transitions.

### **The second topic**

#### **The problem of transitional justice**

The demand for political and human rights has grown alongside the need for transitional justice, particularly after the fall of authoritarian regimes in the last two decades of the twentieth century. The justification for the existence and significance of transitional justice transcends the political and historical transformations in societies undergoing critical changes. According to various studies, transitional justice has emerged as a pivotal entry point for addressing the challenges of democratic transition. The literature on transitional justice, from a knowledge perspective, underscores its necessity and the importance of implementing its multifaceted strategies across several domains. Notably, the concept of transitional justice closely interacts with political theory and international humanitarian law, the former due to its theoretical underpinnings and explanatory theories, and the latter through its focus on human rights during transitional phases. These fields exemplify crucial aspects of democratic political thought, including human rights, accountability, and reconciliation.

However, the application of transitional justice often encounters significant challenges. Mamdani critically examines the shortcomings of transitional justice in the Rwandan genocide context, highlighting the problematic binary distinction between victims and perpetrators that oversimplifies the complex dynamics of violence. He critiques the

inadequacy of justice mechanisms, such as the International Criminal Tribunal for Rwanda, in addressing the conflict's root causes<sup>25</sup>.

Hayner delves into the obstacles facing truth commissions, including political interference, incomplete information disclosure, and witness protection issues. These limitations can prevent truth commissions from fully achieving their objectives, often due to restricted mandates or insufficient support<sup>26</sup>.

De Greiff raises concerns about the challenges of implementing reparations within transitional justice frameworks, pointing out the issues of inadequate funding, poor program design, and the difficulty in ensuring that compensation reaches intended beneficiaries. These shortcomings can lead to dissatisfaction and the failure of reparations efforts<sup>27</sup>.

Transitional justice, despite its critical importance in post-conflict societies, faces a myriad of challenges that can hinder its effectiveness. These challenges encompass legal, political, social, and practical dimensions, as illustrated by examples of failures from specific country experiences<sup>28</sup>:

#### 1. Impunity and lack of accountability:

Achieving accountability for perpetrators of mass atrocities remains a significant challenge, with impunity persisting due to political obstacles, inadequate legal frameworks, or a lack of

---

<sup>25</sup> Mamdani, M. 2002. *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda*, p. 120.

<sup>26</sup> Hayner, Previous reference, p. 117

<sup>27</sup> De Greiff, Previous reference, p. 82.

<sup>28</sup> Cassel, D. 2008. "Global Impunity." *Cornell International Law Journal*, p. 375

political will<sup>29</sup>. For instance, the ongoing conflict in Syria illustrates the difficulties in holding key actors accountable for human rights violations amid geopolitical complexities.

## 2. Political Intervention:

Transitional justice processes are susceptible to political manipulation, where political elites may influence mechanisms to serve their interests, thereby obstructing the pursuit of genuine justice<sup>30</sup>. In Iraq, post-Saddam Hussein, political dynamics have impacted the efficacy of justice mechanisms, posing challenges to accountability.

## 3. Participation and inclusion of victims:

Ensuring meaningful participation and inclusion of victims in transitional justice processes is challenging. Marginalization of certain groups and insufficient representation of victims' voices are common issues<sup>31</sup>. In Colombia, for example, integrating victims comprehensively and addressing the diverse needs of communities within peace and justice processes have proven difficult.

## 4. Reconciliation and social healing:

Attaining true reconciliation and social healing is complex, given the persistence of deep-rooted societal divisions and traumas despite transitional justice efforts<sup>32</sup>. Bosnia and Herzegovina's experience demonstrates the enduring inter-ethnic tensions, highlighting the challenges of achieving lasting reconciliation.

---

<sup>29</sup> Cassel, Previous reference, p. 399-418.

<sup>30</sup> Teitel, Previous reference, p. 75.

<sup>31</sup> Arthur, P. 2010. "identities in transition" challenges for transitional justice in divided societies, p. 45-67.

<sup>32</sup> Minow, Previous reference, p. 88.

#### 5. Resource Constraints:

A prevalent issue within transitional justice processes is the limitation of resources, which can significantly impact the capacity for thorough investigations, prosecutions, and the implementation of reparations programs<sup>33</sup>. For instance, Sierra Leone's experience during its post-civil war era illustrates the difficulties in providing comprehensive reparations to victims due to limited financial and institutional resources.

#### 6. Security concerns:

The effectiveness of transitional justice mechanisms can be severely hampered by ongoing security issues in post-conflict settings. These concerns obstruct the ability to carry out investigations and prosecutions effectively<sup>34</sup>. In Afghanistan, for example, persistent security threats have complicated efforts towards transitional justice, affecting the safety and participation of victims and witnesses.

#### 7. External pressures and geopolitics:

Geopolitical dynamics and external influences often play a significant role in shaping transitional justice processes. These external factors can lead to compromises or limitations in justice initiatives, potentially undermining their integrity and outcomes<sup>35</sup>. The experiences of Cambodia and Sri Lanka serve as poignant examples, where international and regional politics have influenced the direction and effectiveness of their transitional justice efforts.

---

<sup>33</sup> De Greiff, Previous reference, p. 3-5.

<sup>34</sup> Safferling, C. 2009. "Security and Post-Conflict Reconstruction: Dealing with Fighters in the Aftermath of War", p. 102-118.

<sup>35</sup> Teitel, R. 2003. "Transitional Justice Genealogy." Harvard Human Rights Journal, p. 69-94.

These challenges underscore the complex landscape within which transitional justice operates. Addressing these issues requires a multifaceted approach that considers the unique political, social, and economic contexts of each post-conflict society. Overcoming these obstacles is crucial for the successful implementation of transitional justice mechanisms, ensuring they fulfill their promise of accountability, reconciliation, and the prevention of future violations.

## Chapter Three

### **Transitional justice reality amid Palestinian internal division and Israeli occupation as main obstacle**

Following the restructuring of the Palestinian political system subsequent to the demise of President Yasser Arafat, imperative measures were undertaken, necessitating legislative and presidential elections. Mahmoud Abbas, the Fatah movement's nominee, assumed leadership of the Palestinian Authority, thereby reshaping the Palestinian political landscape. An unexpected development transpired with the victory of the Hamas movement in the 2006 legislative elections. This event catalyzed a power struggle between the two dominant factions, each espousing distinct ideologies. The outcome of this ideological clash manifested in hostilities between Fatah and Hamas, culminating in the partition of Palestine into two regions: the West Bank, under Fatah's control, and the Gaza Strip, governed by Hamas. This division had far-reaching adverse repercussions on the Palestinian populace, impacting them politically, economically, and socially. The ramifications extended beyond the national level, influencing the Arab, regional, and international spheres<sup>36</sup>.

Although the manifestation of the Palestinian division became evident in 2007, its origins trace back to the onset of the first Palestinian intifada in late 1987. Specifically, the emergence of Hamas within a predominantly leftist and secular factional environment catalyzed the escalating dispute between Fatah and Hamas. Tensions heightened as Hamas garnered an increasing popular base at the expense of other factions, particularly the Palestinian National Liberation Movement (Fatah), which spearheads the Palestinian Liberation Organization (PLO) factions. The situation further deteriorated following the signing of the Oslo Agreement in 1993<sup>37</sup>.

---

<sup>36</sup> Al-Khidr, Mohammed & Del Mays, and Francisca. 2020. Palestine Transitional Justice Report, p. 9-11.

<sup>37</sup> Al-Khidr, Mohammed & Del Mays, Previous reference, p. 12-16.

## **Historical background**

### **Fatah and Its Origins**

The inception of the Fatah movement commenced in 1957, representing an acronym for the Palestinian National Liberation Movement. Its official launch was declared in 1965, The movement's clandestine cells were established in the late 1950s and early 1960s across Syria, Lebanon, Jordan, and the Arabian Gulf countries where Palestinians were employed the inaugural meeting of these groups occurred in 1957 in Kuwait, under the leadership of President Yasser Arafat. This pivotal gathering set the trajectory for the Fatah movement's commitment to Palestine and the crystallization of an autonomous Palestinian identity. According to Salim Al-Za'noun, a leader and co-founder of Fatah, the movement emerged through the collaboration of the Muslim Brotherhood and Palestinian Baathists within what was then known as the "Popular Resistance Front." It was from this front that the concept of establishing Fatah took root. Khalil Al-Wazir (Abu Jihad), another founding figure of Fatah, contends that in 1957, the movement was founded by five Palestinians in Kuwait.<sup>38</sup>

### **Hamas and its origins.**

The discourse on the emergence and evolution of Hamas necessitates an exploration of the concurrent emergence and development of the Muslim Brotherhood. Hamas is inherently linked to the Muslim Brotherhood, explicitly characterizing itself as an extension of this movement, as articulated in its charter: "The Islamic Resistance Movement is one of the wings of the Muslim Brotherhood in Palestine"<sup>39</sup>.

---

<sup>38</sup> Badwan, Ali. 2008 Pages from the history of the Palestinian armed struggle: contemporary political and guerrilla formations - origin and fates. P43.

<sup>39</sup> Jarbawi, Ali. 1993. Islamic Resistance Movement "Hamas", p. 2.3.

The initial faction of the Muslim Brotherhood in Palestine was established in the early 1940s, gaining momentum between 1945 and 1948. However, the designation of the Islamic Resistance Movement, commonly known as Hamas, emerged with the onset of the first intifada in December 1987. Consequently, Hamas assumed a distinct role within the spectrum of Palestinian resistance movements<sup>40</sup>.

### **Palestine Liberation Organization**

Ahmed Shukairi initiated the establishment of the Palestine Liberation Organization (PLO) in 1964, under the auspices of the League of Arab States. During this period, Shukairi engaged with various Palestinian political forces and factions active in the arena. The PLO underwent significant historical transformations and paradigm shifts in its stance since its inception in 1964. Originating as a paramilitary organization with the goal of liberating Palestine through armed struggle, it underwent several evolutionary phases. Following its formation in 1964, the organization experienced leadership transitions, with Yahya Hammoud succeeding Shukairi, and later, Yasser Arafat assumed leadership in the mid-1970s. During this era, the PLO transitioned from advocating for the establishment of a Palestinian state on part of historic Palestine. By the end of the 1970s, the organization officially embraced the concept of a two-state solution, endorsing the idea of coexistence with Israel within a just peace framework that ensured the independence of the people, the return of refugees, and designated East Jerusalem as the capital of the state, in the subsequent decade, in 1993, the PLO officially recognized Israel, reciprocated by Israel's acknowledgment of the PLO as the

---

<sup>40</sup> Jarbawi, Ali. Previous reference, p. 5.

sole legitimate representative of the Palestinian people. This mutual recognition paved the way for the establishment of the Palestinian National Authority<sup>41</sup>.

Hamas's stance regarding the Palestine Liberation Organization (PLO) before the Oslo Accords was characterized by ambiguity. In its 1988 charter, particularly in Article 27, Hamas acknowledged the PLO as one of its closest associates. The charter emphasized the familial and interconnected nature of the relationship, likening it to the bonds between a father, brother, relative, or friend. The charter underscored the shared homeland, suffering, destiny, and common enemy between Hamas and the PLO<sup>42</sup>.

In the early 1990s, prior to the advent of the Oslo Accords and the establishment of the Palestinian Authority, there were endeavors to incorporate Hamas into the Palestine Liberation Organization (PLO). In 1990, an invitation was extended to Hamas to join the Palestinian National Council. Hamas did not outright reject the invitation but presented a memorandum stating that it was open to joining the council or the PLO. However, the movement insisted that elections should determine the council's composition, proposing a representation of at least 40% if elections were not conducted. This percentage was based on Hamas's perceived popularity in the Palestinian street, as evidenced by its success in elections within Palestinian universities and unions. Yasser Arafat proposed 18 seats for Hamas, but the movement declined, leading to the closure of discussions on Hamas's accession to the PLO at that time<sup>43</sup>.

Foreseeing Hamas's reluctance to recognize the PLO was possible, considering its stance on the PLO's formation through what it deemed as lacking free and fair elections. Additionally, Hamas opposed the PLO's recognition of Israel and its endorsement of Resolution 242, which implied the relinquishment of 78% of Palestine. This perspective crystallized during the 19th

---

<sup>41</sup> Abu Nahl, Osama. 2009. *The Emergence of the Palestine Liberation Organization between Arab Interests and Palestinian Ambition*, p. 21.

<sup>42</sup> Haidari, Nabil. 1993. *The Palestine Liberation Organization and Hamas: The Struggle for Influence*, p. 1-3.

<sup>43</sup> Ghosheh, Ibrahim. 2008. *Red Minaret*, p. 35-45.

National Council meeting in Algiers on November 15, 1988, where the Palestinian peace project unfolded<sup>44</sup>.

### **Palestinian Peace Project 1988**

Following the withdrawal of PLO forces from Beirut, in early September 1982, US President Ronald Reagan put forward a preliminary political settlement proposal. The proposal suggested the participation of Jordan and the Palestinians in negotiations with Israel, omitting explicit mention of the PLO. The primary objective was to grant residents of the West Bank and Gaza Strip "full autonomy in their own affairs," facilitating the holding of free elections to select the Palestinian Authority. The proposal further asserted that during a transitional period of five years, Palestinians should not pose a security threat to Israel<sup>45</sup>.

In this context, the pathway to a political resolution remains obstructed, notwithstanding the absence of a definitive rejection by the PLO leadership in Jordan of a political settlement confined solely to autonomy. Simultaneously, endeavors have been made to forge connections with Jordan and Egypt, aiming to assist them in navigating their vulnerabilities, particularly amidst the Arab nations' absorption in the Iraq-Iran conflict and its aftermath. The presence of the PLO was disregarded, as evidenced by the proceedings of the Amman Arab Summit in November 1987. Notably, it was only during the eighteenth session of the Palestinian National Council in Algeria in April 1987 that novel prospects for the Palestine Liberation Organization emerged, culminating in the resolution of internal divisions and the eruption of popular uprisings in the West Bank and Gaza Strip in December 1987<sup>46</sup>.

---

<sup>44</sup> Ghosheh, *Ibid.* p. 44-53.

<sup>45</sup> Abu Amr, Ziyad. 1991. *The American Approach to the Palestinian Cause*, p. 4.5.

<sup>46</sup> Abu Amr, *Ibid.*, p. 9-10.

## **The first topic**

### **The background of the division and its repercussions**

Division since the emergence of Hamas 1987-1993

The foundational roots of the Palestinian division can be traced back to the onset of the first Palestinian intifada in late 1987, particularly with the emergence of the Islamist resistance movement, Hamas. The divergence deepened as Hamas gained a growing popular base at the expense of other factions, notably the Palestinian National Liberation Movement, Fatah<sup>47</sup>.

In the Declaration of Independence in 1988, the Palestine Liberation Organization (PLO) for the first time expressed its acquiescence to the international partition of Palestine. This marked a departure from its historical stance, acknowledging the historic injustice imposed upon the Palestinian people through displacement and the denial of their right to self-determination. This acknowledgment specifically referred to General Assembly Resolution 181 of 1947, which delineated the division of Palestine into Arab and Jewish states. Notably, the declaration emphasized that despite the historical injustice, Resolution 181 still established conditions for international legitimacy that safeguarded the Palestinian people's right to sovereignty and national independence<sup>48</sup>.

Despite internal dissent within certain PLO factions, the Palestinian Liberation Organization (PLO) sanctioned United Nations Security Council Resolutions 242 and 338 as the foundational framework for convening an international peace conference, advocating for the PLO's participation on an equitable basis alongside other involved parties. In this milieu, the repudiation of "terrorism in all its forms, encompassing state terrorism" was reiterated subsequent to the affirmation of the "right to resist" foreign occupation. The issuance of the

---

<sup>47</sup>The Palestinian Division.. A chronology. Al Jazeera Net. 2011. <https://2u.pw/aJiB0aD> .seen on 28/9/2023.

<sup>48</sup> Ibrahim, Abdullah. 2007. PLO Reform: The Problem of "Structuring and Program", p. 69.

Declaration of Independence in 1988 signaled a transformative phase in the Palestinian quest for autonomy and national emancipation within the purview of international law<sup>49</sup>.

Against the backdrop of the first intifada, this initiative emerged as a Palestine Liberation Organization endeavor to establish a cohesive national leadership for the intifada. In June 1988, the project articulated its commitment to coexist with Israel. Concluding the Palestinian National Council session, two pivotal documents were released. The first document addressed the proclamation of Palestinian independence, while the second encapsulated the National Council's political statement, outlining a peace-oriented political agenda. Both documents encompassed the organization's formal acknowledgment of the partition resolution 181, which delineates Palestine into Arab and Jewish states as per the United Nations resolution of 1947. Additionally, the organization officially recognized UN Security Council Resolution 242 for the first time, issued in November 1967<sup>50</sup>.

At the commencement of the Madrid negotiations in 1991, Abdul Hamid Al-Saih, then Speaker of the National Council, extended an official invitation to Hamas to participate in the activities of the Preparatory Committee for the Council in 1990. This occurred in anticipation of the organization convening a new session of the National Council. However, Hamas declined the invitation and submitted a memorandum emphasizing the principle of election, as opposed to appointment, in determining the selection of National Council members. Subsequently, Hamas expressed criticism towards the decisions made during the National Council held in Algeria in September 1991, particularly its approval of participation in the Madrid negotiations. Concurrently, negotiations between Fatah and Hamas unfolded during

---

<sup>49</sup> Al-Satri, Hatem Khalil. 2016. Formal Political Settlement Projects for the Arab-Israeli Conflict in the Journal of Palestinian Affairs (1971-1993), p. 161-164.

<sup>50</sup> Al-Satri, Ibid., p. 170-172.

this period. A notable event was a three-day meeting in August 1990, one week after the occupation of Kuwait. Yasser Arafat inaugurated the meeting, which primarily aimed to address the plight of Hamas detainees in occupation prisons. Fatah sought recognition from Hamas affirming the Palestine Liberation Organization's legitimacy as the sole representative of the Palestinian people. However, this meeting failed to yield a resolution. Following this, the "honor agreement" was signed between Fatah and Hamas to jointly confront the common adversary. Subsequently, another meeting convened at the Republican Palace in Khartoum under the leadership of President Omar al-Bashir. The objective of this meeting was to bolster support for the intifada and facilitate Hamas's entry into the Palestine Liberation Organization. Regrettably, this meeting concluded without achieving any substantive agreement<sup>51</sup>.

#### **The Oslo Agreement 1993 and the Establishment of the Palestinian Authority 1994**

The Palestinian division, initiated after the signing of the Oslo Accords, can be attributed to several factors. The shift from an independent national project to one subject to imbalanced conditions contributed to the fragmentation of Palestinian unity, creating a substantial rift between the Fatah and Hamas movements. Fatah advocated for peaceful solutions, endorsing the convening of an international peace conference and expressing readiness for negotiations with Israel in compliance with international legitimacy resolutions. In contrast, Hamas perceived these actions as neglecting a portion of Palestine, akin to a lapse in religious commitment. Consequently, Hamas refused to acknowledge the PLO's political program and rejected the peace process<sup>52</sup>.

The Oslo Agreement, consummated in 1993, encompassed the realization of two pivotal accords. The primary accord established reciprocal acknowledgment between the Palestinian

---

<sup>51</sup> Salah, Mohsen Mohammed. 2015. The Islamic Resistance Movement "Hamas", Studies in Thought and Experience, p. 39-42.

<sup>52</sup> Bani Odeh, Samer. 2017. The repercussions of the Palestinian political division on Palestinian foreign policy. (2007-2016), p. 29.

and Israeli entities. Within this agreement, the Palestine Liberation Organization (PLO) formally affirmed the legitimacy of Israel's existence, reciprocated by Israel's recognition of the PLO as the legitimate and exclusive representative of the Palestinian people. The signing on September 13, 1993, marked a noteworthy milestone. Nevertheless, Palestinian reservations surfaced in light of Yasser Arafat's recognition of the regional countries' entitlement to peaceful coexistence and his commitment to counter-terrorism. These affirmations were contested by factions such as Al-Jabha Al-Shabya and the General Command, citing incongruities with the Palestinian National Charter and deviations from overarching objectives. These factions underscored the centrality of territorial liberation and the restoration of equilibrium in Palestine<sup>53</sup>.

The occurrences at the Palestine Mosque in 1994, following the Oslo Agreement, assumed a pivotal role in fostering Israel's satisfaction and its resolve to expand the territories under the jurisdiction of the Palestinian Authority. As explicated in the Taba Agreement, which transpired subsequent to the Oslo Agreement and was referred to as the Cairo Agreement, Israel articulated that the Palestinian Authority initially controlled 60% of the Gaza Strip and 64 km<sup>2</sup> in the Jericho region. This allocation was contingent upon the demonstrated credibility of the Palestinian Authority in adhering to its commitments. Concurrently, during this timeframe, Yasser Arafat attended Friday prayers at the Palestine Mosque, where worshippers staged a demonstration opposing the Oslo Accords and the Palestinian Authority. This led to the unfortunate outcome of 13 fatalities and injuries to approximately 250 individuals within a span of two hours<sup>54</sup>.

---

<sup>53</sup> Bani Odeh, *Ibid.*, p. 30-32.

<sup>54</sup> Arafat, Hanan Taher. 2005. *The Impact of the Oslo Accords on National Unity and its Reflection on Political Development*, p. 61-64.

Successive agreements, with particular emphasis on the pivotal Agreement on the Transfer of Authority signed in Cairo in May 1994 (referred to as Oslo Agreement 2), which was subsequently succeeded by the Interim Agreement signed in Washington in September 1995, intricately addressed aspects such as structure, composition, authority, and electoral methodologies. Fatah assumed a distinctive role in shaping the characteristics of this system, configuring it as authoritative institutions inclusive of a network of loyalists dedicated to the Oslo process and proponents of this particular option<sup>55</sup>.

The limitations and terms delineated in the Oslo Agreement constitute a pivotal mechanism for Israel to assert control over diverse matters. Israel wields authority over border crossings, freedom of movement, and the Palestinian economy, encompassing the management of transfers allocated to the Palestinian Authority. A salient determinant influencing the environment, capabilities, and character of the Palestinian Authority is the absence of genuine sovereignty and effective control over territories, borders, external relations, and resources. Israel's redeployment within the Palestinian territories amid the Second Intifada, the extensive destruction of Palestinian Authority structures and institutions, the fragmentation of Palestinian lands and institutions, and the regulation of internal movement—whether for the authority and its agencies or Palestinian citizens—have afforded Israel opportunities to intervene and impose varying conditions and requisites that align with its interests, perpetuating its occupation without assuming accountability for the repercussions of said occupation<sup>56</sup>

### **Disputes after the Second Intifada in 2000 until the 2006 elections**

In recent years, the implications of the Oslo Accords on the structural and authoritative aspects of the governing body have become apparent, concurrently hindering its progression towards achieving autonomy as a democratic state amidst a persistent context of subjugation to colonial

---

<sup>55</sup>"Papers on the Palestinian Political System and the Transition of Authority", 2013. Palestinian Institute for the Study of Democracy, p. 65-68.

<sup>56</sup> Hilal, Jamil. 2006. The Palestinian Political System after Oslo, Institute for Palestine Studies, p. 81-84.

relationships. The breakdown of the Camp David negotiations in 2000, the onset of the Second Intifada, and the assassination of Yasser Arafat, culminating in the institutionalization of the fragmentation of the national arena into two political entities vying for hegemony, underscore the need for a comprehensive examination of shifts in power dynamics through the lens of democratic transition theories within postcolonial frameworks. According to Jamil Hilal, the establishment of the Palestinian Authority marked a pivotal juncture in the "hegemony" process within the emergent political sphere, transitioning from the frameworks of the Palestine Liberation Organization (PLO) to those of the authority itself, with aspirations for statehood within Palestinian territory<sup>57</sup>.

Until the conclusion of the second Palestinian intifada, a series of transformative developments transpired. Notably, a diminishing trend in armed activities characterized the latter phase of the intifada. The departure of Yasser Arafat and the subsequent election of Mahmoud Abbas, an advocate for non-military approaches, delineated a substantive transition. Furthermore, the execution of the Israeli unilateral withdrawal plan from Gaza and internal deliberations among Palestinians to structure the post-intifada landscape constituted contributing factors that prompted Hamas to announce its intention to partake in the second legislative elections<sup>58</sup>.

As per the conducted polls, a distinct variation in the popularity of political entities was observed in 1994, with percentages as follows: Fatah 43.1%, Hamas 16.6%, Al-Shabeya 6.7%, Jihad 2.6%, and Democracy 1.4%. In 2004, the poll outcomes demonstrated a shift, with Fatah experiencing a decline in popularity to 26.6%, while Hamas saw an increase to 20.3%<sup>59</sup>.

---

<sup>57</sup> Hilal, Jamil. 2010. "Polarizing the Palestinian Political Field". Sama News Agency. <https://2u.pw/H1Jp2Y7>

<sup>58</sup> Shobaki, Bilal. 2022. "Is it possible for Hamas and Islamic Jihad to join the PLO, and how?" Palestinian Policy Network. <https://2u.pw/OzUCY> seen on 29/9/2023

<sup>59</sup> Palestinian Center for Policy and Survey Research. <https://www.pcpsr.org/ar/node/602>

The 2005 Cairo Declaration showed full Palestinian consensus on the need to revive the PLO, especially in the wake of Israel's attempts to undermine, Therefore, keeping the PLO dormant is political suicide for the Palestinians. According to the text of the declaration, the participants agreed to launch and develop the PLO in accordance with mutually agreed principles to include all Palestinian forces and factions, and to make the PLO the sole legitimate representative of the Palestinian people. To this end, it was agreed to form a committee to define these foundations. The Committee consists of a Chairman The National Council, members of the Executive Committee of the Palestine Liberation Organization, secretaries-general of various Palestinian factions, These meetings shall be convened by the Chairman of the Executive Committee<sup>60</sup>.

The post-declaration political dynamics posed challenges, notably with Hamas' 2006 electoral victory disregarded internally. Fatah, along with regional and international actors, implemented exclusionary policies against Hamas, undermining its governance. Subsequent use of force by Hamas in Gaza led to a Palestinian civil war and institutional fragmentation. Over a decade, political focus prioritized managing the divide, not resolving it. The Cairo Declaration, signed by Hamas and Islamic Jihad, calls for the launch and development of the PLO according to agreed upon principles<sup>61</sup>.

Following the 2006 elections, Hamas emerged as the primary opposition force to the Palestinian Authority, alongside Islamic Jihad and leftist factions. This circumstance led to heightened tensions and conflicts, resulting in a profound division within the PA's institutions. Consequently, two distinct governments were formed: one in the West Bank under Mahmoud Abbas and another in the Gaza Strip led by Ismail Haniyeh. While the elections were

---

<sup>60</sup> Shobaki, Ibid. <https://2u.pw/OzUCY> . seen on 29/9/2023

<sup>61</sup> Al-Qiq, Muhammad. 2023. The graveyard of the Palestinian division. Palestinian Information Center. <https://palinfo.com/news/2023/07/08/842788/> seen on 30/9/2023.

envisioned as a crisis resolution, the absence of a prior agreement on the political system exacerbated the division, undermining the national liberation project. The repercussions of this division include<sup>62</sup>:

- 1- Israel and the United States assert that there is no Palestinian partner for peace.
- 2- The division weakened the Palestinian peace project, with President Mahmoud Abbas facing challenges at the negotiating table.
- 3- The division nullified the possibility of implementing international legitimacy resolutions regarding the Palestinian issue, as Hamas does not recognize international legitimacy or its resolutions.
- 4- There is a questioning of the Palestinian people's ability to govern themselves.
- 5- The division extends beyond the political and geographical spheres, encompassing cultural, social, and legal dimensions.

The impact of external factors on the Palestinian internal situation and the functioning of the political system became evident when the majority of countries worldwide boycotted the tenth government formed by Hamas. These nations imposed conditions on the government and the Hamas movement, including recognition of Israel, adherence to agreements with Israel, renunciation of terrorism, and compliance with other political prerequisites for continued funding, aid, and money transfers. In response, Israel tightened its siege on the Palestinian Authority, halted transfers of Palestinian tax revenues to the tenth government, and arrested numerous members of the Legislative Council, leading to a disruption in its operations<sup>63</sup>.

This larger divide between 2006 and 2007 left a legacy of gross human rights violations and thus a legal, institutional, political, economical, social and cultural legacy.

---

<sup>62</sup> Ibrach, Abraham. 2009. The roots of the Palestinian division and its dangers to the national project. *Journal of Palestine Studies*. p. 8.

<sup>63</sup> Arab Intellectual Forum. 2008. And the democratic transformation in Palestine, General Report (10) for the year 2007. Jerusalem. p. 44

## **Transitional Justice and the Decline of the Palestinian Human Condition (Repercussions of Internal Division)**

### **First: Human Rights Violations**

In 2007, the Palestinian political system was influenced by three primary factors, according to the Independent Commission for Human Rights. Firstly, the political system experienced fluctuations, resulting in the presence of multiple governments within the areas of the National Authority. This condition was a consequence of political instability, regional and international interventions, and the policies of the Israeli occupation. Secondly, the deepening internal division, diminishing efforts toward national unity among Palestinian factions, and the political and geographical schism between the West Bank and the Gaza Strip. Lastly, a new authority under Hamas control emerged in the Gaza Strip, operating independently from the Palestinian Authority in the West Bank.

### **Violations of the right to life**

The year 2007 marked a significant escalation in internal Palestinian conflict, particularly in the Gaza Strip. The total death toll due to internal fighting surged to 346, a substantial increase from the 65 reported in 2006. June 2007 witnessed the highest number of casualties, with 169 individuals killed in clashes between Fatah and Hamas. This period was marred by numerous crimes and violations, disproportionately affecting civilian lives. Notably, 39 civilians, including 14 children, lost their lives, despite not being active participants in the hostilities in Gaza<sup>64</sup>.

---

<sup>64</sup> Independent Commission for Human Rights, 2007. Annual Report.

Amid the hostilities, numerous human rights violations and crimes transpired, including the targeted killing of individuals engaged in hostilities subsequent to their arrest and disarmament. One noteworthy incident involves the killing of Fatah leader Samih Al-Madhoun, aged 38, and his companion Ahmed Zaqout, aged 28, in June. Additionally, the Commission documented the killing of Anis Hisham Salous, aged 36, who was abducted in Nablus and subsequently killed by armed assailants the following day. Militants justified Salous's killing as retribution for the earlier killing of Samih Al-Madhoun. Various other instances of killings occurred under the pretexts of security concerns, so-called "family honor," and amidst the backdrop of general chaos and misuse of weapons<sup>65</sup>.

### **Freedom of expression and freedom of society**

Amid the West Bank and Gaza Strip division, freedom of opinion and expression, protected by the Basic Law and the Press and Publications Law, faced severe challenges. Numerous media outlets and magazines were closed, journalists, writers, and social media activists suffered arrests, torture, and threats, press institutions and journalists' properties were assaulted and closed. Official and partisan media became platforms for disputes, spreading hatred and intolerance. Printing and distributing newspapers, like "Al-Risalah," "Palestine," and "Minbar Al-Salah" in West Bank was prohibited, security services in Gaza blocked entry to three daily newspapers (Jerusalem, Al-Hayat Al-Jadeeda, and Al-Ayyam) issued in West Bank. Journalists, media, and writers faced prosecution and harassment, hindering journalistic work<sup>66</sup>.

According to the monitoring of human rights organizations, more than 1200 documented violations of freedom of speech, and media freedoms in the West Bank and Gaza Strip during

---

<sup>65</sup> Independent Commission for Human Rights, 2007. Annual Report.

<sup>66</sup> Independent Commission for Human Rights, 2007. Annual Report.

the division period. In 2007, the recorded violations amounted to 300, followed by 110 violations in 2008<sup>67</sup>.

### **Arbitrary detention:**

As per the Independent Commission for Human Rights, over 200 Palestinians faced unwarranted detention in the West Bank, with approximately 105 in the Gaza Strip in 2007. Over the decade of division, the total number of arbitrarily detained individuals amounted to 8521, of whom 5860 in the West Bank and 2661 in the Gaza Strip<sup>68</sup>.

### **Torture and ill-treatment:**

In detention facilities, torture and widespread ill-treatment were pervasive in the West Bank and Gaza Strip, notably at the Jericho center under the West Bank's Ministry of Interior, detainees reported incidents of beatings with sticks and batons, beatings on the soles of their feet, and enduring poor conditions for extended periods. The Independent Commission for Human Rights (ICHR) received over 130 allegations of torture against West Bank protest authorities and over 160 against Gaza Strip police, despite these claims, authorities failed to conduct proper investigations, as reported by ICHR and Lawyers for Justice. In June 2007, West Bank security authorities arrested six individuals without a warrant in connection with a Ramallah carpentry explosion, subjecting them to torture and ill-treatment, five were placed in solitary confinement, denied family visits, and faced additional torture during a hunger strike, as alleged to ICHR<sup>69</sup>.

### **Second: Legal Inheritance**

---

<sup>67</sup> Palestinian Center for Development and Media Freedoms (MADA), 2008, Annual Report.

<sup>68</sup> Independent Commission for Human Rights, 2007.

<sup>69</sup> Independent Commission for Human Rights, 2007.

The aftermath of the Palestinian division has engendered a plethora of legal intricacies, particularly emanating from legislative and regulatory measures during this period. Principal among these complexities are<sup>70</sup>:

1. A multitude of laws and decrees in both the West Bank and the Gaza Strip diverge from compliance with the Basic Law and the international standards binding on the State of Palestine, further exacerbating the fragmentation within the Palestinian legal system.
2. Thousands of regulations, administrative and judicial decisions, and appointments have orchestrated facts on the ground and impacted the rights of others, with the majority of these actions violating Palestinian law and established international standards.
3. The establishment of the Constitutional Court by the Palestinian president in 2016 encountered robust opposition from civil society and the majority of Palestinian factions.
4. The Constitutional Court's decision to dissolve the Legislative Council in 2018.
5. The inefficacy of tax and customs grievance systems.
6. Imposing security safety screening in holding public office and even obtaining certain public services and licenses in the West Bank and Gaza Strip.

### **Third: Political Inheritance**

The enduring division has precipitated significant political consequences, with paramount implications including<sup>71</sup>:

1. Stagnation in electoral processes since the last general elections conducted in 2005 and 2006.

---

<sup>70</sup> Abdelati, Salah. 2018. The impact and cost of the division on the Palestinian constitutional system and the human rights situation. p. 129-150.

<sup>71</sup> The Internal Palestinian Struggle for Power between Fatah and Hamas: Its Dimensions, Repercussions, and Consequences, 2022. Palestinian Center for Policy Research and Studies - Masarat.

2. Erosion of credibility in Palestinian liberation movements.
3. Undermine the legitimacy of the Palestinian Authority and the PLO at the domestic and international levels.
4. Treatment of the Gaza Strip by the occupation authorities as a hostile entity, leading to the utilization of various forms of warfare and the initiation of multiple conflicts resulting in substantial casualties.
5. Closure of offices and representations of countries around the world in the Gaza Strip.

#### **Fourth: Institutional Inheritance**

After the Palestinian division, the conflict has left divided, flabby, and illegitimate institutions, such as the existence of two completely separate judicial authorities, each headed by an independent higher judicial council, the existence of a Sharia Judicial Council, and a divided Sharia judiciary, and there are completely divided ministries such as the Ministry of Interior, the institutions of authority in the West Bank and Gaza Strip are subject to partisan influence, and the security forces are completely separate in the West Bank and Gaza Strip. The absence of the Legislative Council since 2006, the absence of the separation of powers and the singularity of the executive power in West Bank and Gaza Strip<sup>72</sup>.

#### **Fifth: Economic Inheritance**

The internal division has had a profound impact on the Palestinian economy, particularly pronounced in the Gaza Strip. The division created conditions conducive to Israel imposing a blockade on Gaza, leading to the closure of commercial crossings and frequent attacks, Consequently, the Gaza Strip has transformed into a paradigmatic representation of the largest open prison globally, characterized by severe constraints on access to crossings, hindered reconstruction efforts, limited availability of water and electricity, constrained employment opportunities, restricted access to medicine, and impeded prospects for life and

---

<sup>72</sup> Abdelati, Salah. 2018. The impact and cost of the division on the Palestinian constitutional system and the human rights situation. p. 167-170.

development. The direct and indirect financial losses resulting from the division, coupled with the subsequent siege and conflicts, have surpassed \$15 billion<sup>73</sup>.

### **The second topic Palestinian Reconciliation Agreements, Transitional Justice Tools, and Israeli Occupation**

The aftermath of the second parliamentary elections in January 2006 marked a significant juncture in Palestinian national unity and the sustainability of the political institutions, despite the participation of various Palestinian factions, including those opposed to the Oslo Accords, such as the Hamas and Islamic Jihad movements. The election outcome resulted in a vertical split within the executive authority, Hamas secured a majority in the Palestinian Legislative Council, leading to a division in the leadership, with Fatah's Mahmoud Abbas as the President of the PA and Hamas's Ismail Haniyeh forming a government, this power struggle ignited a crisis within the parliamentary system<sup>74</sup>.

Following challenges and a political and economic blockade experienced by the initial Hamas government, a consensus was reached to establish national unity government, with Ismail Haniyeh at the helm, these administrations governed the Palestinian territories in accordance with the government's composition until internal strife emerged between Hamas and Fatah. On June 14, 2007, Hamas assumed military control of the Gaza Strip, prompting fresh political and legal objections from the PA in the West Bank, in response, the PA in the West Bank closed Hamas institutions, concurrently, Hamas reciprocated by suspending all Fatah activities in the Gaza Strip, intensifying the crisis and escalating tensions between the two factions<sup>75</sup>.

Numerous Palestinian entities, spanning both domestic and international spheres, including a multitude of independents and emerging partisan or factional forces within the Palestinian

---

<sup>73</sup> Tabbaa, Maher Tayseer. 2018. The cost of the division and its impact on the Palestinian economy. pp. 81-38.

<sup>74</sup> Jadallah, Aya Zuhair. 2019. The Palestinian Division 2007 (Conditions and Repercussions), p. 25-30.

<sup>75</sup> Ibrach, Abraham. 2009. The roots of the Palestinian division and its dangers to the national project. Journal of Palestine Studies, p. 4.

arena, totaling over 14 parties, along with active participation from various Arab countries led by Egypt, Qatar, Jordan, Libya, Yemen, Sudan, Syria, Saudi Arabia, and Algeria, engaged in concerted efforts to resolve the Palestinian division. This collaborative endeavor also involved the establishment of an Arab follow-up committee comprised of five foreign ministers through the League of Arab States, with additional efforts from Turkey, consequently, these initiatives yielded understandings and agreements numbering more than 13, focusing on achieving reconciliation and standing as pivotal foundations for the realization of transitional justice<sup>76</sup>.

### **First: Palestinian Reconciliation Agreements**

#### **1. First Cairo Declaration (2005):**

The initial strides toward Palestinian reconciliation commenced in 2005 through the signing of the Cairo Declaration by Fatah and Hamas, the declaration also outlined a program where the current calm situation would be maintained in exchange for a mutual Israeli commitment to cease all forms of aggression and release prisoners, furthermore, it underscored the necessity of comprehensive reforms, democratic support<sup>77</sup>.

Key provisions of this agreement include:

- 1- Activation and development of PLO as sole representative.
- 2- Adherence to Palestinian constants, right to resist, sovereign state establishment.
- 3- Commitment to calm, contingent on mutual Israeli commitment.
- 4- Advocacy for comprehensive reforms, democratic support, and timely elections.
- 5- Emphasis on dialogue is the only means of dealing, prohibition of weapons in internal disputes.

---

<sup>76</sup> Ibrach, *Ibid.* p. 6.8.

<sup>77</sup> Al-masri, Hani. 2011. Prospects for the reconciliation process. Institute for Palestine Studies, p. 12.

### Fatah's stance

Regarding Fatah's stance, Azzam al-Ahmad, the head of Fatah's delegation, highlighted the postponement of the security file in Palestinian reconciliation due to its sensitive nature, he expressed agreement with Hamas to establish a follow-up committee for periodic assessment, emphasizing the formation of an interim transitional national consensus government and subsequent elections<sup>78</sup>.

### Hamas' stance

Hamas, as outlined by Dr. Musa Abu Marzouq, the deputy head of its political bureau, accepted the Cairo Declaration as a means to prevent internal conflict, Marzouq clarified that the acceptance did not compromise the movement's commitment to resistance, he explained amendments to the legislative elections law and the essential point that the signed declaration only represented a decision for temporary calm, conditioned on unfulfilled Israeli commitments<sup>79</sup>.

The reconciliation process initiated in 2005 faced obstacles, halting after Hamas won the legislative elections and encountered challenges in forming a new government.

## **2. National Accord Document (2006):**

In the context of the legislative elections on January 25, 2006, where Hamas secured victory and the Israeli government, led by Ehud Olmert, proposed sanctions on the Palestinian Authority dominated by Hamas, a state of turmoil ensued, responding to this situation, all Palestinian factions signed the National Reconciliation Document on June 27, 2006, aiming to

---

<sup>78</sup> A Palestinian meeting in Cairo to activate reconciliation, Al Jazeera Net. 2013. <https://2u.pw/xetlf5i> Accessed on 6/1/2024.

<sup>79</sup> Musa Abu Marzouq interview. Dunia al-Watan. 2005. Seen on 4/10/2023. <https://www.alwatanvoice.com/arabic/news/2005/05/16/21838.html>

establish a political framework embodying shared principles, despite the agreement between Palestinian Authority President Mahmoud Abbas and Prime Minister Ismail Haniyeh to form a new national unity administration on September 11, 2006, persistent hostilities between Fatah and Hamas supporters hindered its realization<sup>80</sup>.

Key provisions of the national reconciliation agreement, as reached by Palestinian prisoners in Israeli detention centers, include:

- 1- Accelerating the implementation of the 2005 Cairo agreement concerning the development and activation of the Palestine Liberation Organization, with the inclusion of Hamas and Islamic Jihad, this move is aimed at establishing it as the sole legitimate representative of the Palestinian people, necessitating the formation of a new National Council by the end of 2006 for comprehensive representation.
- 2- Establishing a national unity government that ensures the participation of all parliamentary blocs, particularly Fatah and Hamas, based on a shared program to advance the Palestinian situation locally, regionally, and internationally.
- 3- Granting the PLO and the President of the Palestinian Authority exclusive authority over negotiations, adhering to Palestinian national goals, any significant agreement must be ratified by the new Palestinian National Council.

---

<sup>80</sup> Al-masri, *Ibid.* p. 9-11.

- 4- Reforming and modernizing the Palestinian security institution to enhance its capability in defending against aggression and occupation, maintaining public order, implementing laws, and ending chaos and lawlessness.
  
- 5- Urging the Legislative Council to continue issuing laws regulating the functioning of the security institution.

#### Fatah's stance

During the Central Committee meeting on June 5, 2006, Farouk Qaddoumi, head of the PLO's political department at the time, discussed the details of the dialogue on the prisoners' document, the objective was to reach a unified opinion leading to the development of a political action program for the formation of a national unity government. Conversely, Nabil Shaath, a Fatah Central Committee member and a member of the Palestinian Legislative Council, criticized Prime Minister Ismail Haniyeh's speech for not recognizing Israel and accused internal and external parties of undermining the government while advocating national reconciliation<sup>81</sup>.

#### Hamis' stance

At that time, Palestinian Prime Minister Ismail Haniyeh asserted that President Mahmoud Abbas' referendum on the prisoners' document was legally and politically impermissible, viewing it as an annulment of the legislative institution and election results. Khaled Meshaal acknowledged the national role played by Palestinian prisoners but cautioned against exclusively focusing on their initiative and positions, emphasizing the impossibility of recognizing Israel in the Palestinian arena<sup>82</sup>.

---

<sup>81</sup> Hamas is determined to refuse to recognize Israel and Fatah criticizes. Al Jazeera Net. 2006. <https://2u.pw/vjEgyoi> seen on 2/10/2023.

<sup>82</sup> The Palestinian National Reconciliation Document: The Last Option to Stop the Bloodshed and Arrange the Palestinian House. Deutsche Welle. 2006. <https://2u.pw/kfwWnbH> seen on 4/10/2023.

### 3. Mecca Agreement (2007):

The Mecca Agreement of 2007 was prompted by the request of King Abdullah bin Abdulaziz when local mediation attempts proved unsuccessful in compelling Hamas and Fatah to reach an agreement.

Key provisions of the agreement included<sup>83</sup>:

**First:** Emphasizing the prohibition of Palestinian bloodshed and prioritizing national unity against occupation.

**Second:** Finalizing an agreement for the swift formation of a Palestinian national unity government, following detailed terms approved by both parties.

**Third:** Advancing the activation, development, and reform of the Palestine Liberation Organization, in line with the Cairo and Damascus understandings, through agreed-upon steps.

**Fourth:** Affirming political partnership based on existing laws within the Palestinian National Authority, guided by political pluralism as outlined in a mutual agreement between the involved parties.

Although this accord facilitated the convergence of perspectives and the formulation of certain agreements, efforts to stabilize the situation collapsed due to political manipulation and dictatorial goals. The journey to Mecca, following intense fighting, aimed for a military resolution, but subsequent factors disrupted the agreement, leading to the formation of a government under Ismail Haniyeh after Fatah representatives resigned<sup>84</sup>.

---

<sup>83</sup> Text of the Makkah Agreement 2007

<sup>84</sup> The crisis of Palestinian reconciliation. Arab Crisis Team. 2023.

<http://mesc.com.jo/CrisesTeamReports/CrisesReports.htm>

#### 4. The Yemeni Initiative (2008)

The Sana'a meeting marks the initial dialogue between Fatah and Hamas since the Palestinian division and a nine-month hiatus. Key provisions of the agreement include:

**First:** Restoring Gaza to its state before June 13, 2007, and conducting early presidential and legislative council elections.

**Second:** Resuming national dialogue is based on the Cairo Agreement (2005) and the Mecca Agreement (2007), emphasizing the indivisibility of the Palestinian people and a commitment to uphold Palestinian legitimacy in all aspects.

**Third:** Affirming adherence to the Palestinian constitution and law by all parties.

**Fourth:** Reconstructing security services on a national level, aligning them with the supreme authority and the government of national unity, devoid of affiliations with any specific faction.

##### Fatah's stance:

Azzam al-Ahmad, head of Fatah's faction in the Palestinian Legislative Council, said that if Hamas accepted the Yemeni initiative in its entirety, Fatah would be ready immediately to start a Palestinian national dialogue, not only between the two movements, but also between all national factions, Al-Ahmad contends that the conflict extends beyond Fatah and Hamas, involving all factions of the National Action and Hamas, he believes that Hamas isolated itself from the beginning by resorting to force. Saleh Rafat, a member of the Palestine Liberation Organization, emphasizes that Hamas must accept the initiative with its points without engaging in further discussion<sup>85</sup>.

---

<sup>85</sup> Hamas agrees with the Yemeni initiative and disagrees with Fatah on the mechanisms for its implementation. Dunia Al-Watan. 2008. <https://2u.pw/YYzeUTz> seen on 15/10/2023.

### Hamas' stance:

Sami Abu Zuhri, the official spokesman for Hamas, expressed Hamas's willingness to discuss all terms of the Yemeni initiative transparently, highlighting that the initiative imposed no conditions, Musa Abu Marzouq, deputy head of Hamas's political bureau, stated that the challenge lies not in the initiation or content of potential solutions but in President Mahmoud Abbas's political stance on dialogue<sup>86</sup>.

However, this announcement lasted only a few hours until some described it as "stillborn", and some attributed this to Richard Dick Cheney, the US vice president at the time, rejecting the agreement, during his meeting with President Abbas, which led to the death of the agreement at the moment of its birth<sup>87</sup>.

### **5. Egyptian Paper (2009):**

In 2009, the Palestinian National Reconciliation Agreement was signed in Cairo. Following a conflict with Israeli forces in the Gaza Strip, the Palestinian resistance's success in countering the attack was seen by occupation forces as an initial victory, akin to a declaration of war. Subsequently, Egypt facilitated a truce. This accord emerged from a comprehensive Palestinian national dialogue on February 26, 2009, under Egyptian auspices and with President Mubarak's direct support. It was attended by all Palestinian factions, organizations, and forces. The agreement aimed for sincere peace, reconciliation, and the permanent end of the Palestinian division. The parties agreed on solutions to core conflict issues, emphasizing adherence to

---

<sup>86</sup>Hamas and Fatah accept the Yemeni initiative and the occupation bombs Gaza. Al Jazeera Net. 2008. <https://2u.pw/IFw7jmQ> seen on 15/10/2023.

<sup>87</sup>The Sana'a Declaration was born dead: Fatah wants to implement the Yemeni initiative, and Hamas to dialogue about it. Al-Ayyam Newspaper. 2008. <https://2u.pw/fFY28ZZ> seen on 11/11/2023.

established standards, and oversight was entrusted to a higher committee in Egypt with Arab participation<sup>88</sup>.

Key points of the Egyptian paper agreement include:

- PLO Development:

Focus on the development of the Palestine Liberation Organization (PLO) based on consensual foundations and the Cairo Agreement of 2005.

Emphasis on forming a new National Council that ensures representation from all national and Islamic forces, factions, and parties.

Mandate of the National Council set at 4 years, aligning with Legislative Council elections, using a law agreed upon, emphasizing full proportional representation.

- Election Framework:

Inclusion of a clause specifying the timing of legislative elections.

Commitment to holding elections for the Palestinian National Council with full proportional representation, both domestically and abroad where possible.

Legislative elections to be conducted based on a mixed system.

- Security Legislation:

Addressing security matters through the drafting of laws related to security agencies and other relevant aspects.

### Fatah's stance

In Cairo, Palestinian President Mahmoud Abbas informed editors of Egyptian newspapers that he intends to issue a decree on October 25 to establish the election date on January 24. Abbas asserted that the Egyptian leadership supports his stance, attributing the strained reconciliation

---

<sup>88</sup> Arab Crisis Team. (2023). Ibid.

efforts to Hamas. He accused Hamas of "creating obstacles and fabricating pretexts" for not endorsing the reconciliation agreement<sup>89</sup>.

### Hamas' stance

Khaled Mashaal, head of Hamas' political bureau, stressed that the movement will not take an approach that contradicts the growing international attention, but rejects in this paper internal considerations such as postponing the file of political prisoners in the prisons of the Palestinian Authority until the signing of the agreement, and sees the priority of ending it before signing any understandings with Fatah.<sup>90</sup> He added that we hope that the brothers in Fatah will stand in front of the reconciliation entitlements seriously, and this requires that we overcome all obstacles, especially the obstacle of external requirements, if they want to complete the reconciliation file, they must abandon the conditions of the Quartet as a condition for the formation of the government<sup>91</sup>.

This agreement addressed key issues, including activating and developing the Palestine Liberation Organization, conducting simultaneous legislative and presidential elections, and convening the Palestinian National Council. Set for June 28, 2010, the elections gained commitment from all parties. The agreement stressed the need to address ongoing Palestinian division through legal procedures, outlining measures for compensating those affected by occupation-induced violence, resolving detainee-related issues, and prohibiting politically motivated detentions. Immediate actions included releasing detainees from both Fatah and Hamas. To implement the national reconciliation, a joint committee with equal Fatah and

---

<sup>89</sup>Fatah refuses to amend the reconciliation paper. Jazeera Net. 2009.. <https://2u.pw/AHkCNUg> Seen on 10/1/2024.

<sup>90</sup>Observations of factions on the Egyptian paper. Jazeera Net. 2009. <https://2u.pw/VMWIS8m> Seen on 6/1/2024.

<sup>91</sup> Khaled Mashaal: Hamas before it was in power and after it did not issue a single law that was religious to the people. Dunia Al-Watan. 2009. <https://2u.pw/TwJ3jAr> seen on 6/1/2024.

Hamas representation was formed, solidifying transitional justice through President Mahmoud Abbas's signed decree<sup>92</sup>.

According to a report from the BBC on October 15, 2009, Hamas confirmed that Cairo had acquiesced to its request for postponing the reconciliation agreement. This decision was influenced by the Palestinian Authority's stance on deferring discussions of the Goldstone report.

#### **6. Cairo Agreement (2011):**

This agreement featured crucial provisions<sup>93</sup>:

- **PLO Reactivation:** Reactivation of the PLO and the integration of all factions into it. A committee was mandated to oversee these processes.
- **Elections:** Outlined rules for elections in Palestinian Authority and PLO institutions, covering the electoral system, monitoring mechanisms, and the Central Elections Committee (CEC), whose members were decided in the December 2011 Agreement of Principles.
- **Security:** Detailed principles for restructuring security services on national and professional grounds, with accountability emphasized. A higher security committee was proposed for the reconstruction of these services.
- **National Reconciliation:** Defined six objectives for the Community Reconciliation Committee, addressing issues like fostering tolerance, resolving conflicts, compensating victims, and establishing preventive mechanisms. Subcommittees and five work units were designated for task execution.
- **Joint Committee for Implementation:** Mandated the creation of a joint Hamas-Fatah committee to oversee the reconciliation agreement's implementation.

---

<sup>92</sup> Arab Crisis Team. 2023. Ibid.

<sup>93</sup> Cairo Agreement 2011

- Political Detainees: Pledged to release political detainees, with detailed steps specified for this commitment.

In an exclusive interview, the Director General of the Palestinian Center for Research and Studies - Masarat, Mr. Hani Al-Masri, emphasized that the fundamental agreement in both pre- and post-2011 accords essentially reiterates its terms. While it addresses key issues related to the division file, a major drawback is the lack of a clear political program. This absence hinders the establishment of unity of goals, particularly between those advocating resistance and those favoring negotiations. Setting clear rules from the outset is crucial, as the challenge lies not in the divergence of perspectives but in effectively managing this dispute<sup>94</sup>.

#### Fatah's stance

The sole agreement is the 2011 accord, declared on 4/5/2011, involving all Palestinian factions, initially between Fatah and Hamas. Signed on 15/10/2009, known as the National Accord Agreement, Azzam Al-Ahmad opposed it due to security file disagreements with Egypt and alignment with Hamas's preferences. Despite Azzam Al-Ahmad's 2009 warnings to Egypt about Hamas not signing, it was postponed to 2011 under Hosni Mubarak's presidency. Fatah, per Azzam Al-Ahmad, saw no distinction in Mubarak's or others' assumption of power, so Fatah signed the agreement in 2009<sup>95</sup>.

#### Hamas' stance

In a meeting in Sudan discussing the 2011 Cairo agreement, Khaled Meshaal, the head of Hamas' political bureau, expressed concerns about the potential lack of real-world impact stemming from such discussions. Meshaal highlighted the novelty and transparency of the agreement, emphasizing Hamas's clear stance on the Palestinian cause and its non-recognition

---

<sup>94</sup> interview: Hani Masri, Director of the Palestinian Center for Policy Research and Studies-Masarat. 10/10/2023,

<sup>95</sup> interview: Azzam al-Ahmad, head of Fatah's delegation to the reconciliation agreements. 10/1/2024.

of Israel. Regarding the forthcoming Palestinian government, an agreement with the Fatah movement has been reached to appoint someone other than Salam Fayyad to lead<sup>96</sup>.

The 2011 Cairo Agreement, brokered by Egypt, served as a comprehensive reconciliation pact between Fatah's President Mahmoud Abbas and Hamas's Khaled Mashaal. It aimed to rebuild both the Palestinian Authority and the PLO, establishing a joint transitional administration to oversee presidential and legislative elections, permitting participation by Hamas and Islamic Jihad. Efforts are underway within the PLO to create a joint security committee in line with the 2009 Cairo Agreement, focusing on maintaining order. Notably, a key limitation of the Cairo Agreement is its concentration on procedural and formal elements, committee formation, and elections, overlooking crucial political content<sup>97</sup>.

The 2011 Cairo Agreement, brokered by Egypt, served as a comprehensive reconciliation pact between Fatah's President Mahmoud Abbas and Hamas's Khaled Mashaal. It aimed to rebuild both the Palestinian Authority and the PLO, establishing a joint transitional administration to oversee presidential and legislative elections, permitting participation by Hamas and Islamic Jihad. Efforts were made at that time within the PLO to create a joint security committee in line with the 2009 Cairo Agreement, focusing on maintaining order. Notably, a key limitation of the Cairo Agreement is its concentration on procedural and formal elements, committee formation, and elections, overlooking crucial political content<sup>98</sup>.

## **7. Doha Declaration Agreement (2012):**

---

<sup>96</sup> A press statement by Khaled Meshaal warning of external interference to thwart Palestinian reconciliation efforts, Institute for Palestine Studies. 2011. <https://www.palestine-studies.org/sites/default/files/mdf-articles/11229.pdf>

<sup>97</sup> Al-Masri, Hani, 2012. A Reading of Reconciliation Agreements from the Cairo Agreement to the Doha Declaration, Palestinian Center for Policy Research and Strategic Studies, p. 23-26.

<sup>98</sup> Timeline.. Learn about the Egyptian efforts to reconcile between Fatah and Hamas, Newsletter Vision. 2022. <https://2u.pw/ekzkCau> Seen on 2/1/2024.

The Doha Declaration unfolded amidst heightened regional tensions due to events in Syria and Hamas' relocation of its headquarters from Damascus to several Arab capitals, notably Doha and Cairo. Simultaneously, on the eve of the first round of the Egyptian presidential elections, the Emir of Qatar's proposal to appoint President Mahmoud Abbas as the head of the interim Palestinian reconciliation government led to contradictions. The Doha Declaration represents a selective and incomplete agreement, with its focus aimed at implementing specific elements from the Cairo Agreement<sup>99</sup>.

In the Doha Declaration, Khaled Meshaal concurred with Mahmoud Abbas as prime minister, aligning with the mandate from the Political Bureau of the Hamas movement in its preceding meeting in January 2012 in Khartoum. During that meeting, there was opposition to the appointment of Salam Fayyad as Prime Minister, leading to subsequent adjustments. These changes created challenges, making the implementation of the Doha Declaration difficult, if not potentially impossible<sup>100</sup>.

#### Fatah's stance

Azzam Al-Ahmad notes that the post-Cairo Agreement dispute, revolving around the selection of the next prime minister to unify the West Bank and Gaza, led to the 2012 Doha Declaration. According to Al-Ahmad, he confidentially agreed with certain Hamas leaders, including Khaled Meshaal and Muhammad Nasr, during an invitation extended by the Emir of Qatar. The Emir proposed Mahmoud Abbas as the next prime minister, a suggestion Hamas initially accepted. However, this agreement was not subsequently implemented<sup>101</sup>.

#### Hamas' stance

Hamas leader Mahmoud Al-Zahar characterized Meshaal's agreement with Abbas as a "mistake." Al-Zahar had a disagreement with Meshaal over Meshaal's defense of granting

---

<sup>99</sup> Opportunities for the implementation of the Doha Declaration, Dunia Al Watan. 2012.

<https://www.alwatanvoice.com/arabic/news/2012/03/05/255286.html> seen on 2/1/2023.

<sup>100</sup> Al-Masri, Hani, 2012. A Reading of Reconciliation Agreements from the Cairo Agreement to the Doha Declaration, Palestinian Center for Policy Research and Strategic Studies, p. 32.

<sup>101</sup> interview: Azzam al-Ahmad, head of Fatah's delegation to the reconciliation agreements. 10/1/2024.

Abbas more time for peace efforts with Israel. Ahmed Youssef, a Hamas leader, asserted that Meshaal adhered to the agreed-upon text, emphasizing the formation of a government not led by Salam Fayyad. Youssef stated that Meshaal possessed the authority to make appropriate decisions, highlighting Abbas as a partner. If Abbas's choice could resolve the impasse and align with American and Israeli acceptance, Youssef indicated a favorable stance<sup>102</sup>.

### **8. Beach Agreement (2014):**

In April 2014, an agreement at the Beach camp in the Gaza Strip led to Ismail Haniyeh stepping down as prime minister, allowing the Authority's president to appoint a successor. The subsequent Cairo Agreement in September 2014 outlined the new government's tasks, primarily focusing on integrating security services, yet implementation has not occurred. Meanwhile, Rami Hamdallah's new party encountered difficulties, leading to a resurgence of division between the two factions<sup>103</sup>.

In 2014, a significant event for the Palestinian people was the establishment of a national consensus government, agreed upon by Fatah, Hamas, and other Palestinian factions following the reconciliation agreement signed at the Beach camp. However, when the government attempted to implement its procedures and services, it encountered obstacles, particularly concerning the salaries of former Gaza government employees. The situation escalated during the 51-day Israeli aggression on the Gaza Strip. The government shifted its focus to providing rescue, shelter, and other services to address the challenges posed by the conflict<sup>104</sup>.

#### Fatah stance

---

<sup>102</sup> Disagreement within Hamas over the Doha Agreement. Al-Jazeera Net. 2012. <https://2u.pw/CFFT5kL> seen on 4/1/2024.

<sup>103</sup> The Beach Agreement and the future of Palestinian reconciliation. Al-Zaytouna Center for Studies and Consultations, 2014. <https://2u.pw/UNHuwSF> seen on 5/1/2024.

<sup>104</sup> 2014 is one of the worst years for the cause and the Palestinian people. Failure of negotiations, a freeze on reconciliation and aggression against Gaza. Dunia Al-Watan. 2014. <https://2u.pw/7oPhYpq> Seen on 7/1/2024.

A delegation led by Azzam al-Ahmad from the Palestine Liberation Organization visited Gaza, leading to the "Beach Agreement". The parties agreed to form a government, with Hamas proposing Rami Hamdallah as prime minister. Hamdallah established the national consensus government, largely reflecting Hamas's suggestions. However, Hamas did not endorse the transfer of ministries and security to the proposed government. Azzam al-Ahmad accused Benjamin Netanyahu of assisting in channeling Qatari funds into Gaza through the Israeli Mossad after the 2014 Gaza war. Consequently, Israeli Defense Minister Avigdor Lieberman resigned. Al-Ahmad highlighted Netanyahu's intent to maintain Hamas' control over Gaza, perpetuating division and weakening the Palestinian Authority in West Bank<sup>105</sup>.

In examining the points of agreement within the practical vision emerging from the Doha meeting, it becomes evident that they largely mirror the provisions outlined in the Beach Agreement regarding elections, the structure and procedures of the Legislative Council, as well as the convening of the committee tasked with activating the PLO. Conversely, points of disagreement center around Hamas' participation in the National Council meeting in its old format and the management of employee salaries, which were deferred to the legal administrative committee as per the Cairo Agreement. This committee was established shortly after the formation of the Government of National Accord but failed to resolve the issue.

What is new about the Doha meeting compared to the "Beach Declaration" is that the government that will be formed this time will be a government of national unity, that is, representatives of the factions and some independents will participate, so that it is strong and able to solve the grave challenges, and this formula was tried after the "Mecca Agreement" and failed.

---

<sup>105</sup> interview: Azzam al-Ahmad, head of Fatah's delegation to the reconciliation agreements. 10/1/2024.

## 9. Cairo Agreement (2017):

Under Egyptian mediation, Fatah and Hamas agreed to:

- Establish the Government of National Consensus' full authority in Gaza and the West Bank by December 1, 2017.
- Resolve the Gaza employee issue by February 1, 2018, with ongoing salary disbursements.
- Transfer control of Gaza border crossings to the National Consensus Government by November 1, 2017.
- Rebuild Gaza's security services with assistance from official Palestinian security leaders.
- Review progress in Cairo in December 2017.
- Hold talks on reconciliation terms as per the Palestinian National Accord agreement.

By October 2017, tensions between Fatah and Hamas heightened due to Abbas's imposition of social and economic sanctions on Gaza. These measures, which included restricting energy supplies, aimed to pressure Hamas into accepting PA demands. Although Hamas showed willingness for reconciliation by issuing a new declaration in 2017, its insistence on maintaining military capabilities remains a major obstacle. Despite initial optimism following the signing of the Cairo agreement in 2017, Hamas's reluctance to cede power, coupled with Egypt's diversion of attention to other matters, has stalled progress. The recent appointment of military figures within Hamas raises doubts about the feasibility of disarmament<sup>106</sup>.

---

<sup>106</sup> The internal Palestinian struggle for power between the Fatah and Hamas movements: its dimensions, repercussions, and consequences. Masarat. 2017. <https://2u.pw/RwpX2h0> seen on 8/1/2024.

### Fatah's stance

In the stipulated agreement, Azzam al-Ahmad, the spokesperson for Fatah, asserted that the negotiations encompass the administration of ministries within the Gaza Strip, a domain previously under the jurisdiction of Hamas since 2007 until its relinquishment as part of an accord reached in September 2017. The deliberations will also address the status of approximately 50,000 civil servants employed by Hamas during the conflict period. Al-Ahmad emphasized that security holds a central position in the discussions, which includes the potential deployment of 3,000 Fatah security personnel slated to integrate into Gaza's police force within a one-year timeframe. Furthermore, Al-Ahmad advocated for the management of Gaza's sole border crossing with Egypt by President Mahmoud Abbas's presidential guard, under the oversight of the European Union, rather than the current administration led by Hamas. However, a significant point of contention persists between the two factions: the future of Hamas's 25,000-strong armed wing, which the group adamantly declares as "non-negotiable"<sup>107</sup>.

### Hamas' stance

Hammad al-Raqib, a prominent figure within Hamas, underscored the strategic significance of reconciliation for the Palestinian populace, emphasizing the imperative to pursue all available avenues to resolve the internal divisions. He highlighted several disparities between the 2011 and 2017 reconciliation agreements, asserting that the former holds greater comprehensive scope as it addresses all facets of the Palestinian cause through its delineation of five primary files. These include discussions pertaining to the National Council, presidential and legislative elections, societal reconciliation, and Charter reform. Conversely, the 2017 agreement

---

<sup>107</sup> Fatah and Hamas sign reconciliation agreement. Arabi News. 2017. <https://2u.pw/VKwsv32> seen on 9/1/2024.

primarily focuses on the formation of a government based on tasks rather than one of political nature<sup>108</sup>.

In 2017, subsequent to the agreement, al-Ahmad affirmed that there would be no engagement with Hamas unless it publicly declared the Palestine Liberation Organization (PLO) as the sole legitimate representative of the Palestinian people. He further stated his decision not to convene meetings of faction secretaries-general or engage in discussions with Hamas and Islamic Jihad until the internal division was resolved. Al-Ahmad urged Hamas to introspect and acknowledge the PLO's exclusive legitimacy. He emphasized that there is no necessity for new negotiation initiatives to address the internal division but rather advocated for the implementation of the agreements reached in October 2017. Al-Ahmad expressed skepticism regarding Hamas's genuine commitment to executing the reconciliation agreement, alleging that Hamas has obstructed efforts to enhance the authority of the reconciliation government. He emphasized that the reconciliation agreement emphasized the empowerment of the existing government rather than the formation of a new one. In February 2019, the final communique of the meeting of Palestinian factions in Moscow was canceled due to a lack of consensus on empowering the government<sup>109</sup>.

On the other hand, Hamas spokesperson Hazem Qassem addressed the situation in the Gaza Strip following the 2017 agreement by attributing the prevailing tension to President Abbas himself. Qassem cited Abbas's imposition of sanctions on Gaza, including salary cuts for Palestinian Authority employees in the territory, along with what he described as media incitement against Gaza. The Palestinian Authority has been implementing administrative and financial measures in Gaza since April 2017, which Qassem characterizes as "sanctions."

---

<sup>108</sup> Two years since the signing of the 2017 Cairo Agreement, why was it not implemented?. Dunia Al-Watan. 2019. <https://www.alwatanvoice.com/arabic/news/2019/10/12/1282478.html> seen on 10/1/2024.

<sup>109</sup> interview: Azzam al-Ahmad, head of Fatah's delegation to the reconciliation agreements. 10/1/2024.

He added that Fatah perceives these measures as steps aimed at resolving the Palestinian division<sup>110</sup>.

Khalil Assaf views the 2017 agreement as superficial, driven by unimplemented prior intentions and external pressures from countries invested in the Palestinian cause. He refused to sign the agreement due to ongoing chaos and political repression by both parties, deeming it unfeasible amidst such circumstances. Assaf highlights the absence of conducive health conditions and transparency, questioning the sincerity of reconciliation intentions. He suggests that adherence to the more comprehensive 2011 reconciliation agreement would have been a more viable approach<sup>111</sup>.

Ramzi Rabah, a member of the Political Bureau of the Democratic Front for the Liberation of Palestine, outlines key aspects of the party's initiative for comprehensive national reconciliation. The agreement entails a one-year transitional phase focused on dual objectives:

Firstly, it involves extending invitations to Hamas and Jihad movements to partake in the Palestinian Central Council's extraordinary session. The session will facilitate the election of an executive committee inclusive of all factions, ensuring equitable representation for Hamas. Secondly, it entails the formation of a national unity government with participation from all factions, aimed at reestablishing coherence within Palestinian institutions.

Rabah notes that various initiatives, such as unifying security services and the judiciary, achieving societal reconciliation, and addressing the repercussions of internal division, have been prepared since 2017. However, their implementation hinges on political decisions and willpower, devoid of any exclusionary measures.

---

<sup>110</sup> interview: Hazem Qassem, Hamas spokesman. 25/9/2023.

<sup>111</sup> interview: Khalil Assaf, Chairman of the Association of Independent Personalities in the West Bank, and member of the Public Freedoms Committee emanating from the 2011 Convention. 5/1/2024.

In light of the ongoing occupation and the quest for national liberation, Rabah underscores the imperative for unity in stance. He asserts consensus on political objectives, including the establishment of a Palestinian state along the 1967 borders, the right of return for refugees, and the recognition of Jerusalem as the capital of Palestine. However, divergence emerges regarding the sequencing of organizational and governmental reforms. Hamas advocates starting with Palestinian Liberation Organization reform followed by government reform, while Fatah favors the reverse approach. Rabah advocates for simultaneous organizational and governmental reform to safeguard the interests of both factions<sup>112</sup>.

During the agreement period, a community reconciliation committee was established in Gaza, convening Palestinian factions alongside representatives from the reform movement led by Muhammad Dahlan, formerly of Fatah. The committee initiated its operations, compiling files of victims and providing compensation. Subsequent analysis will focus on the National Islamic Committee for Development and Social Solidarity (2011)<sup>113</sup>

### **10. Istanbul Understandings (2020)**

These agreements were reached several months subsequent to the official announcement of the Trump deal at the White House, coinciding with the normalization of relations between the United Arab Emirates, the Kingdom of Bahrain, and Israel. The ramifications of these developments on the Palestinian cause are significant<sup>114</sup>.

---

<sup>112</sup> interview: Ramzi Rabah, member of the political bureau of the Democratic Front for the Liberation of Palestine. 5/10/2023.

<sup>113</sup> The Community Reconciliation Committee has begun its work. Dunia Al-Watan. 2017. <https://2u.pw/ocE01gV> seen on 11/1/2024.

<sup>114</sup> The Trump-Netanyahu deal: the path to the text, and from there to the answer to the question: What to do?. Arab Center for Research and Policy Studies. 2020. <https://2u.pw/GP9WNod> seen on 11/1/2024.

These understandings were reached following the meeting of Secretaries-General convened between Ramallah and Beirut, shortly before the Istanbul gathering. They reaffirmed the agreed-upon strategies set forth by the Conference of Secretaries-General, aiming to consolidate collaborative efforts in safeguarding the rights and interests of Palestinian people and countering all conspiracies until achieving independence<sup>115</sup>.

The understandings encompassed the sequential holding of legislative, presidential, and National Council elections<sup>116</sup>, contingent upon a presidential decree. President Mahmoud Abbas issued such a decree on January 15, 2021, scheduling the elections. The legislative elections were planned for May 22, 2021, and significant progress was made with the registration of 36 lists despite notable factional divisions within the Fatah movement. However, just days before the election campaign, the presidential decree abruptly canceled the elections, citing Israel's refusal to permit elections in Jerusalem as the reason<sup>117</sup>.

### Fatah's stance

In the concluding statement of the factions' meeting in Ramallah, Palestinian President Mahmoud Abbas declared the postponement of the Palestinian legislative elections. This decision was attributed to Israel's refusal to permit the elections to take place in occupied Jerusalem. Abbas lamented the failure of international efforts to sway Israel from its stance opposing elections in Jerusalem<sup>118</sup>.

---

<sup>115</sup> The text of the joint statement issued by Fatah and Hamas after their meeting in Istanbul, Watan News Agency, 2020. <https://2u.pw/yfqqCYc> was seen on 5/1/2024.

<sup>116</sup> Rajoub: Elections according to the proportional representation system within 6 months, Al-Najah Al-Akhbar, <https://2u.pw/QTZUI0S> seen on 5/1/2024.

<sup>117</sup> Central Elections Commission, 2021 General Elections Report (Postponed). <https://www.elections.ps/Portals/0/ElectionsReport2021.pdf>

<sup>118</sup> Postponing the Palestinian elections.. Hamas considers it a coup against consensus. Al Jazeera Net. 2021. <https://2u.pw/hQ7gGEm> Seen on 7/1/2024.

### Hamas' stance

Hamas spokesperson in the West Bank, Wasfi Qabha, criticized the Palestinian Authority (PA) for making a crucial decision regarding a sensitive issue without prior discussion among the secretaries-general of the factions. Qabha emphasized the significance of deliberating the mechanisms for conducting elections in Jerusalem and reaching a consensus among the factions<sup>119</sup>.

### **11. Algiers Agreement (2022):**

Algerian President Abdelmadjid Tebboune initiated the Algiers Agreement in 2022, which was endorsed by 14 Palestinian factions. This agreement delineated precise protocols for conducting legislative and presidential elections, established timelines for their implementation, and underscored the imperative for Palestinian factions to engage in the Palestine Liberation Organization and establish a Palestinian government. Furthermore, it advocated for the formation of a national unity government within the Palestinian Authority, grounded on a mutually agreed-upon agenda, and underscored the principle of political collaboration<sup>120</sup>.

The Algerian document comprised nine key provisions, encapsulated as follows: advocating for constructive dialogue language, affirming the principle of political collaboration, enhancing the Palestine Liberation Organization's efficacy, implementing a mutually agreed formula for electing the National Council, conducting legislative and presidential elections across all Palestinian territories, and establishing a national unity government committed to international legitimacy<sup>121</sup>.

---

<sup>119</sup> Hamas attacked him and experts described it as "cancellation, not postponement".. Will Abbas's decision to postpone the elections revive the "Palestinian division?. Al Jazeera Net. 2021. <https://2u.pw/wlZAaQU> Seen on 7/1/2024.

<sup>120</sup> Arab Crisis Team. Previous reference.

<sup>121</sup> Text of the Algiers Agreement, 2022.

### Fatah's stance

In a statement regarding the progression of the Algiers agreement, Azzam al-Ahmad, the head of the Fatah delegation, articulated Fatah's insistence on amendments concerning the establishment of a national unity government. He urged all participants to adhere to international legitimacy. Conversely, Ahmed Majdalani, a member of the Executive Committee of the Palestine Liberation Organization (PLO), expressed skepticism regarding the potential success of the Algerian dialogues. Majdalani accused Hamas of being unprepared to facilitate national reconciliation and contended that the Algiers Declaration would include broad provisions that lack practical applicability. Additionally, he asserted that Hamas rejects the formation of a national unity government to oversee both the West Bank and Gaza Strip and aims to retain control over the Strip while allowing entry for the PLO.<sup>122</sup>

### Hamas' stance

Contrarily, the Hamas movement voiced opposition to the commitment to international legitimacy. Salah Bardawil, a member of the Hamas delegation, characterized the Algerian document as a framework encompassing common ground for resuming dialogue aimed at issuing a final statement in support of unity and ending division. Bardawil emphasized Hamas's desire for genuine reconciliation, premised on reforming the Palestine Liberation Organization (PLO) to ensure comprehensive Palestinian participation and the development of a joint national agenda to confront occupation. Additionally, he advocated for the Palestinian Authority to disengage from security coordination and actively engage with its populace in confronting Israeli policies<sup>123</sup>.

---

<sup>122</sup> Will Algeria make Palestinian reconciliation a reality?. Independent Arab website. 2022. <https://2u.pw/FSONxia> Accessed on 6/1/2024.

<sup>123</sup> Will Algeria make Palestinian reconciliation a reality?, Ibid.

Hamas spokesperson Hazem Qassem asserted that following the Algiers agreement in 2021, wherein all factions consented to hold elections with Jerusalem being a central issue, Hamas would not have agreed to the elections without Jerusalem's inclusion. Qassem highlighted a fundamental disagreement with President Mahmoud Abbas regarding the approach to dealing with the Israeli occupation. He criticized Abbas for seeking written approval from Prime Minister Netanyahu to hold elections in Jerusalem, emphasizing that the Palestinian people possess the capability to assert their right to hold elections in Jerusalem without waiting for permission from the occupier<sup>124</sup>.

The Algiers Agreement, as viewed by Azzam Al-Ahmad, encompasses no significant innovations beyond the submission of proposals by Hamas and Fatah for the formation of the forthcoming government. Both movements have tendered respective papers in this regard. Originally slated for 2021, elections were on the horizon. When questioned about the earnestness of the proposed elections and the persistent hurdle of the Jerusalem issue, Al-Ahmad affirmed the legitimacy of the election procedures, notwithstanding Jerusalem's unresolved status. It was underscored that conducting elections under occupation in Jerusalem is impractical<sup>125</sup>.

## **12. El Alamein Meeting (2023)**

The convocation of faction secretaries-general occurred in the presence of President Mahmoud Abbas in El Alamein, Egypt, on July 30, 2023. Unlike preceding gatherings, no formal statement was issued subsequent to the meeting. Instead, President Abbas articulated the

---

<sup>124</sup> interview: Hazem Qassem, Hamas spokesman. 25/9/2023.

<sup>125</sup> Special interview: Azzam al-Ahmad, head of Fatah's delegation to the reconciliation agreements. 10/1/2024.

establishment of a follow-up committee comprising attendees to further engage in dialogue concerning assorted issues and matters. Concurrently, the Islamic Jihad movement abstained from participating in the meeting in protest against the ongoing detention of its members by Palestinian security services in the West Bank<sup>126</sup>.

In a recent interview with Hazem Qassem, the Hamas spokesperson, concerns were raised about the reconciliation process, which involves two main disputes. Firstly, there is an administrative and governmental disagreement stemming from Hamas' electoral success in 2006 and subsequent divisions. The Palestinian Authority, led by Mahmoud Abbas, aims to sideline Hamas politically, insisting on adherence to international resolutions and recognition of the PLO, which Hamas rejects. Secondly, there's a broader political divergence not limited to Fatah-Hamas tensions but encompassing factions within the authority and Fatah. While the authority pursues the Oslo process and coordinates with the occupiers, Hamas remains open to reconciliation initiatives, regardless of their perceived feasibility, signaling a willingness to engage in dialogue despite challenges<sup>127</sup>.

Azzam al-Ahmad commented on the Alamein agreement of 2023, noting that the Islamic Jihad movement boycotted it citing political arrests in the West Bank. Following developments in Gaza post-October 7, al-Ahmad disclosed clandestine discussions with relevant stakeholders in the reconciliation process, affirming the following<sup>128</sup>:

We embrace the renewed invitation to reconvene the factional meeting initiated by the President in El Alamein, under the guiding principles outlined as follows:

---

<sup>126</sup> The President calls for the formation of a follow-up committee from the audience to complete the dialogue, Wafa Agency, <https://2u.pw/Zj6Uy03> accessed on 10/1/2024.

<sup>127</sup> interview: Hazem Qassem, Hamas spokesman. 25/9/2023.

<sup>128</sup> interview: Azzam al-Ahmad, head of Fatah's delegation to the reconciliation agreements. 10/1/2024.

1. Ceasing the presence of coup factions in Gaza.
2. Commitment to one system, one law and one legitimate weapon.
3. Commitment to the PLO as the sole legitimate representative of the Palestinian people, its political program and its international obligations alone.
4. Commitment to international legitimacy.
5. Commitment to peaceful popular resistance.
6. Commitment to a political solution based on the two-state solution and based on international legitimacy resolutions.
7. The formation of a technocratic government is carried out by a decision of President Mahmoud Abbas to assume its duties in the West Bank, Jerusalem and the Gaza Strip.
8. Negotiations on a comprehensive peace agreement are the responsibility of the PLO.

### **The Impact of Israeli Occupation on Palestinian Division**

The announcement of the agreement between Hamas and Fatah in 2011 was met with shock and astonishment in Israel. Decision-makers in Tel Aviv recognized that the successful implementation of the agreement, which aimed to end the state of division, would result in Israel losing the strategic advantages it had secured over the five years following the Palestinian legislative elections that brought Hamas to power, and the subsequent clashes that led to the Palestinian split<sup>129</sup>. This division enabled Israel to achieve several significant gains:

---

<sup>129</sup>A I-Naami, Saleh, (2011). In light of Israel's expected loss of the gains it gained from the division. Al Jazeera Net. <https://2u.pw/N6wVUQWS> Seen on 6/1/2024.

The state of division permitted Israel to deprive the Palestinians of the sole achievement guaranteed by the Oslo Accords: the maintenance of political unity between the West Bank and Gaza Strip. This division entrenched the separation between these two regions, allowing Israel to isolate the West Bank and engage in continuous and systematic settlement expansion and Judaization efforts<sup>130</sup>.

Israel utilized the division as a pretext to avoid fulfilling the requirements of the peace process and negotiations with the Palestinian Authority. It argued that it could not sign a settlement agreement with Mahmoud Abbas that included withdrawal from the occupied territories, on the grounds that he does not represent the entire Palestinian population<sup>131</sup>.

In the context of the development of Israeli control mechanisms, certain aspects of the apartheid system prompt the consideration of adhering to the Covenant on the Elimination and Punishment of the Crime of Apartheid. Apartheid is defined as a racially-based structure characterized by one racial or ethnic group's domination over another. General Assembly Resolution 2106 of 1965 delineates racism, particularly within the Israeli apartheid framework, as entailing systemic discrimination against non-Jews. Consequently, the condemnation of apartheid extends beyond the confines of South Africa's apartheid regime to encompass analogous contexts, as it contravenes Articles 55 and 56 of the United Nations Charter of 1973, stipulating apartheid as a crime against humanity. In 1977, an additional clause was appended to the Fourth Geneva Convention, denoting racial segregation and discrimination as transgressions against the tenets of international law, posing a threat to global peace and security. Subsequently, in 1984, the United Nations Security Council

---

<sup>130</sup> Abu Aisha, Ezz El-Din, (2023). Israel's strategy towards Gaza: between deterrence and division. Independent Arab. <https://2u.pw/KbQM64zT> Seen on 6/1/2024.

<sup>131</sup> Mahra, Ismail, (2020). Gaza is a de facto state. Palestinian Center for Policy Research and Strategic Studies - Masarat. <https://2u.pw/BqLxMwCd> Seen on 6/1/2024.

affirmed the General Assembly's assertion that apartheid constitutes a crime against humanity<sup>132</sup>.

This apartheid system has been in place in Israel since its establishment, both within its internationally recognized borders and in the territories it has occupied since 1967. The 1950 "Law of Return" grants any Jew citizenship based on religion. In the occupied Palestinian territories, Israel enforces a comprehensive apartheid regime, characterized by a dual system of laws<sup>133</sup>, infrastructure, residential areas, travel routes, and living standards: one for Israeli Jewish settlers, and another for Palestinian residents, who are subjected to a dual system of control<sup>134</sup>. The apartheid wall represents the tangible apex of this segregation. Moreover, Israeli apartheid extends to practices against Palestinians as individuals and groups. The permit system, gates and checkpoints, and the isolation and classification of areas represent the most egregious parallels to the "Bantustan" system implemented by the apartheid regime in South Africa<sup>135</sup>.

Since the internal division, Israel has imposed a blockade on Gaza. Significant military operations launched by Israel against Gaza include<sup>136</sup>:

On December 27, 2008, Israel initiated a military operation named "Operation Cast Lead," resulting in over 1,430 Palestinian fatalities, including more than 400 children, 240 women, and 134 police officers, as well as over 5,400 injuries.

---

<sup>132</sup> Ayoub, Hassan. 2017. The Palestinian issue in relation to international conventions and political interests: the Palestinian project to end the Israeli occupation as a model. Arab American University Journal of Research. Embryo. Number 2.

<sup>133</sup> Baltzer, Anna. (2007). Witness in palestine: A jewish American woman in the occupied territories. USA. P. 299-307.

<sup>134</sup> Baltzer, Ibid. p. 11.

<sup>135</sup> Baltzer, Ibid. P. 107.

<sup>136</sup> Israel's most prominent wars on the Gaza Strip, (2023). Al Jazeera Net. <https://2u.pw/Zrxpws> seen on 1/6/2024

On November 14, 2012, Israel launched "Operation Pillar of Defense," which led to the deaths of approximately 180 Palestinians, including 42 children and 11 women, and around 1,300 injuries.

On July 7, 2014, Israel commenced "Operation Protective Edge," which lasted 51 days. During this period, the Israeli military conducted over 60,000 airstrikes on Gaza, resulting in 2,322 Palestinian fatalities and 11,000 injuries, with Israel committing massacres against 144 families.

On November 12, 2019, an Israeli attack resulted in the deaths of 34 Palestinians and over 100 injuries.

In 2021, the conflict known as the "Battle of Jerusalem's Sword," referred to by Israel as "Operation Guardian of the Walls," resulted in approximately 250 Palestinian fatalities and over 5,000 injuries.

On Friday, August 5, 2022, the Ministry of Health in Gaza reported that an Israeli attack resulted in 24 fatalities, including 6 children.

At dawn on Saturday, October 7, 2023, the Palestinian resistance in Gaza launched an operation named "Al-Aqsa Flood" against Israel. At the time of writing this thesis, the number of civilian fatalities has exceeded 36,000, with more than 100 injuries.

## **Analysis**

Following a comprehensive analysis of the accords ratified between the conflicting parties, spanning from the Cairo Agreement of 2005 to the El Alamein Agreement of 2023, a discernible trend towards specificity and limitation was observed. This trend can be attributed to a constellation of factors, among which the researcher identifies the most prominent:

- Undoubtedly, Israeli occupation plays a major role in hindering Palestinian reconciliation agreements, compounded by the political and geographical division between the West Bank and Gaza Strip.
- Lack of political will on both sides hampers crucial reconciliation efforts needed to address Palestinian priorities. Failure in reconciliation agreements is due to a narrow focus, neglecting the broader Palestinian context and national project.
- Reviving the PLO is essential for reconciliation and unity but often neglected. Despite its legitimacy, efforts to strengthen it falter due to a lack of implementation and monitoring mechanisms, reflecting inadequate political will among stakeholders.
- The interim leadership framework has failed to address key Palestinian issues such as negotiations, resistance, and authority. Intended to promote unity among all factions, it has not achieved this goal, despite its role as the legitimate representative of the Palestinian people.
- The reconciliation process has predominantly focused on managing rather than resolving the division, evident since the 2009 agreement. This shift is reflected in the dialogue's form and approach, interim solutions proposed, and recurrent deferral of sessions, indicating an inclination toward perpetuating and managing the division.
- Despite the agreement to establish a national consensus government to address internal Palestinian issues, reconstruct Gaza post-2014 Israeli aggression, and prepare for elections following the 2022 Algiers Agreement, it has failed to materialize as a unified representation of all factions due to the lack of inclusive decision-making. The current Palestinian political landscape demands a national unity government capable of confronting ongoing challenges, including occupation, the 2023 war on Gaza, and settlement expansion. Palestinian citizens now require intensified attention across

relief, humanitarian, political, and financial fronts, necessitating more than general media stances.

- Persistent external interference highlights Palestinian political decision-making's immaturity and lack of autonomy, hindering efforts for national unity. Dependence on external agendas further estranges opposing poles of the division, exacerbated by their alliances with third parties.

Reviewing the aforementioned points leads to the conclusion that ending the division and achieving national unity necessitates a collection of objective conditions. These conditions, when met collectively, can facilitate the resolution of the division while simultaneously addressing the crisis within the national project. Real political will and effective partnership are essential components that can broaden the scope for agreement and consensus on the myriad issues and challenges confronting the Palestinian cause. This comprehensive approach requires reaching a comprehensive agreement on all points of contention.

Given the prevailing division among the Palestinian people, the absence of a culture of political partnership, and the resulting gross violations of human rights, it is pertinent to explore several key questions. Among these questions are: What constitutes the Palestinian national project? Are there agreed-upon Palestinian objectives and national constants? Furthermore, where do the roots of the crisis facing the Palestinian national project lie?

The Palestinian national project faces significant challenges, including the stagnation of the peace settlement endorsed by the PLO and the disruption caused by Hamas' resistance approach. Additionally, the faltering implementation of reconciliation agreements, along with the diminishing role of the PLO and the absence of its institutions, exacerbates the situation. The prevailing division within Palestinian society and the ongoing Israeli occupation of the

West Bank and Gaza Strip further complicate matters. Moreover, the lack of confidence among Palestinian citizens in their political leaders adds to the complexity. Overall, these factors pose a substantial obstacle to the realization of the Palestinian national project.

The analysis reveals a lack of a clear and agreed-upon Palestinian national project. Instead, factional initiatives prevail without contributing to a cohesive national strategy. It is crucial to redefine the Palestinian national project, outlining its objectives, principles, methodologies, and implementation mechanisms, as a common framework for all Palestinians. Additionally, unifying the Palestinian vision in accordance with the National Accord Document is imperative.

The analysis identifies several internal factors contributing to the erosion of the Palestinian national project. These include the emergence of Hamas and Islamic Jihad in 1987, advocating an Islamic agenda outside the Palestine Liberation Organization. Additionally, the Oslo Accords and the Palestinian National Authority fail to align with or serve as alternatives to the national project. Moreover, persistent division leads to political and geographical fragmentation between the West Bank and Gaza. Furthermore, political parties' declining influence, preoccupied with crises such as division, negotiations, and resistance, exacerbates challenges facing the national project.

It is crucial to acknowledge the objective factors significantly impacting the Palestinian national project, including ongoing external regional, Israeli, and international influences. These influences continue to exert considerable impact on Palestinian decision-making processes. For instance, the Oslo Accords, initiated in 1993, granted the Israeli side a role in decision-making within the Palestinian Authority and its organizational structures. Consequently, Israeli behavior has emerged as a pivotal factor in reconciliation negotiations and efforts to stabilize internal Palestinian affairs.

Furthermore, Western positions, particularly those of the United States, have wielded considerable influence over the trajectory of the Palestinian issue. American support for the Israeli occupation and interventions aimed at imposing conditions set forth by the International Quartet on Hamas and other Palestinian factions have shaped the conflict dynamics. These conditions include demands for recognition of the Israeli state, adherence to agreements signed by the Palestine Liberation Organization, and the cessation of armed resistance activities.

### **Second: Transitional Justice mechanisms in Reconciliation Agreements**

The elements that unite the Palestinians are greater than those that divide them, and from the researcher's point of view, it is advisable for the Palestinians to return to the Cairo Agreement of 2011 and based on the 2009 National Reconciliation Agreement, because it is widely considered the most reliable and legitimate agreement among the Palestinian reconciliation agreements, and it is the agreement that forms the basis of all subsequent reconciliations.

The researcher identifies a significant impediment to the implementation of transitional justice, particularly in contexts like that within the Palestinian territories, characterized by ambiguity. This uncertainty renders the premature application of transitional justice problematic, hindering the comprehensive development of transitional justice strategies rooted in previously adopted frameworks. However, while this condition presents challenges, it does not preclude Palestinians from undertaking specific transitional justice measures aimed at expediting reconciliation efforts.

The 2009 National Reconciliation Agreement mandated the establishment of a joint committee comprised of 8 members from Hamas and 8 members from Fatah. This committee was tasked with overseeing the implementation of the reconciliation agreement pertaining to internal affairs. Its primary objective was to facilitate the reunification of security institutions and

services in both the West Bank and Gaza Strip. However, upon the signing of the 2011 reconciliation agreement, this committee was sidelined. Subsequently, during the 2014 Beach Agreement, the authority of this committee was transferred to the consensus government.

How have reconciliation agreements dealt with the four basic mechanisms of transitional justice?

### **First: Accountability**

As per Section four of the 2009 National Accord Agreement, reconciliation agreements provided immunity to individuals involved in crimes during internal conflicts. Responsibility for these actions lies with the factions rather than the perpetrators themselves. Those found guilty of criminal acts are held individually accountable, separated from the political context. Consequently, all perpetrators involved in such crimes were granted unconditional amnesty, with compensation provided to the victims.

The 2009 reconciliation document outlined that individuals who suffered harm during internal confrontations are recognized as victims of violence. The Palestinian National Authority is tasked with addressing their cases, with oversight and involvement from the National Reconciliation Committee. This responsibility extends to the wounded, who are treated similarly to the victims in terms of support and redress.

“In light of this, individuals who have suffered various forms of harm due to individual criminal acts hold the perpetrator accountable, prompting the initiation of appropriate judicial measures against them. Conversely, those experiencing diverse types of harm amidst political conflicts attribute responsibility to the organization responsible for the harm, absolving individuals of

direct accountability. Achieving these outcomes relies on widespread national engagement to ensure impartial justice for all affected parties”<sup>137</sup>.

In accordance with this stipulation, accountability rests solely with individual perpetrators for crimes committed independently, whereas those implicated in offenses associated with the political conflict are granted immunity from prosecution. Responsibility for conflict resolution and provision of compensation to victims lies with the respective factions. Within the reconciliation committee, a dedicated unit is tasked with referring cases to regular, Sharia, and tribal judicial bodies, particularly when determining whether the perpetrator acted independently, unrelated to the political conflict, or within the context of a financial dispute.

From the analysis presented above, it becomes evident that the methodology employed in Palestinian reconciliation agreements for prosecution diverges from three fundamental principles of transitional justice outlined in the United Nations Guiding Principles.

**Firstly**, it fails to uphold a commitment to international law in addressing impunity for violations.

**Secondly**, it lacks a comprehensive approach to transitional justice, which emphasizes the necessity of supporting prosecution efforts.

**Thirdly**, it overlooks the integration of the transitional justice process with the rule of law. This conclusion is drawn from **Muhammad Askar's study titled "International Standards for Transitional Justice and Mechanisms for their Application"**, in which he asserts that the concept of just punishment for crimes, aimed at deterrence, forms the foundation of penal systems. Courts fulfill a societal need by administering punishment to law violators, thereby ensuring accountability and rejecting impunity.

---

<sup>137</sup> National Accord Agreement 2009.

## **Second: The Truth**

Upon examination of all reconciliation agreements, it becomes apparent that they deliberately refrain from addressing the notion of truth and the right to access it. Upon revisiting the National Accord Agreement, particularly Section four, one of the primary objectives of the reconciliation committee is noted to be the solicitation of testimony from victims to ascertain the harm inflicted upon them, primarily pertaining to financial compensation rather than truth-seeking endeavors.

In this context, **Hawari Qade's study titled "Transitional Justice: The Other Face of Justice"** elucidates that truth committees differ from official judicial investigation bodies; their mandate is to seek objective truth with the aim of elucidating the events encompassing violations and crimes occurring within a specific timeframe, thereby fostering the potential for reconciliation. Successful reconciliation necessitates the harmonious convergence of truth and knowledge to attain the essence of justice, a dynamic equilibrium demanding the validity of both "knowledge and truth"; without this dual foundation, justice remains elusive.

This sentiment is echoed in **Muhammad Askar's study titled "International Standards for Transitional Justice and the Mechanisms of Their Application"**, wherein truth commissions are delineated as official, independent, non-judicial national entities established by law, serving as a complementary strategy to uphold the rule of law and combat impunity.

## **Third: Reparations and Community Reconciliation**

The National Reconciliation Agreement established a reconciliation committee known as the "Community Reconciliation Committee", endowed with the authority to facilitate community reconciliation. The fourth section delineates the objectives, mechanisms, and tools of community reconciliation, encompassing the following aims:

Objectives of the National Reconciliation Commission

- Propagating a culture of tolerance, love, reconciliation, political partnership, and coexistence.
- Resolving all violations resulting from lawlessness and division by legal means.
- Developing a program to provide financial and moral compensation to those affected by division and violence.
- Establishing foundations and mechanisms to prevent the recurrence of unfortunate events.
- Securing the necessary budgets to support the success of the committee's mission through a national fund financed by the Arab world.
- Overseeing social reconciliation initiatives.
- Forming sub-committees in all governorates.

Additionally, the agreement outlines the operational mechanisms of the reconciliation committee and delineates various types of compensation<sup>138</sup>.

When discussing the reparations section of the Convention, it is notable that the conventions did not provide clear definitions for "victim" and "internal confrontations," nor did they specify particular times or locations. Consequently, ambiguity arises regarding whether this definition encompasses periods both before and after the actual division of 2006-2007, as well as whether it includes the territories of the West Bank and the Gaza Strip. Moreover, the conventions do not assign responsibility for compensatory payments to perpetrators or their factions. This raises questions about whether reparations are considered accountability tools in this context. From the researcher's perspective, reparations appear to serve primarily as a means to encourage victims to sign reconciliation agreements rather than as tools for deterrence.

---

<sup>138</sup> See the text of the 2009 National Accord Agreement, Section 4.

Transitional frameworks play a vital role in encouraging party involvement in peace and reconciliation efforts, fostering goodwill, and facilitating negotiations. However, doubts arise regarding the effectiveness of transitional justice procedures in the current divided landscape, given their significant impact on reconciliation. Despite this, recognizing reconciliation as an ongoing process is crucial. Transitional justice measures, including reparations, can foster an environment conducive to long-term reconciliation. Additionally, exploring external compensation plans and emphasizing the need for an impartial peace mediator are essential.

When implementing transitional justice, its scope extends to the development of a diverse array of strategies aimed at addressing the legacy of past human rights violations. These strategies, along with their practical applications, aim to foster a more just and democratic future. It is imperative that these strategies be applied within the context of democratic transition, while also addressing the root causes that precipitated the conflict. Consequently, transitional justice serves as a critical determinant for the success of democratic transition processes. It operates as a framework of justice employed during periods of significant political change, utilizing legal measures to address crimes committed by preceding authoritarian regimes. The various processes within the transitional justice system should incorporate procedures intended to be remedial or restorative in nature, thereby balancing punitive transitional justice approaches.<sup>139</sup>

Victims typically seek to hold perpetrators accountable, ensure concrete measures to halt and prevent future violations, uncover the truth, undergo rehabilitation, receive appropriate apologies, revive collective memory, and institute institutional reforms. However, Palestinian reconciliation agreements have overlooked several of these crucial elements. They have failed

---

<sup>139</sup> Calhoun, Noel. 2014. The dilemmas of transitional justice in the transition without inclusiveness to without democracy, p. 18-21.

to address accountability for perpetrators, the repatriation of deportees, issuing apologies, revitalizing collective memory, uncovering truth, and implementing rehabilitation measures.

In order to ensure that the events of the past are not repeated, the National Reconciliation Agreement mentioned some mechanisms that shall be highlighted:

- Lifting the organizational, tribal, and familial protection for anyone who commits assaults on individuals and properties.
- Issuing a charter of honor that confirms the prohibition of internal fighting, and establishing a mechanism for its follow-up.
- Assigning the reconciliation committee, the task of follow-up with the relevant parties, and demanding their firmness in their positions to stop the process of taking the law into one's own hands or preventing vigilante justice.
- The section on institutional reform, whether in the Palestine Liberation Organization or the institutions of the Palestinian Authority, is considered among the guarantees to prevent the recurrence of what happened, although it was not presented in this way.

#### **Analysis of the Community Reconciliation Committee formed by (Takaful)**

In 2011, the National Committee for Social Development (Takaful) was established as a humanitarian relief organization aimed at providing assistance to the underprivileged population in the Gaza Strip. It actively supported a subsequent reconciliation committee formed in June 2017, which expanded its jurisdiction to encompass all internal conflicts occurring between January 1, 2005, and May 1, 2011.

The committee was able to settle 134 cases of murder, which were distributed equally between Fatah and Hamas. The committee had suspended its work following the agreement reached

between Fatah and Hamas in 2017, but stressed that it would have had the capacity to complete 80% of the cases had the work continued<sup>140</sup>.

The Community Reconciliation Committee comprises the High Committee for Reconciliation, serving as the principal administrative entity, alongside five branches—one in each of the five governorates of Gaza. Each branch encompasses sub-committees dedicated to specific functions: a Sharia committee responsible for assessing damages in accordance with Islamic law, a legal procedures subcommittee, a media committee tasked with public and media relations, and a medical committee determining the extent of damages and disabilities. Despite the existence of these various committees, the committee provides uniform compensation to all victims, amounting to a fixed sum of \$50,000 USD.<sup>141</sup>

It is evident from the Commission's efforts that it aims to circumvent retaliatory actions against perpetrators or their prosecution by offering compensation in alignment with its customary principles.

There are two main observations emerge:

- Perpetrators were absolved of any form of accountability, be it judicial, administrative, or political.
- There was a lack of public and proper apologies extended to each affected family, encompassing acknowledgment of guilt, seeking forgiveness, and pledging non-repetition.

Regarding the Public Liberties Committee in the West Bank, established following the 2011 agreement after the initial phase, the anticipated second step, to be taken by the president, did not materialize for various reasons. According to Khalil Assaf, this lack of action is

---

<sup>140</sup> interview: Khalil Assaf, head of the Association of Independent Personalities in the West Bank, and member of the reconciliation committee emanating from the 2011 agreement. 5/1/2024.

<sup>141</sup>interview: Khalil Assaf, head of the Association of Independent Personalities in the West Bank, and member of the reconciliation committee emanating from the 2011 agreement. 5/1/2024.

unjustified. One such reason cited is the improbability of Israel agreeing to hold elections in Jerusalem. Consequently, those advocating for change are not inclined to wait for such arguments.

The issue with this committee stemmed from the lack of a minimum level of executive authority or operational freedom necessary for its functioning. The committee's mandate is to monitor violations and address complaints regarding attacks on freedoms, dignity, activities, and financial resources. It is unfortunate that this obstruction to its work was present from its inception<sup>142</sup>.

#### **Fourth: Institutional Reform**

The 2009 National Accord Agreement, reinforced by the 2011 Cairo Agreement, addresses multiple dimensions of institutional reform spanning security services, civil institutions, and the Palestine Liberation Organization (PLO). A pivotal aspect of this accord involves the specification of timelines and procedures for holding both presidential and legislative elections, mandating their occurrence within six months following the establishment of a consensus government. This section provides clarity on the requisite rules and mechanisms essential for conducting these elections effectively.

Furthermore, the National Accord Agreement outlines four key provisions. Firstly, it calls for the establishment of the Supreme Security Committee, charged with the crucial task of reforming and integrating security forces. Secondly, it mandates the formation of a legal and administrative committee tasked with the reform and integration of governmental institutions. Thirdly, it advocates for the creation of a committee dedicated to enhancing and developing

---

<sup>142</sup> interview: Khalil Assaf, head of the Association of Independent Personalities in the West Bank, and member of the reconciliation committee emanating from the 2011 agreement. 5/1/2024.

the Palestine Liberation Organization (PLO). Lastly, the agreement emphasizes the imperative of organizing elections as part of the broader reform agenda.

The Supreme Security Committee: One of its primary tasks is to formulate security policies and supervise their implementation.

The committee supervised the following:

- Rebuilding and restructuring the Palestinian security services with Egyptian and Arab assistance in both the West Bank and Gaza Strip.
- Emphasizing the right to job security for all security services employees.
- The process of absorbing (3,000) members of the former security services in the police, national security, and civil defense into the existing agencies in the Gaza Strip begins immediately after the signing of the National Reconciliation Agreement, provided that this number increases gradually until legislative elections are held according to a mechanism to be agreed upon.

From the researcher's perspective, the Palestinian reconciliation agreements outline rules and principles concerning what is termed "the reconstruction of security services" and civil institutions. However, they fall short in providing concrete mechanisms for implementation. Despite provisions for a dedicated body to implement the reconciliation agreement by both parties, this committee has yet to be established, and subsequent reconciliation agreements have disregarded its formation. The researcher asserts that achieving genuine institutional reform necessitates a robust entity endowed with requisite legitimacy to enforce reform initiatives impartially, without favoring any party's stance. It is proposed that the reconciliation implementation committee should be democratically elected and vested with substantial authority, potentially even impacting the judiciary itself.

The Palestinian reconciliation agreements did not incorporate any specific mechanisms to enforce adherence of the security services to legal frameworks and human rights standards. Instead, they outlined guiding principles aimed at fostering such compliance.

The PLO Committee, proposed since the inception of the initial reconciliation agreements in 2005, is tasked with the development and revitalization of the Palestine Liberation Organization (PLO). Among its responsibilities is defining the interplay between the structures, institutions, and mandates of both the PLO and the Palestinian Authority, particularly the relationship between the National Council and the Legislative Council. Despite its proposed formation, this committee has yet to be established and has been disregarded in subsequent attempts to reconcile divisions. The National Accord Agreement mandates the establishment of a new National Council, guaranteeing representation of national and Islamic forces, factions, public assemblies, sectors, institutions, and activities. Elections for the National Council are to be conducted based on the principle of proportional representation.

### **Holding elections**

The National Accord Agreement outlined a framework for concurrently conducting legislative and presidential elections, as well as the election of the National Council. However, this arrangement was disregarded when the President issued a decree to conduct the elections sequentially, beginning with the legislative elections. Notably, these proceedings aligned with the provisions of the 2007 Election Law, which employs proportional representation.

Azzam al-Ahmad responded by indicating that elections were intended to be the final step in the reconciliation process. He emphasized that the resolution of the Jerusalem issue was a prerequisite for holding elections, asserting that Hamas must adhere to the terms of the agreement it had previously signed but failed to implement. Prior to agreeing to hold

elections, President Mahmoud Abbas requested written approval from Hamas, ensuring their commitment to implementation. This request was conveyed by Hanna Nasser, the head of the election committee, at the time<sup>143</sup>.

From the researcher's perspective on elections, they should occur subsequent to the unification and professional rebuilding of the security services. Additionally, there should be an examination and dismissal of individuals found to be involved in corruption or serious human rights violations. Moreover, holding elections necessitates the unification of the judiciary and guaranteeing its independence. Furthermore, consensus on establishing a Constitutional Court should be reached after making requisite amendments to the governing legislation.

Concluding this section of the study, which examines transitional justice mechanisms within reconciliation agreements, emphasizes the importance of contextualizing transitional justice models within the Palestinian political system. Failure to consider these contextual nuances risks yielding a model ill-suited to address the specific challenges inherent in the Palestinian political scene. The Community Reconciliation Committee's inability, as mandated by the 2009 Cairo Agreement, serves as a compelling example of the significance of contextual considerations and a comprehensive approach in effectively advancing initiatives.

Therefore, it is crucial to acknowledge the pivotal role of political context in shaping transitional justice initiatives. Without a thorough understanding of these contextual dynamics, efforts to promote national unity, democratic progress, and liberation may encounter significant hurdles. Moving forward, it is essential to work towards comprehensive agreements that provide holistic solutions to the multifaceted challenges hindering progress towards these overarching objectives.

---

<sup>143</sup> interview: Azzam al-Ahmad, head of Fatah's delegation to the reconciliation agreements. 10/1/2024.

## **Chapter Four**

### **International conventions and comparative experiences in transitional justice**

Various foreign experiences with transitional justice have been documented, including notable examples in Chile (1990), South Africa (1994), Poland (1997), Sierra Leone (1990), Morocco (2004), Argentina, Indonesia, and other locations. Transitional justice represents a branch of activism that employs a range of tools to address communities grappling with a history of significant human rights violations. It encompasses both legal and non-legal measures, judicial or otherwise, aimed at fostering the development of a more democratic society and ensuring a secure future under the rule of law, alongside the protection of citizenship rights<sup>144</sup>.

Transitional justice employs a terminology map encompassing phrases such as social reconstruction, national reconciliation, the establishment of truth and reconciliation commissions, reparations, and government institution reform. This map evolves to integrate new concepts that align with the transitional environment in various countries and circumstances.

#### **The first topic**

#### **Transitional justice and core international human rights conventions**

Transitional justice draws its foundation from several key references, notably including the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, as well as the Geneva Conventions of 1949 and its Protocols.

---

<sup>144</sup>Al-tayyeb, Heidi Ali. 2014. Transitional Justice in Arab Contexts. II. Arab Organization for Human Rights. p. 54.

Numerous resolutions have been issued by the United Nations pertaining to this matter, with particular significance attributed to Human Rights Council resolutions such as No. 70 of 2005 addressing human rights and transitional justice, No. 81 of 2005 concerning impunity, and No. 66 of 2005 focusing on the right to truth. Additionally, fundamental guiding principles on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law were delineated by the United Nations General Assembly. Further insights are provided in the Report of the Human Rights Council for the twenty-second special session and the twenty-seventh session of 2014<sup>145</sup>.

In resolution 47/2006 on the rule of law, the Secretary-General designated the Office of the United Nations High Commissioner for Human Rights (OHCHR) as the primary entity within the United Nations system tasked with addressing transitional justice concerns. The OHCHR is entrusted with formulating policy, setting standards, providing substantive guidance, and enhancing capacity-building and collaboration with the United Nations and other stakeholders. Furthermore, at the behest of the Human Rights Council, a key actor in transitional justice matters, the Commission was urged in resolution 12/11 of 2010 to reinforce its leadership role within the United Nations framework. This includes conducting conceptual and practical work on transitional justice and assisting states, upon their consent, in the development, establishment, and implementation of transitional justice mechanisms from a human rights perspective<sup>146</sup>.

On 29 September 2011, the Human Rights Council adopted resolution 18/7, in which it decided to appoint, for a period of three years, a Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. In 2023, the Human Rights Council adopted

---

<sup>145</sup> United Nations General Assembly, 2020. Promotion and protection of all human rights, civil, political, economic, social and cultural. Forty-fifth session.

<sup>146</sup> United Nations Human Rights, 2006, Secretary-General: The rule of law is all that stands between peace and conflict.

resolution 54/8, which extended the mandate of the Special Rapporteur for a further period of three years<sup>147</sup>.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) has developed rule of law tools for post-conflict countries, aiming to bolster the institutional capacity of UN field offices, transitional administrations, and civil society organizations in addressing transitional justice needs. These tools, rooted in international human rights frameworks and informed by UN mission experiences, include specific guidelines for national consultations on transitional justice. Emphasizing inclusivity for effectiveness and sustainability, these guidelines outline core human rights instruments, consultation scopes, and operational mechanisms for reporting and follow-up<sup>148</sup>.

The UN High Commissioner for Human Rights spearheaded the drafting of the Secretary-General's guidance note on the UN approach to transitional justice, issued in March 2010. This note advocates for a rights-based approach to transitional justice and outlines three key measures to enhance UN efforts in this field<sup>149</sup>:

1. Addressing root causes: Advocating for an approach that considers the underlying causes of conflict or repressive rule and addresses associated violations of all rights.
2. Integration into peace processes: Encouraging the incorporation of human rights and transitional justice considerations into peace processes.
3. Coordinated initiatives: Recommending the coordination of disarmament, demobilization, and reintegration efforts with transitional justice activities to ensure mutual reinforcement.

---

<sup>147</sup> United Nations Human Rights

<sup>148</sup> United Nations General Assembly, 2011. United Nations High Commissioner for Human Rights and Transitional Justice Report, Eighteenth Session, p. 5.

<sup>149</sup> United Nations General Assembly, 2010, Guidance Note by the Secretary-General, p. 3.

Following the Secretary-General's guidance, the UN High Commissioner for Human Rights is actively exploring transitional justice matters, considering evolving legal scene. To address this, an expert workshop convened in Geneva in October 2010, focusing on transitional justice systems' responses to economic, social, and cultural rights violations. It assessed their capacity and current challenges in this area<sup>150</sup>.

The UN High Commissioner for Human Rights examined the link between disarmament, demobilization, and reintegration (DDR) and transitional justice. In 2009, the Inter-Agency Working Group on DDR issued a model aligning with the Integrated Standards for Hostilities. Collaborating with the International Centre for Transitional Justice, the UN established this unit. In December 2010, a workshop, based on this integrated standards module and the Secretary-General's advisory note, aimed to enhance cooperation between DDR programs and transitional justice initiatives. The workshop evaluated various DDR projects' relevance to transitional justice procedures and drew lessons from their experiences<sup>151</sup>.

The data concerning the initiatives of the United Nations High Commissioner for Human Rights underscores the growing significance of the Office in delivering extensive support within the realm of transitional justice. Furthermore, it urges the various organs comprising the United Nations human rights system to maintain their commitment to giving adequate attention to transitional justice efforts.

### **International agreements signed by Palestine**

The process of aligning legislation with international agreements stands as a pivotal advancement within the Palestinian legal landscape subsequent to the State of Palestine's

---

<sup>150</sup> United Nations General Assembly, 2010, Guidance Note by the Secretary-General, p. 9.

<sup>151</sup> United Nations General Assembly, 2011. United Nations High Commissioner for Human Rights and Transitional Justice Report, Eighteenth Session, p. 6.

accession to a collection of international agreements. Upholding its international obligations and adhering to the provisions outlined in the agreements it has ratified fall under the responsibility of the state. This necessitates achieving equilibrium between the international commitments assumed by Palestine and its domestic legislation through the harmonization of the latter with international agreements.

### **Regarding Human Rights Violations:**

#### **Right to Life**

The right to life is considered one of the highest human rights stipulated in international human rights standards. The Universal Declaration of Human Rights stipulates the right of every individual to life, liberty, and security of his person, while the International Covenant on Civil and Political Rights stipulates that the right to life is an inherent right of every human being. The law must protect this right, and no one may be arbitrarily deprived of his life. The Palestinian Basic Law also stipulates guaranteeing the right to life and physical integrity.

#### **Freedom of Speech:**

The Universal Declaration of Human Rights enshrines the right to freedom of speech<sup>152</sup>, while the International Covenant on Civil and Political Rights, to which Palestine is a signatory, upholds the right to hold opinions without interference and the freedom of expression<sup>153</sup>. At the Palestinian level, the Basic Law mandates that freedom of opinion shall remain inviolable, and every individual possesses the right to express their opinions and disseminate them verbally, in writing, or through other forms of expression or artistic means<sup>154</sup>.

---

<sup>152</sup> Article (19) of the Universal Declaration of Human Rights.

<sup>153</sup> Article (19) of the International Covenant on Political and Civil Rights.

<sup>154</sup> Article (27) of the Amended Palestinian Basic Law.

**Arbitrary Detention:**

International standards unequivocally prohibit arbitrary detention, as articulated in the Universal Declaration of Human Rights<sup>155</sup>, which asserts that no individual shall be subjected to arbitrary arrest, detention, or exile. Regrettably, in Palestine, arbitrary detention has been observed at alarming frequencies, as highlighted in the chapter concerning the repercussions of the division.

**Torture and Ill-Treatment:**

Violations of the right to physical or personal integrity encompass instances of torture and coercion during arrests and interrogations, as well as cruel and inhumane treatment during detention. Throughout the period of division, there was widespread employment of torture, contravening the agreements ratified by Palestine, notably the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Such acts are expressly prohibited by both international agreements and the Palestinian Basic Law, particularly Article 13, which stipulates that no individual shall be subjected to coercion or torture.

The egregious human rights transgressions witnessed during the period of Palestinian division place Palestine under responsibility and obligation in accordance with all international agreements it has endorsed. This necessitates a significant level of accountability from Palestine in addressing these issues.

**International agreements signed by Palestine**

- 1- Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment.
- 2- International Covenant on Civil and Political Rights.
- 3- International Covenant on Economic Social and Cultural Rights.

---

<sup>155</sup> Article (9) of the Universal Declaration of Human Rights.

- 4- International Convention on the Elimination of all Forms of Racial Discrimination.
- 5- Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.
- 6- United Nations Convention against Corruption.

**The second topic**  
**Transitional justice - the experiences of states and Palestinian specificity**  
**(the experience of Morocco and South Africa)**

Palestine faces pivotal decisions with far-reaching consequences. Civil society must actively address human rights violations, including meaningful participation of women's institutions in transitional justice discussions. However, integrating transitional justice into reconciliation agreements demands careful consideration. Leaving this responsibility to implicated parties risks exacerbating the situation<sup>156</sup>.

In the Palestinian transitional justice framework, it is crucial to acknowledge that the absence of mechanisms safeguarding publicly funded positions undermines trust in governmental institutions, perpetuating a climate of impunity and corruption. Such ramifications undoubtedly impede economic development, diminish overall quality of life, and necessitate stabilization efforts. Therefore, the imperative lies in the adoption of a multifaceted transitional justice approach through either a comprehensive strategy or a mutually agreed long-term roadmap in Palestine<sup>157</sup>.

---

<sup>156</sup> Palestinian Center for Policy Research and Studies – Masarat, 2012

<sup>157</sup> Al-Masri, Hani. 2007. The Future of the PLO. p. 25.

### **Morocco's Experience in Achieving Transitional Justice**

During the period of independent Morocco, widespread violence ensued, leading to numerous human rights violations. These violations occurred within the conflicts among factions of the national movement and armed resistance, arising from disputes over the management of early independence years. Additionally, they transpired within the political and social struggles surrounding the establishment of the modern state, spanning from the late 1950s to the mid-1970s<sup>158</sup>.

Among the significant incidents are the 1958-1959 uprising in the Rif region, the "conspiracy" of 1963 against King Hassan II, and the 1965 uprising in Casablanca. Notable events also include a 1972 attempted coup and the 1975 Green March. Despite a relative decrease in violence and calls for democratic consensus, subsequent uprisings occurred, such as those in Casablanca in 1981 and 1984, in various northern Moroccan cities, Marrakesh, and Fez in 1990<sup>159</sup>.

During the post-World War II era, Morocco shared in global political upheavals marked by authoritarianism and human rights abuses, akin to various countries worldwide. For instance, Argentina's transition to democracy post-military rule and Peru's struggle with armed conflict and dictatorship under Alberto Fujimori exemplify parallel experiences. Fujimori's resignation in 2000 paved the way for Peru's return to democracy, marked by the establishment of a Truth and Reconciliation Commission in 2003 to address two decades of internal conflict<sup>160</sup>.

In the final years of Hassan II's reign, human rights organizations experienced an unprecedented surge in activism and participation. Independent and critical media outlets

---

<sup>158</sup> Muezzin, Abdul Hai. 2006. "Political Violence in the Maghreb of Independence": From Protection to Independence, *The Problem of the Current Time*, p. 50-53.

<sup>159</sup> Muezzin, Ibid, p. 54.

<sup>160</sup> Boutron, Camille. 2012. "The issues established around human rights in the process of consolidation of democracy in Peru," in: Daviaud, p. 39-40.

dominated the public discourse. Additionally, political detainees and those who had disappeared forcibly were released, secret detention facilities were shut down, and exiled individuals were permitted to return to their positions<sup>161</sup>.

Upon assuming office in 1999, King Mohammed VI continued the trajectory of political openness initiated by his father. He delivered a speech reflecting this openness and implemented political, institutional, and human rights measures that underscored the overarching principles guiding his governance approach. In the initial year of his reign, he introduced a new concept of power emphasizing the importance of public interests and local affairs management, along with the preservation of social harmony. This approach prioritized environmental protection, social welfare initiatives, and efforts to integrate marginalized communities into society while safeguarding their dignity<sup>162</sup>.

The Equity and Reconciliation Commission, established by royal decree in November 2003, followed a recommendation from the Advisory Council for Human Rights. It began operations the next year. This initiative aimed to inject new legitimacy into the political system after a smooth transition of power. The ruling government, buoyed by the support of national opposition parties, led the establishment of the Commission and outlined its mandate. Despite political factions' detachment, civil society, including local and international associations, played a crucial role in supporting the Commission's efforts<sup>163</sup>.

The Moroccan experience in transitional justice, epitomized by the Equity and Reconciliation Commission, stands as a significant global precedent and the foremost Arab example in this domain. Consequently, studying it could provide valuable insights for Arab countries undergoing transitions following the upheavals of the Arab Spring. Such research could offer

---

<sup>161</sup> Monjib, Muti. 2018. "The Moroccan Spring: Historical Roots and Contexts", p. 110.

<sup>162</sup> Kingdom of Morocco, "The text of the speech addressed by His Majesty King Mohammed VI to the officials of the regions, wilayas, currencies and regions, including administrative officials and citizens' representatives", His Majesty the King's speeches.

<sup>163</sup> Vermoren, Pierre. 2002. Morocco transitional period. Translated by Ali Ait Ahmad, p. 43-44.

inspiration for crafting transitional justice frameworks tailored to the unique political, economic, and social contexts of these states<sup>164</sup>.

The Equity and Reconciliation Commission has played a crucial role in reshaping Moroccan politics, fostering cooperation between governmental bodies and opposition forces. This has led to the emergence of new political parties and the conduct of fair elections. Consequently, civil society has been empowered to advocate for institutional reforms, prompting legislative changes. Notably, the Advisory Council for Human Rights has transformed into the National Human Rights Council, aligning with international standards like the Paris Principles. The Council now has expanded powers, including the inspection of detention facilities. Additionally, an economic and social council has been established to address socio-economic issues, reflecting Morocco's commitment to social justice<sup>165</sup>.

The transitional justice process had a lasting impact on the nature of human rights violations committed by public authorities. It was observed that recorded violations were less severe compared to those during times of conflict. This highlights the specificity of the Moroccan experience, particularly with the establishment of the Equity and Reconciliation Commission in response to demands from human rights organizations, civil society, and Moroccan society at large. The Commission integrated popular demands into its work. Additionally, Morocco's participation in and ratification of key conventions, including the International Convention for the Prevention of Enforced Disappearance and the Convention against Torture, underscore its commitment to addressing human rights issues<sup>166</sup>.

Morocco's commitment to international conventions has been pivotal in reducing severe violations and holding perpetrators accountable, notably by accrediting victims' testimonies, particularly among political detainees released from clandestine detention centers. This has

---

<sup>164</sup> Mukhtar, Amal. 2011. How to benefit from the experiences of other countries, p. 98.

<sup>165</sup> National Council for Human Rights - Morocco, 2013.

<sup>166</sup> Ottaway, Marina & Riley, Mir Yedit. 2006. Morocco: From Hierarchical Reform to Democratic Transition?. p. 6.

facilitated their reintegration into society. Furthermore, Morocco's unique approach to transitional justice, initiated within an existing political system, contrasts with previous experiences occurring amidst regime transformations. The establishment of the Equity and Reconciliation Commission through a political decision suggests its potential effectiveness in mitigating violence and tension in other Arab countries<sup>167</sup>.

The Equity and Reconciliation Commission's work from 1956 to 1999 demonstrated a strong focus on memory management. It addressed various aspects, including truth disclosure, redress, reparations, historical reconciliation, and facilitating political transition and reform. However, its effectiveness was hindered by the perpetuation of the existing political system and the inability of opposing forces to advocate for comprehensive transformation integrating transitional justice within democratic governance and the rule of law<sup>168</sup>.

The Moroccan experience highlights reconciliation with cultural and linguistic diversity through adopting the Amazigh language alongside Arabic and establishing the Royal Institute for Amazigh Culture to address regional marginalization. This underscores the significance of constitutional mandates, including recommendations from the Equity and Reconciliation Commission. These emphasize adherence to international conventions, non-discrimination, and safeguarding rights within a structured constitutional framework. This includes delineating powers among authorities and providing oversight by the Supreme Council of the Judiciary over national institutions<sup>169</sup>.

---

<sup>167</sup> Ottaway, Marina & Riley, *Ibid.*, p. 27-28.

<sup>168</sup> Equity and Reconciliation Commission, 2006. Final Report, Book One (Rabat: Advisory Council for Human Rights), p. 17.

<sup>169</sup> Abdellatif, Aknoush. 1999. *The Reality of Institution and Legitimacy in the Moroccan Political System on the Threshold of the 20th Century*, p. 37.

## **Transitional justice tools in the Moroccan experience**

### **First: Revealing the Truth**

Initially, the focus on revealing the truth became a contentious issue during the preparatory negotiations for establishing the Commission. A faction, primarily associated with the political system, questioned the need for the commission, citing Morocco's relatively limited history of violations compared to countries like Chile and Argentina. However, advocates stressed that unveiling the truth was essential for Morocco's future development and reconciliation with its past<sup>170</sup>.

The Commission focused on revealing the truth, addressing violations' impacts, and preserving memory to redress victims, facilitate reparations and rehabilitation, and achieve historical reconciliation. Seven public hearings, held in six different regions of Morocco and broadcasted on television and radio, allowed victims to share their testimonies. These sessions were pivotal in the pursuit of justice and reconciliation, aiming to restore dignity, moral integrity, and collective memory while alleviating psychological trauma. Additionally, they served an educational purpose, enlightening officials, public opinion, society, and younger generations<sup>171</sup>.

### **Second: Memory Preservation**

In its concluding recommendations, the Commission advocated for comprehensive constitutional, political, and legal reforms. Key among these were proposals to bolster legal, judicial, and constitutional safeguards for human rights, criminalize egregious human rights violations such as arbitrary detention and enforced disappearance, and devise a national

---

<sup>170</sup> Bouderga, Mubarak & Benyoub, Ahmed Shawky. 2017. So it was: Memoirs from the Experience of the Equity and Reconciliation Commission, p. 15-30.

<sup>171</sup> Equity and Reconciliation Commission, Final Report, Book One, p. 108.

strategy to combat impunity. Additionally, the Commission proposed initiatives to reform criminal policy and legislation, enhance security governance, bolster judicial qualifications and independence, and fortify the separation of powers<sup>172</sup>.

### **South Africa's experience in achieving transitional justice**

The transformation of South Africa's political scene cannot be solely attributed to its discriminatory policies, but rather to a combination of internal and external factors that propelled the process of change and coerced the regime to adapt. Domestically, political considerations held considerable weight, particularly amid escalating tensions surrounding racial inequality. The aftermath of the Soweto uprising in 1977 marked a significant turning point, as South Africa experienced a surge in popular mobilization, prompting the regime and its affiliates to acknowledge the leadership embodied by the African National Congress (ANC). Additionally, there was a widespread international outpouring of sympathy towards the South African people's struggle for justice and equality<sup>173</sup>.

The complexity increased further as most leaders of the Bantustans refused to accept the formal independence granted to them by the apartheid regime. The regime aimed to rid itself of the threat posed by the black population and to maintain most of South Africa under the rule of the white minority. Additionally, the international community refused to recognize those Bantustans that accepted independence<sup>174</sup>. Therefore, this endeavor failed to achieve legitimacy both domestically and internationally. Furthermore, the disintegration of apartheid-era political structures for Indians and Coloureds, particularly among university and school students, who identified themselves with blacks as fellow victims of oppression, exacerbated the situation. The country descended into political turmoil, with successive states of emergency

---

<sup>172</sup> Equity and Reconciliation Commission, Final Report, Book One, pp. 115-121.

<sup>173</sup> Khalaf, Abdul Hadi. 1998. *Civil Resistance: Schools of Mass Action and Its Forms*, Arab Research Foundation. Beirut. p. 55.

<sup>174</sup> Nasr al-Din, Ibrahim. 1989. *South African National Liberation Movement*. Arab Future, Cairo. p. 152-153.

in the 1980s unable to restore law and order, especially as liberation movements approached South Africa's borders. These turbulent political events forced P. W. Botha to resign from the presidency, leading to F. W. de Klerk's assumption of leadership<sup>175</sup>. In addition to economic challenges, the South African economy faced threats from historical issues like periodic droughts, heavy reliance on gold exports, and the use of unfree labor. Global tensions, particularly among black workers, disrupted productivity by the late 1980s. As black workers voiced discontent, foreign banks withdrew loans and deposits. This instability affected capital-intensive industries, worsening the impact of racial discrimination on profits and interests<sup>176</sup>. This decline adversely affected the living standards of the majority of the black population and led to economic hardships among many white individuals. Consequently, the government abandoned its racist policies to avert economic collapse<sup>177</sup>. The security factor was crucial, given its inherent risks and the reverse migration from South Africa in search of stability. Acknowledging this, the apartheid government recognized the imperative to hasten South Africa's democratic transformation<sup>178</sup>. Externally, the regional factor played a crucial role in the transition from white minority rule to black majority in South Africa. The independence of Portuguese colonies, particularly Mozambique, Angola, and Namibia, expanded opposition against apartheid. The African National Congress (ANC) established bases in Mozambique, facilitating resistance. With Rhodesia's racist regime dismantled, apartheid stood as Africa's sole discriminatory regime, prompting increased regional and international condemnation of its policies<sup>179</sup>.

---

<sup>175</sup> Hamid, Khamis Daham. 2010. The political system and problems of national unity in South Africa. Al-Jinan Publishing and Distribution, 1st edition, Amman, p. 302.

<sup>176</sup> Al-Kabbaj, Nevin. 1992. South Africa and the difficult trend towards settlement. *Journal of International Politics*, Issue 109. Cairo. pp. 11-12.

<sup>177</sup> Hamid, Khamis Daham. Previous reference, p. 304.

<sup>178</sup> Hamid, Khamis Daham. *Ibid*, p. 305.

<sup>179</sup> Al-Sharqawi, Muhammad Issa. 1978. The American position in South Africa, *International Politics Journal*, No. 51, Cairo, p. 145.

Regarding the international aspect, significant global transformations since the late 1980s, notably the conclusion of the Cold War and the dissolution of the Soviet Union, enabled the United States to assume a dominant and exclusive role on the world stage, shaping a new international order. This hegemonic shift emphasized the promotion of democracy, human rights, and minority protection as defining principles of the emerging global paradigm<sup>180</sup>.

The aspirations of South Africa's black majority aligned with the values of the emerging American leadership<sup>181</sup>, prompting shifts in the positions of the United States, Britain, and France regarding the apartheid regime. With the realization that South Africa's transition to democracy posed no threat to Western interests, the regime faced crises of instability and legitimacy. Negotiations arose as the preferred solution to prevent violent upheaval<sup>182</sup>.

De Klerk and Mandela orchestrated a transitional plan leading to the lifting of international sanctions against South Africa and the adoption of a transitional constitution in 1993. A key negotiation point was amnesty for those involved in past crimes with political motives. After extensive civil society discussions and international conferences on transitional justice, elections were held in 1994, resulting in the African National Congress victory and Mandela's presidency<sup>183</sup>.

### **Negotiations and the implementation of transitional justice in South Africa**

Negotiations transpired, wherein leaders of the National Party articulated a pivotal request for immunity from criminal prosecution following the transition to democratic governance. They appealed to Mandela for this exemption. National Party officials clarified that without amnesty for party members, the predominantly white-controlled security forces could disrupt the smooth conduct of the 1994 elections. Concurrently, Mandela and his colleagues in the African

---

<sup>180</sup> Al-Azzawi, Daham Muhammad. 1995. Minorities and ethnicity in the Third World and international intervention, a master's thesis submitted to the Faculty of Political Science. Baghdad University. p. 99.

<sup>181</sup> Muhammad, Ahmed Taha. 1993. The Arabs and Post-Apartheid South Africa, *International Politics Journal*, No 114, Cairo, p. 198.

<sup>182</sup> Hamid, Khamis Daham. Previous reference. p. 319-320.

<sup>183</sup> Al-Nawaidi, Abdul Aziz. 2013. The Problem of Transitional Justice: The Experiences of Morocco and South Africa, *Al Jazeera Center for Studies*, p. 3.

National Congress presidency agreed to grant amnesty<sup>184</sup>, leading to the establishment of several agreements, notably the "CAP" Agreement in 1990. This accord delineated mechanisms and procedures for addressing serious violations<sup>185</sup>:

- 1- A task force was established to define political crimes in South Africa, utilizing appropriate rules and mechanisms for releasing political detainees and granting immunity to individuals within and outside the country.
- 2- Temporary immunity was granted to National Conference leaders and members by the government to facilitate their return for implementing "CAP" Agreement. This led to the "Pretoria" Memorandum, outlining the release of ANC prisoners and abstaining from direct trials. The Ministry of Justice subsequently endorsed general principles for defining political crimes, offering amnesty, prosecution exemption, and temporary immunity to detainees and exiles involved in armed conflicts.

Regarding transitional justice procedures, the Constitution established the principle of "reconciliation" by emphasizing that<sup>186</sup>:

"This constitution establishes a historical bridge between the past of a society torn by divisions, conflicts, suffering, and injustice, and a future built on the recognition of human rights, democracy, and peaceful coexistence, and the horizons of recognizing development granted to all South Africans, regardless of the color of their skin, race, social class, or nationality. The search for 'National unity and the well-being of all South Africans presupposes reconciliation between them all"

---

<sup>184</sup> Sher Khan, Adnan. 2009. Reconciliation in South Africa: Negotiation Skills and Confidence Building, Remaking a Nation, Baghdad, p. 129.

<sup>185</sup> Banyoub, Ahmed Shawqi. 2007. A guide on transitional justice, Arab Institute for Human Rights. p. 46.

<sup>186</sup> Preamble to the Interim Constitution of the Republic of South Africa 1993.

South Africa, under apartheid rule for over four decades, transitioned to democracy in 1990, prompting the need to address its tumultuous past. Opting for tolerance-based transitional justice to ensure stability and economic growth, the Unity and Reconciliation Act was enacted after Nelson Mandela's 1994 election. This established the Truth and Reconciliation Commission (TRC) in 1995, tasked with documenting human rights violations from March 1, 1960, until the conclusion of its term as per the Constitution<sup>187</sup>, and vested with broad powers<sup>188</sup>:

1. The power of summons and interrogation.
2. Broad powers to investigate patterns of gross human rights violations committed by public officials and the opposition.
3. Powers to issue recommendations on reparations to victims.
4. Judicial powers to grant amnesty to perpetrators of human rights violations in exceptional circumstances.

The Truth and Reconciliation Commission consists of three subcommissions:

1. The Commission on Human Rights Violations (Truth Commission).
2. The Amnesty Committee.
3. The Reparation and Rehabilitation Commission.

---

<sup>187</sup> Saeed, Abdul Latif Muhammad. (2021). African transitional justice models: South Africa as a case. pp. 101-102.

<sup>188</sup> Arab Democratic Center, (2021). Transitional justice as a model for peacebuilding case study: South Africa.

## **Transitional Justice Tools in the African Experience**

### **First: The Truth**

The Human Rights Violations Commission was dedicated to gathering information regarding crimes and violations occurring during the apartheid regime. Victims testified about past events through five different types of sessions<sup>189</sup>:

1. **Victim hearings:** Some victims were permitted to testify publicly, with testimonies selected based on the nature of the violation.
2. **Hearings on events and facts:** These sessions focused on violations within notorious incidents, emblematic of gross human rights violations.
3. **Hearings for marginalized groups:** This category encompassed marginalized groups such as children, women, the elderly, and young people coerced into military service.
4. **Institutional hearings:** These sessions were convened to hear from various institutions that played a role in the past.
5. **Political party hearings:** Political parties were afforded the opportunity to address apartheid and elucidate factors exacerbating the situation in South Africa.

The commissions issued their reports after hearing the testimony of nearly 22,000 witnesses, of which 2,000 testified in public hearings<sup>190</sup>.

### **Second: Compensation**

The South African Reconciliation and National Unity Act stipulated that all individuals acknowledged as victims of the former apartheid regime were eligible for reparations. The Recommendations Committee was tasked with providing recommendations concerning compensation payments based on their assessment. Compensation was evaluated based on

---

<sup>189</sup> Ibid.

<sup>190</sup> Saeed, Abdul Latif Muhammad. (2021). Ibid. p. 102.

the individual's requirements and the number of dependents. Payments were distributed twice yearly over a span of six years. Compensation was determined according to the following three criteria<sup>191</sup>:

1. The extent of suffering experienced by the victim.
2. The sum required to facilitate the victim's access to services and facilities.
3. The amount necessary to cover the victim's daily living expenses, assessed in accordance with the prevailing economic conditions.

Based solely on these criteria, the Committee recommended that compensation amounts for victims residing in remote areas be marginally higher than those in urban cities. The Commission of Inquiry recommended financial compensation tailored to the severity of each victim's experience, with recorded figures indicating that victims received approximately a quarter of the recommended amount from the Transitional Government. This compensation was disbursed directly to victims through their bank accounts, exclusive of health and social services.

### **Third: Amnesty**

Amnesty for historical offenses emerged as a fundamental component during negotiations aimed at resolving the conflict and fostering democratization in South Africa. The conflicting parties reached a consensus that amnesty would be granted for politically motivated crimes committed during past conflicts, contingent upon the disclosure of truth regarding previous events. This amnesty provision often served political agendas, seeking to stabilize the situation and prevent further conflict. However, a source of significant discontent among the majority of South Africa's black population arose when, six years following the inception of

---

<sup>191</sup> Report of the Reparation and Rehabilitation Committee, p.105.  
[https://www.justice.gov.za/trc/report/finalreport/vol6\\_s2.pdf](https://www.justice.gov.za/trc/report/finalreport/vol6_s2.pdf)

the Commission of Inquiry, less than a quarter of the recommended compensation had been disbursed. Conversely, amnesty proceedings against perpetrators commenced promptly, leading to a notable erosion of confidence in transitional justice mechanisms and processes<sup>192</sup>.

#### **Fourth: Institutional Reform**

South Africa's transitional justice approach has prioritized the transformation of its security services towards non-racist and law-abiding entities, rather than resorting to job screening and isolation for reform. Over time, efforts to integrate the black majority into security services have commenced, initiating a gradual reform process within security and judicial institutions. This institutional reform has been characterized by the following measures<sup>193</sup>:

1. Transitioning the police force into a civilian institution, departing from its previous military orientation.
2. Fostering trust in the police by implementing changes in practices, names, and uniforms.
3. Upholding the political neutrality of the police force and providing training to uphold rights and freedoms.
4. Despite past crimes, a strict system holds police accountable, referring any transgression for immediate judicial review and civilian oversight.
5. The High Committee for Police Administration advises the Minister of Security and Safety and ensures balanced representation.
6. Regional departments oversee local police, enforcing adherence to national policies.

---

<sup>192</sup> Ibid. p. 105-106.

<sup>193</sup> Kalaa, Sharifa. (2019). The experience of transitional justice in South Africa: a study in privacy and contexts. Tikrit Journal of Political Science. No. 18, pp. 180-181.

### **Lessons learned from South Africa**

1. Accountability is crucial for justice, but it was selective in South Africa. Many crimes went unpunished, leading to ongoing injustice in wealth distribution and dissatisfaction among the black majority, fueling crime and violence.
2. A Amnesty should be conditional: South Africa emphasized conditional amnesty, focusing on truth rather than absolute impunity, to avoid perpetuating injustice.
3. Institutional reform can be accomplished without resorting to screening and isolation. However, achieving reform in this manner requires extended time and unwavering political determination.

In the context of implementing transitional justice in post-conflict settings, providing distinct legal protections for victims of human rights violations is crucial. This entails granting them protected legal status at national and regional levels, in accordance with international standards. Victims are entitled to a range of fundamental rights, including redress, compensation, and prevention of recurrence. While disclosing facts about these crimes may lead to sentence reductions in some cases, transitional justice processes must be implemented without fragmentation. Perpetrators are held accountable through criminal charges, and the state remains obligated to ensure justice, even after providing adequate compensation to victims<sup>194</sup>.

---

<sup>194</sup> Ati, Salah. (2011). The concept of transitional justice: its origin, mechanisms and ways to apply it to the Palestinian case, p. 15-20.

## **Strategy for applying transitional justice mechanisms and tools in the Palestinian situation**

In contemplating the application of transitional justice mechanisms within the Palestinian context, a pertinent question arises: What are the prospects of implementing a transitional justice framework akin to those observed in Morocco and South Africa within Palestine?

Palestine's unique circumstances, characterized by its recent emergence as a political entity and its incomplete sovereignty in comparison to nations with established sovereignty and independent governance systems, presents particular challenges. However, it is essential to recognize that the environment of human rights violations transcends national borders, with individuals simultaneously occupying roles as perpetrators and victims. This underscores the complex journey of the Palestinian people in their homeland.

Therefore, the progression of the Palestinian populace both within their native land and across diasporic communities necessitates a profound and substantive consideration to adopt the framework of transitional justice and implement it tailored to the Palestinian context. This call becomes particularly imperative following the turbulent events of June 2007, marked by violent confrontations between the primary factions in the Palestinian sphere, namely the Fatah and Hamas movements. These events precipitated a schism encompassing political, geographic, and institutional dimensions, resulting in the emergence of divergent political systems and dual governing bodies in Ramallah and Gaza.

The aftermath of these events has been characterized by significant human suffering, including loss of life, injuries, disabilities, property destruction, forced displacement, torture, and political detentions. These injustices, rooted in the ongoing occupation, have not only fractured the social fabric but also perpetuated animosities, hindering the process of national reconciliation.

The continued engagement in these practices has played a tragic role in the destruction of the social fabric and the perpetuation of grudges, hatreds, and a desire for revenge among the affected parties. These actions have wounded individuals deeply and disrupted the process of national reconciliation. Essential to this process are societal healing, the restoration of rights to their rightful owners, and the rectification of damages through the revelation of truth and accountability. These steps are necessary prerequisites and obligatory paths toward achieving genuine reconciliation and its practical manifestations.

In the Palestinian context, the implementation of transitional justice faces challenges due to the division within the judicial system and its manipulation by political groups as a substitute for a unified and professional judiciary mandated by the interim constitution (the Basic Law). Nonetheless, transitional justice remains the pivotal strategy for breaking the deadlock impeding the reconciliation process. This underscores the urgent need for concerted efforts to recognize the significance of transitional justice in fulfilling the aspirations of Palestinian society for national harmony and reconciliation across diverse political, intellectual, and social domains.

Palestinian factions, notably Fatah, and Hamas, are urged to establish the Independent Palestinian Commission for Transitional Justice. This commission, drawing upon international experiences and the expertise of the International Center for Transitional Justice, would spearhead the implementation of transitional justice in Palestine. Its primary objective would be to commence mechanisms for comprehensive social reconciliation, thus showcasing a pioneering model to the world and affirming Palestine's enduring inspiration amid its protracted struggle.

## **The Implementation of Transitional Justice Strategies in Palestine: Roles and Responsibilities of Official and Unofficial Palestinian Entities:**

- Palestine Liberation Organization (The Framework of Interim Leadership): Role Definition and Duties
  - Offering political backing to facilitate the execution of transitional justice strategies.
  - The interim leadership framework establishes a supreme executive committee tasked with executing the Palestinian model for transitional justice. The committee's composition encompasses members of the executive committee, party representatives, civil society delegates, independents, as well as representatives from the legislative and judicial authorities. This committee is designated as the “Independent Palestinian Commission for Transitional Justice”.
  - The interim leadership framework initiates the establishment of a Supreme Committee tasked with overseeing and monitoring the operations of the Independent Palestinian Authority for Transitional Justice and its specialized subcommittees. The membership of this committee comprises individuals from the Executive Committee, party representatives, civil society representatives, independents, as well as representatives from the legislative and judicial authorities. This committee is named the “Supreme Committee for Supervision and Follow-up”.
  
- National and Islamic Parties and Forces: Their Roles and Responsibilities
  - Engaging in the initiation of continuous national dialogue workshops focused on transitional justice, its underlying rationale, and its significance within the Palestinian context.
  
- Executive Authority: Its Role and Responsibilities

- Spearheading the reconstruction efforts to address the aftermath of Israeli aggression.
- Providing and allocating the requisite financial and logistical resources to facilitate the operations of the Independent Commission for Transitional Justice.
  
- The Legislative Authority: Its Role and Responsibilities
  - Enacting specialized legislation called the “Transitional Justice Law”, which incorporates the philosophy and objectives of transitional justice within the Palestinian context. This law also defines the executive body, outlines oversight of its committees, delineates tasks and powers, and specifies the enforceability of its decisions.
  
- The Judicial System: Its Role and Responsibilities
  - Reforming the judicial system and establishing a specialized, independent judicial committee responsible for implementing relevant transitional justice strategies.
  
- Civil Society: Its Role and Responsibilities
  - Contributing to launching ongoing national dialogue workshops on transitional justice, its justifications, and its importance in the Palestinian context.
  - Contributing to the development and implementation of workshops supporting the social and political contexts that enhance the application of transitional justice strategies in the Palestinian context.
  - Organizing mobilization and advocacy campaigns aimed at promoting the implementation of transitional justice strategies and offering practical solutions to the obstacles and challenges encountered during the implementation process.

- Independents: Their Role and Responsibilities
- Participating in mobilization and advocacy efforts aimed at supporting the implementation of transitional justice strategies and offering practical solutions to the obstacles and challenges encountered during the implementation process.

## **Transitional justice mechanisms and tools**

### **First: The fact-finding committee**

The establishment of a fact-finding committee represents a significant aspect of the interim leadership framework. This committee operates as an independent and proficient entity, comprising members from diverse sectors, including political parties, representatives of the Judicial Council, delegates from civil society, and independent specialists. Additionally, the Legislative Council assumes a role in overseeing and monitoring the committee's membership. Furthermore, the executive authority bears the responsibility of furnishing financial resources to support the committee's activities.

The tasks entrusted to the committee encompass:

- Conducting research to identify, record, compile, and document instances of past human rights violations.
- Drafting comprehensive reports and providing recommendations to the appropriate authorities, particularly the specialized criminal court tasked with adjudicating cases related to transitional justice.
- The Moroccan approach to truth disclosure holds relevance as a potential model. Within the Moroccan context, truth disclosure constituted a fundamental aspect of transitional justice efforts. The Commission placed emphasis on uncovering truths, and preserving collective memory. These actions were deemed essential for providing justice to victims, addressing their grievances, and restoring their dignity. Moreover, truth

disclosure was instrumental in fostering historical reconciliation, bearing significant social and cultural implications.

- The African transitional justice experience also encompassed five distinct types of public hearings designed to unveil the truth. These hearings included sessions dedicated to victims, events, and factual occurrences, as well as those focusing on marginalized groups, institutions, and political parties.

### **Second: Accountability and guarantees of non-repetition**

The establishment of a specialized criminal court dedicated to transitional justice matters is undertaken by the temporary leadership framework, known as the "Independent Palestinian Commission for Transitional Justice". This court is constituted by individuals who are possess relevant experience, representing various entities such as political parties, the executive authority, the legislative authority, the judicial authority, as well as civil society organizations and independent actors.

A crucial responsibility of political parties and national entities is to encourage their members to collaborate with the court, responding promptly to summonses and adhering to its decisions. Furthermore, the executive authority is tasked with providing financial resources and logistical support to ensure the effective functioning of the specialized court and the enforcement of its rulings. Additionally, the legislative authority is mandated to enact specific legislation governing the Specialized Criminal Court, delineating its jurisdiction and establishing the binding nature of its decisions.

Tasks assigned to the Commission include:

- Conducting criminal trials for individuals accountable for human rights violations.
- Investigating and holding perpetrators of past crimes accountable.

- Ensuring accountability for individuals responsible for past violations of fundamental rights and delivering appropriate sentences for those involved in politically motivated offenses.
- Referring violations motivated by personal reasons during instances of division to regular courts.
- It is noteworthy that the Moroccan approach eschewed retribution and instead focused on disclosure and providing assurances of non-recurrence.
- Similarly, the South African experience granted amnesty to perpetrators of crimes under the condition that they admit to their offenses and issue an official apology.

In this context, it is pertinent for the Palestinian experience to draw inspiration from the approaches adopted by Morocco and South Africa. Given the ongoing occupation faced by Palestinians, there is a pressing need for precise efforts aimed at fostering reconciliation and unifying the Palestinian population against the occupation. Therefore, by emulating the transitional justice strategies employed by Morocco and South Africa, the Palestinian context can potentially benefit from enhanced mechanisms to address past grievances, promote accountability, and ultimately contribute to the collective pursuit of reconciliation and resistance against the occupation.

### **Third: Reparation**

The establishment of the "Compensation, Reparation, and Rehabilitation Committee" within the temporary leadership framework is crucial. This committee is responsible for forming specialized subcommittees to aid in the execution of its duties. Comprising representatives from various entities, including political parties, national and Islamic factions, relevant governmental ministries such as Finance, Social Affairs, Justice, Public Works, Housing, Health, as well as members from the legislative authority, civil society organizations, and

independent stakeholders, the Compensation, Reparation, and Rehabilitation Committee is further supported by contributions from members of the Executive Committee towards victim rehabilitation programs and commemoration initiatives. Additionally, the legislative authority is tasked with enacting legislation specific to the functions of the Compensation and Reparation Committee.

Tasks entrusted to the Committee include:

- Providing compensation to the victims and their families, along with reparations for the damages they have endured.
- Implementing specialized programs aimed at rehabilitating victims.
- Establishing mechanisms dedicated to commemorating the victims.
- The South African compensation model provides a useful framework for emulation, as it adhered to specific standards:
  - 1- Compensation amounts corresponded to the level of suffering endured by the victim.
  - 2- Compensation covered necessary expenses enabling victims to access essential services and facilities.
  - 3- Compensation supported victims' daily living expenses, adjusted according to prevailing economic conditions.

In line with these criteria, the committee recommended slightly higher compensation for victims in remote areas compared to those in urban centers. The investigation committee proposed tailored financial compensation for each victim based on the severity of the violation they experienced.

- The Moroccan approach offers valuable insights into memorializing and honoring the victims' memory.

**Fourth: Institutional reform**

The temporary leadership framework establishes a dedicated committee for institutional reform, comprising representatives from diverse sectors including the Legislative Council, the Civil Service Bureau, political parties, national and Islamic factions, civil society, and independent entities. The Executive Committee (government) assumes various responsibilities in institutional reform, including the reconstruction and restructuring of civil and security institutions in accordance with human rights, democratic principles, and the rule of law. This reform initiative encompasses reviewing regulations and legislation, amending them to foster political and societal harmony. Moreover, the Executive Committee is mandated to provide the requisite material and logistical support to facilitate the committee's tasks. Additionally, representation from the General Personnel Council is ensured in the committee's activities. At the legislative council level, the enactment of specialized legislation to govern the Institutional Reform Committee's operations, delineating its tasks, operational procedures, and obligatory recommendations, is imperative.

Tasks of the Institutional Reform Committee include:

- Assessing the conduct of former officials concerning their transgressions within state institutions.
- Verifying the suitability of current officials for holding public office positions.
- reforming institutions, which entails restructuring, fostering transparency and integrity in operations, and upholding the rule of law.
- Executing initiatives aimed at enhancing employees' understanding of human rights principles and adherence to the rule of law.
- In South Africa, transitional justice diverged from employing screening and functional removal as reform measures, opting instead to focus on establishing non-racist and law-

abiding national security services for the future. Over time, efforts were made to integrate the black majority into security services, initiating a gradual reform process within both security and judicial facilities. In light of these developments, the Palestinian situation, characterized by institutional division, cannot replicate the institutional reform process seen in South Africa without restructuring institutions, fostering their reunification, and isolating individuals proven to be complicit in institutional corruption.

#### **Fifth: National societal reconciliation**

The temporary leadership framework is tasked with establishing a specialized committee named the "National Reconciliation Committee". This committee's membership will encompass representatives from various sectors, including political parties, national and Islamic factions, the legislative authority, civil society organizations, clan and family councils, as well as independent stakeholders.

Tasks of the Committee include:

- Facilitating sessions aimed at social reconciliation.
- Organizing conferences to address national and societal reconciliation.
- Commemorating reconciled families and preserving historical memory.
- Implementing robust media awareness campaigns elucidating the significance of national societal reconciliation in fostering both societal and national peace.

## Chapter Five

### Conclusion

The sequence of events that the Palestinian people have endured reveals the profound burden of internal strife and occupation, which have significantly impeded their liberation efforts. The division within Palestine, creating two separate governments in the West Bank and Gaza, has caused substantial constitutional and legal issues, including the establishment of a Supreme Justice Council and an independent judicial system in Gaza, and judicial appointments that breach legal standards. This division has also affected the legislative council in the West Bank, causing an overlap in the authorities' functions. The document emphasizes the pivotal role of Palestinian civil society organizations in enhancing political participation beyond mere political development, necessitating a comprehensive understanding and execution of duties in various sectors. These organizations are urged to focus on confronting the occupation, facilitating decision-making processes, boosting civil society's engagement in political life, and fostering economic initiatives to empower Palestinians economically. Moreover, it highlights the violations of human rights and public freedoms stemming from the division, underscoring the imperative for transitional justice to heal the years of division and infringements. Achieving transitional justice in Palestine is seen as feasible with political determination, the preservation of institutions, and the adoption of a constitution through a participatory, democratic process. This process includes the separation of powers, conducting free and fair legislative elections, and appointing officials with integrity. Addressing victims' rights is crucial, necessitating the development of transitional justice mechanisms and the strengthening of courts and accountability, supported by a unified political will across all factions.

## Results

Palestine currently finds itself at a pivotal moment where critical decisions will shape the future for coming generations. The choices made by leaders and the involvement of civil society are key to rekindling hope and keeping Palestinian unity alive. Unrevealed issues exist between the split factions, with each side having its narrative, complicating the path to cooperation. Those in command exploit public demands for reform and anti-corruption, turning these into opportunities for personal gain through alliances, ultimately leading to superficial reforms and the issuance of ineffective reports.

In light of the findings from this study:

- Undoubtedly, Israeli occupation plays a major role in hindering Palestinian reconciliation agreements, compounded by the political and geographical division between the West Bank and Gaza Strip.
- The Palestinian situation is unique within the context of transitional justice, especially given its status under occupation, which imposes additional serious challenges for implementing transitional justice.
- Achieving justice and national reconciliation is a vital obligation and humanitarian imperative, shaping the outcome of revolutions. Rooted in principles of justice and fairness, reconciliation involves redressing grievances, providing reparations, and fostering civil peace and security.
- Approaching the inclusion of transitional justice conditions in reconciliation agreements requires caution. Relying solely on parties responsible for violations could have adverse consequences, undermining principles of law and justice beyond mere neglect in agreements.
- To achieve desired transitional justice, the toolkit must be seen as multifaceted, requiring thorough evaluation, clear public communication, meticulous implementation, and effective sequencing. Punishment without legal reform fails to

prevent future violations, and symbolic assurances lack significance without tangible reparations for victims.

- Proceeding cautiously with accountability and trial processes, especially within agreements between conflicting parties like Fatah and Hamas, is crucial. Challenges may arise from officials who have committed violations and actions of armed factions within these movements. Prosecution procedures may also be affected by concerns about fairness or foreign interventions from influential countries.
- Highlighting the significance of civil society bodies in addressing human rights violations.
- Civil society plays a pivotal role in achieving transitional justice; therefore, it must actively engage in facilitating discussions on the requirements and processes of transitional justice, ensuring the participation of all relevant institutions.
- Considering the diverse needs of both genders when implementing various tools and procedures in practice.
- An important conclusion drawn by the researcher is that the high level of tension between the two factions has impeded the attainment of reconciliation solutions, despite numerous agreements, dialogue sessions, and regional interventions aimed at promoting reconciliation. This is primarily attributed to the lack of genuine political will for reconciliation.

## Recommendations

The researcher recommends the following for achieving reconciliation, a primary condition for transitional justice:

- This time, the endeavor is to end the actual division in order to organize the Palestinian internal affairs and to achieve full Palestinian statehood membership in the United Nations.
- Justice and national reconciliation are legal obligations and humanitarian necessities. Successful revolutions rely on reconciliation, failure hinders progress. It's a priority grounded in justice and equity, restoring rights, addressing grievances, and fostering citizenship for peace and security.
- Reviving dormant committees, especially the Public Liberties Committee from the Cairo Agreement, is crucial. Active committees need prompt action, emphasizing reconciliation. Cooperation between West Bank and Gaza authorities is vital to implement committee recommendations, especially concerning public liberties.
- Any future Palestinian reconciliation agreement must include the formation of a truth-finding committee to uncover serious human rights violations. Access to the truth is a basic right of victims, yet previous agreements have failed to address this crucial aspect.
- Effective transitional justice implementation requires a broad popular foundation established beforehand. This foundation needs comprehensive training to raise awareness about rights, freedoms, and the cessation of incitement. Youth should be the majority, utilizing media channels and organizing conferences for influencers to spread awareness.
- Voting is vital, and postponing elections is unacceptable. Delaying undermines changes and justice efforts. Legitimacy hinges on democratic elections, backed by civil society and the international community. In 2006, the challenge was refusing to accept results.

- Fatah and Hamas must urgently collaborate to reform the judiciary, including studying judge appointment procedures for independence and public confidence. Effective communication and coordination between judiciary leaders in the West Bank and Gaza are essential.
- Extensive discussions are vital for steering the reconciliation process, satisfying demands from both political parties and civil society. Considerations for forming a post-reconciliation committee are crucial. This committee need not be government-appointed, granting Palestinians autonomy in establishing truth-seeking procedures.
- Reparations offer an effective means of compensating victims of violations during and after the 2007 conflicts. Drawing inspiration from international compensation schemes is essential. Exploring non-monetary compensation, such as apologies and memorials, alongside financial reparations, is crucial given financial constraints.

## References

### Documents

The Holy Quran.  
 Universal Declaration of Human Rights.  
 The International Covenant on Civil and Political Rights.  
 The International Covenant on Economic, Social and Cultural Rights.  
 Amended Palestinian Basic Law 2005.  
 Palestinian reconciliation agreements (Cairo 2005, National Accord 2006, Mecca 2007, Yemeni Initiative 2008, Egyptian Paper 2009, Cairo 2011, Doha 2012, Al-Shati 2014, Cairo 2017, Istanbul Understandings 2020, Algiers 2022, El Alamein Meeting 2023).  
 Preamble to the Interim Constitution of the Republic of South Africa 1993.

### Books

Abdelati, Salah. (2018). The impact and cost of the division on the Palestinian constitutional system and the human rights situation.

Baltzer, Anna. (2007). Witness in palestine: A jewish American woman in the occupied territories. USA.

Abdellatif, Aknoush. (1999). The Reality of Institution and Legitimacy in the Moroccan Political System on the Threshold of the 20th Century, Berfanés Library, 1st Edition, Casablanca.

Al-tayyeb, Heidi Ali. (2014). Transitional Justice in Arab Contexts. II. Arab Organization for Human Rights.

Andrieu, Kora. (2012). Transitional justice: From South Africa to Rwanda.

Arthur, P. (2010). "Identities in transition" challenges for transitional justice in divided societies.

Askar, Muhammad. (2016). International standards for transitional justice and mechanisms for implementing them. Center for Arab Studies Publishing. Cairo.

Badwan, Ali. (2008 ). Pages from the history of the Palestinian armed struggle: contemporary political and guerrilla formations - origin and fates. II. Dar Safaat for Studies. Damascus.

Bassiouni, C. M. (1996). The Statute of the International Criminal Tribunal for the Former Yugoslavia.

Belkosh, Al-habib. (2014). Transitional Justice in Arab Contexts. II. Arab Organization for Human Rights.

Bishara, Azmi. (2020). The Trump-Netanyahu Deal: The Way to the Text, and from There to the Answer to the Question: What to Do?. Arab Center for Research and Studies.

Bouderga, Mubarak & Benyoub, Ahmed Shawky. (2017). So it was: Memoirs from the experience of the Equity and Reconciliation Commission. Moroccan Publishing House.

Boutron, Camille. (2012). "The issues established around human rights in the process of consolidation of democracy in Peru," in: Daviaud

Calhoun, Noel. (2014). The dilemmas of transitional justice in the transition without inclusiveness to without democracy. Arab Network for Research and Publishing.

Cassel, D. (2008). "Global Impunity." Cornell International Law Journal.

Clark, P., & Kaufman, Z.D. (2009). After Genocide: Transitional Justice, Post-Conflict Reconstruction, and Reconciliation in Rwanda and Beyond.

De Greiff, P. (2006). The Handbook of Reparations.

- Feierstein, D. (2010). The Genocide in Argentina: The Military Coup of 1976. In *Genocide as Social Practice*.
- Ghosheh, Ibrahim. (2008). **Red minaret**.
- Hamid, Khamis Daham. (2010). The political system and problems of national unity in South Africa. Al-Jinan Publishing and Distribution, 1st edition, Amman.
- Hayner, P. B. (2011). *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*.
- Hilal, Jamil. (2006). *The Palestinian Political System after Oslo*, Institute for Palestine Studies.
- Hinton, A. L. (2010). *Transitional Justice: Global Mechanisms and Local Realities After Genocide and Mass Violence*.
- Khalaf, Abdul Hadi. (1998). *Civil Resistance: Schools of Mass Action and Its Forms*, Arab Research Foundation. Beirut.
- Kritz, N. J. (1995). *Transitional Justice: How Emerging Democracies Reckon with Former Regimes. Visions of Governance in the 21st Century*.
- Mamdani, M. (2002). *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda*.
- Minow, M. (1998). *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence*.
- Nasr al-Din, Ibrahim. (1989). *South African National Liberation Movement*. Arab Future, Cairo.
- Safferling, C. (2009). *Security and Post-Conflict Reconstruction: Dealing with Fighters in the Aftermath of War*.
- Salah, Mohsen Mohammed. (2015). *The Islamic Resistance Movement "Hamas" Studies in Thought and Experience*. 2nd Edition. Al-Zaytouna Center for Studies and Consultations. Beirut – Lebanon.
- Sherkhan, Adnan. (2009). *Reconciliation in South Africa: Negotiation Skills and Confidence Building, Remaking a Nation*, Baghdad.
- Slyomovics, Susan. (2008). "Testimonies, writings and silences: The Moroccan Equity and Reconciliation Authority (IER) and reparation," Hammadi Safi (trans.).
- Tabbaa, Maher Tayseer. (2018). *The cost of the division and its impact on the Palestinian economy*.
- Teitel, R. (2003). *Transitional Justice Genealogy*. Harvard Human Rights Journal.
- Teitel, R. G. (2000). *Transitional Justice*.
- Tutu, D. *No Future Without Forgiveness*. Chapter 3. 1999.
- Verdery, K. (1999). *The Political Lives of Dead Bodies: Reburial and Postsocialist Change*. Columbia University.
- Vermoren, Pierre. (2002). *Morocco of the transition*. Translated by Ali Ait Ahmad. Horizon Information Portal. King Fahd National Office.

## Articles &amp; Reports

- Abu Karim, Mansour. 2022. The internal Palestinian struggle for power between Fatah and Hamas: its dimensions, repercussions and consequences. Palestinian Center for Policy Research and Studies - Masarat.
- Al-Khidr, Mohammed & Del Mays, and Francisca. 2020. Palestine Transitional Justice Report. Palestinian Center for the Independence of the Legal and Judicial Profession - Mossawa. 141.
- Al-Masri, Hani. 2011. Prospects for the reconciliation process. Foundation Studies.
- Al-Masri, Hani. 2012. A Reading of the Reconciliation Agreements from the Cairo Agreement to the Doha Declaration, Palestinian Center for Policy Research and Strategic Studies.
- Al-Nawaidi, Abdul Aziz. 2013. The Problem of Transitional Justice: The Experiences of Morocco and South Africa, Al Jazeera Center for Studies.
- Al-Qiq, Muhammad. 2023. The graveyard of the Palestinian division. Palestinian Information Center.
- Amnesty International, 2023 Report.
- Arab Crisis Team. 2023. The Palestinian Reconciliation Crisis.
- Arab Democratic Center, 2021. Transitional Justice as a Model for Peacebuilding Case Study: South Africa.
- Equity and Reconciliation Commission, Final Report, Book One.
- Equity and Reconciliation Commission, Final Report, Book Three.
- Independent Commission for Human Rights. 2007. Annual Report.
- Kingdom of Morocco, "The text of the speech addressed by His Majesty King Mohammed VI to the officials of the regions, wilayas, currencies and regions, including administrative officials and citizens' representatives", His Majesty the King's speeches.
- National Council for Human Rights - Morocco, 2013. Book One: Truth, Equity and Reconciliation.
- Ottaway, Marina & Riley, Mir Yedit. 2006. Morocco: From Hierarchical Reform to Democratic Transition? Carnegie Endowment for International Peace. Middle East Series. Carnegie leaves.
- Palestinian Center for Development and Media Freedoms (MADA), 2008. Annual Report.
- Shobaki, Bilal. "Is it possible and how?" Palestinian Policy Network. 2022.
- UN Human Rights, 2006. Secretary-General: The rule of law is all that stands between peace and conflict.
- United Nations General Assembly, 2010. The United Nations Approach to Transitional Justice. Guidance notes by the Secretary-General.
- United Nations General Assembly, 2011. United Nations High Commissioner for Human Rights and Transitional Justice Report, eighteenth session, agenda items 2 and 3.
- United Nations General Assembly, 2020. Promotion and protection of all human rights, civil, political, economic, social and cultural. Forty-fifth session.

## University theses

- Al-Satri, Hatem Khalil. 2016. Official Political Settlement Projects for the Arab-Israeli Conflict in the Journal of Palestinian Affairs (1971-1993). Master's Degree in Modern and Contemporary History, Islamic University of Gaza, Palestine.
- Al-Azzawi, Daham Muhammad. 1995. Minorities and ethnicity in the Third World and international intervention, a master's thesis submitted to the Faculty of Political Science. Baghdad University.
- Arafat, Hanan Taher. 2005. (The Impact of the Oslo Accords on National Unity and its Reflection on Political Development), Master's Degree in Planning and Political Development, Palestine.
- Bani Odeh, Samer. 2017. The Repercussions of the Palestinian Political Divide on Palestinian Foreign Policy (2007-2016) Master's Degree in Planning and Political Development, Palestine.
- Ibrahim, Abdullah. 2007. (PLO reform: the problem of "structuring and program"), Master's Degree in Planning and Political Development, An-Najah National University, Palestine.
- Jadallah, Aya Zuhair. 2019. (Palestinian Split 2007, Circumstances and Repercussions) Master's Degree in History, Hebron University, Palestine.

## Newspapers &amp; Magazines

- A press statement by Khaled Meshaal warning of external interference to thwart Palestinian reconciliation efforts, 2012. Institute for Palestine Studies. Vol. 23. Issue 89.
- Abu Amr, Ziyad. 1992. The American approach to the Palestinian issue. Journal of Palestine Studies. Vol. 4. No. 8. 1991. 11.
- Abu Fashia, Waseem & others. 2013. Papers in the Palestinian political system and the transfer of power." Palestinian Institute for the Study of Democracy.
- Abu Nahil, Osama. 2009. The emergence of the Palestine Liberation Organization between Arab interests and Palestinian ambition. Journal of Al-Azhar University. Humanities Series. Vol. 11. No. 1.. 134.
- Al-Awaimer, Al-Hussein. 2017. Foundations of reparations in transitional justice. Al-Manara Journal for Legal and Administrative Studies.
- Al-Balli, Masoud & Aqaqaba, Abdulaziz. 2017. Transitional Justice – A Political-Human Rights Approach. Algerian Journal of Security and Development. No 2. 12.
- Al-Kabbaj, Nevin. South Africa and the difficult trend towards settlement. Journal of International Politics. Cairo. No 109.
- Al-Masri, Hani. 2007. The future of the Palestine Liberation Organization. Filastiniyat Magazine. Ramallah. Number 101.
- Al-Sharqawi, Muhammad Issa. 1978. The American position in South Africa, International Politics Journal, Cairo. No. 51.
- Arab Intellectual Forum. And the democratic transformation in Palestine, 2008. General Report (10) for the year 2007. Jerusalem.
- Assaf, Omar. 2013. Palestinian democracy between discourse and practice. Ramallah: Palestinian Institute for the Study of Democracy.
- Ati, Salah. 2011. The concept of transitional justice: its origin, mechanisms and ways to apply it to the Palestinian case. Tolerance magazine. Ramallah Center for Human Rights. No 22.
- Banyoub, Ahmed Shawqi. 2007. A guide on transitional justice, Arab Institute for Human Rights. Morocco. No 323.

- Baril, C. Amanda. 2019. Moving beyond transitions to transformation. International IDEA policy. No. 22.
- Haidari, Nabil. 1993. The Palestine Liberation Organization and Hamas struggle for influence. *Journal of Palestine Studies*. Vol. 4. No. 13. 115.
- Hamid, Khamis Daham & Khalaf, Hamsa Qahtan. 2015. Transitional justice in South Africa. *Journal of International Studies*. Baghdad. Issue 61. 33.
- Ibrach, Abraham. 2009. The roots of the Palestinian division and its dangers to the national project. *Journal of Palestine Studies*. Volume 20. Number 78.
- Jarbawi, Ali. 1993. The Islamic Resistance Movement "Hamas". *Journal of Palestine Studies*. No. 13.
- Kalaa, Sharifa. 2019. The experience of transitional justice in South Africa: a study in privacy and contexts. *Tikrit Journal of Political Science*. Number 18.
- Muhammad, Ahmed Taha. 1993. The Arabs and Post-Apartheid South Africa, *International Politics Journal*, Cairo. No 114.
- Mukhtar, Amal. 2011. How to benefit from the experiences of other countries, *Journal of Democracy*. Cairo. Issue 43.
- Qada, Hawari. 2017. Transitional justice: the other side of justice. *Al-Nadwa Journal for Legal Studies*. Number 16. 10.
- Qalqili, Abdel Fattah. 2013. National reconciliation within the framework of transitional justice. *Palestinian Papers Magazine*. Ramallah. Number 2.
- Saeed, Abdul Latif Muhammad. 2021. African transitional justice models: South Africa as a case. *Journal of Graduate Studies*. Al-Zaeem Al-Azhari University. Sudan. Number 5. 13.
- Ayoub, Hassan. 2017. The Palestinian issue in relation to international conventions and political interests: the Palestinian project to end the Israeli occupation as a model. *Arab American University Journal of Research*. Embryo. Number 2.

## Interviews

- interview: Hani Al-Masry, Director of the Palestinian Center for Policy Research and Studies - Masarat. 10/1/2023.
- interview: Hazem Qassem, Hamas spokesman, 9/25/2023.
- interview: Azzam Al-Ahmad, head of the Fatah delegation to the reconciliation agreements. 10/1/2024.
- interview: Khalil Assaf, head of the Independent Figures Association in the West Bank, and member of the Public Freedoms Committee emanating from the 2011 agreement. 1/5/2024.
- interview: Ramzi Rabah, member of the political bureau of the Democratic Front for the Liberation of Palestine. 10/5/2023.

## Websites

- A Palestinian meeting in Cairo to activate reconciliation, (2013). Al Jazeera Net. <https://2u.pw/xetlf5i> seen on 6/1/2024.
- Hamas is determined to refuse to recognize Israel and Fatah criticizes, (2006). Al Jazeera Net. <https://2u.pw/vjEgyoi> seen on 3/1/2024.
- Haniyeh supports dialogue, rejects the referendum, and a crisis between Fatah and Hamas, (2006). Al Jazeera Net. <https://2u.pw/DKFKvcb> seen 3/1/2024.
- Hamas and Fatah accept the Yemeni initiative and the occupation bombs Gaza, (2008). Al Jazeera Net. <https://2u.pw/IFw7jmQ> seen on 4/1/2024.
- Agreement on the program of meeting Abbas and Meshaal, (2011). Al Jazeera Net. <https://2u.pw/vSUNSre> seen on 7/1/2024.
- Hamas attacked him and experts described it as "cancellation, not postponement" Will Abbas's decision to postpone the elections revive the "Palestinian division"?, (2021). Al Jazeera Net. <https://2u.pw/wlZAaQU> Seen on 11/1/2024.
- Postponing the Palestinian elections. Hamas considers it a coup against consensus, (2021). Al Jazeera Net. <https://2u.pw/hQ7gGEm> seen on 11/1/2024.
- The Palestinian Division.. A Timeline, 2011. Al Jazeera Net. <https://2u.pw/aJiB0aD> seen on 21/8/2023.
- The Sana'a Declaration was born dead: Fatah wants to implement the Yemeni initiative, and Hamas to dialogue about it, (2008). Al-Ayyam Newspaper. [https://www.al-ayyam.ps/ar\\_page.php?id=4923825y76691493Y4923825](https://www.al-ayyam.ps/ar_page.php?id=4923825y76691493Y4923825) Seen 5/1/2024.
- Algeria's declaration of Palestinian reconciliation is an effort despite obstacles, (2022). Anadolu Agency. <https://2u.pw/sRxZUxi> seen on 12/1/2024.
- Fatah and Hamas sign reconciliation agreement in Egypt, 2017. BBC. <https://www.bbc.com/arabic/middleeast-41590809> Seen on 6/1/2017.
- Elections Report (Postponed), 2021. Central Elections Commission General. <https://www.elections.ps/Portals/0/ElectionsReport2021.pdf> Seen 9/1/2024.
- The Palestinian National Reconciliation Document: The Last Option to Stop the Bloodshed and Arrange the Palestinian House, (2006). Deutsche Welle. <https://2u.pw/kfwWnbH> seen on 4/1/2024.
- Masarat launches the 2017 report, Dunia Al Watan. <https://www.alwatanvoice.com/arabic/news/2017/11/19/1099944.html> seen on 9/1/2024.
- Hamas agrees with the Yemeni initiative and disagrees with Fatah on the mechanisms for its implementation, (2008). Dunia Al-Watan.
- Khaled Mashaal: Hamas, before it was in power and after it, did not pass a single law that was religious to the people, (2009). Dunia Al-Watan. <https://www.alwatanvoice.com/arabic/news/2009/08/16/140611.html> seen on 6/1/2024.
- Opportunities for the implementation of the Doha Declaration, (2012). Dunia Al-Watan. <https://www.alwatanvoice.com/arabic/news/2012/03/05/255286.html> seen on 8/1/2024.
- The Community Reconciliation Committee has begun its work. Dahlan took care of the funds, (2017). Dunia Al-Watan. <https://www.alwatanvoice.com/arabic/content/print/1072639.html> Seen 9/1/2024.
- Two years since the signing of the 2017 Cairo Agreement, why was it not implemented?, (2019). Dunia Al-Watan. <https://www.alwatanvoice.com/arabic/news/2019/10/12/1282478.html> seen on 3/1/2024.
- is one of the worst years for the cause and the Palestinian people.. failure of negotiations and freezing of reconciliation, 2014. Dunia Al-Watan. <https://www.alwatanvoice.com/arabic/news/2014/12/27/639462.html> seen on 8/1/2024.

- Fatah Central Committee Meetings, 2007. Wafa Agency.  
[https://info.wafa.ps/ar\\_page.aspx?id=11904](https://info.wafa.ps/ar_page.aspx?id=11904) Seen on 5/10/2023.
- Hilal, jamil. "Polarizing the Palestinian Political Field". Sama News Agency. 10/10/2010.  
<https://2u.pw/H1Jp2Y7> viewed on: 23/8/2023  
<https://www.alwatanvoice.com/arabic/news/2008/03/20/126775.html> seen on 4/1/2024.
- International Military Tribunal. Trial of major war criminals before the International Military Tribunal: Nuremberg, November 14, 1945 – October 1, 1946. Nuremberg.  
[https://tile.loc.gov/storage-services/service/ll/llmlp/2011525338\\_NT\\_Vol-XXII/2011525338\\_NT\\_Vol-XXII.pdf](https://tile.loc.gov/storage-services/service/ll/llmlp/2011525338_NT_Vol-XXII/2011525338_NT_Vol-XXII.pdf) seen on 20/8/2023.
- Fatah refuses to amend the reconciliation paper, (2009). Jazeera Net.  
<https://2u.pw/AHkCNUg> seen on 5/1/2024.
- Observations of factions on the Egyptian paper, (2009). Jazeera Net.  
<https://2u.pw/VMWIS8m> seen on 6/1/2024.
- Musa Abu Marzouq interview, 2005, Dunia al-Watan. Seen on 4/10/2023.  
<https://www.alwatanvoice.com/arabic/news/2005/05/16/21838.html>
- Rajoub: Elections according to the proportional representation system within 6 months, (2020). News Success. <https://nn.najah.edu/news/Policy/2020/09/24/332692/> Seen on 10/1/2024.
- Report of the Reparation and Rehabilitation Committee,  
[https://www.justice.gov.za/trc/report/finalreport/vol6\\_s2.pdf](https://www.justice.gov.za/trc/report/finalreport/vol6_s2.pdf)
- Timeline.. Learn about Egypt's efforts to reconcile between Fatah and Hamas, (2022).  
 Roya Al-Akhbariya. <https://2u.pw/ekzkCau> seen on 7/1/2024.
- The Status of the Judiciary in the Era of the Palestinian Authority, Wafa News Agency.  
[https://info.wafa.ps/ar\\_page.aspx?id=3842](https://info.wafa.ps/ar_page.aspx?id=3842) seen 9/1/2024.
- International legal protection of human rights in armed conflict**, 2012. United Nations Human Rights.  
[https://www.ohchr.org/sites/default/files/Documents/Publications/HR\\_in\\_armed\\_conflict\\_ar.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/HR_in_armed_conflict_ar.pdf) seen on 7/8/2023.
- The President calls for the formation of a follow-up committee from the audience to complete the dialogue, 2023. Wafa Agency. <https://www.wafa.ps/Pages/Details/75755> seen on 13/1/2024.
- The text of the joint statement issued by Fatah and Hamas after their meeting in Istanbul, (2020). Watan News Agency. <https://www.wattan.net/ar/news/320547.html> Seen 5/1/2024.
- Will Algeria Make Palestinian Reconciliation a Reality?, (2022). Independent Arab website. <https://2u.pw/FSOnxia> seen on 12/1/2024.
- Al-Naami, Saleh, (2011). In light of Israel's expected loss of the gains it gained from the division. Al Jazeera Net. <https://2u.pw/N6wVUQWS> Seen on 6/1/2024.
- Abu Aisha, Ezz El-Din, (2023). Israel's strategy towards Gaza: between deterrence and division. Independent Arab. <https://2u.pw/KbQM64zT> Seen on 6/1/2024.
- Mahra, Ismail, (2020). Gaza is a de facto state. Palestinian Center for Policy Research and Strategic Studies - Masarat. <https://2u.pw/BqLxMwCd> Seen on 6/1/2024.
- Israel's most prominent wars on the Gaza Strip, (2023). Al Jazeera Net.  
<https://2u.pw/Zrxpws> seen on 1/6/2024

## Appendices

### Interviews

- interview: Hani Al-Masry, Director of the Palestinian Center for Policy Research and Studies - Masarat. 10/1/2023.

• مقابلة خاصة: هاني المصري، 1/10/2023، مدير المركز الفلسطيني لأبحاث السياسات والدراسات-مسارات.

ما هي الإشكالية في ملف المصالحة بصورة عامة؟

أهم نقطة عند الحديث عن ملف المصالحة الفلسطينية وهو عدم الإيمان بالشراسة، لأن الوحدة تعني شراسة، لأنه تم استبعاد فصائل مثل حركة حماس والجهاد.

الاتفاق الأساسي للمصالحة والذي يشمل ويعالج قضايا فلسطين بالتفصيل هو اتفاق القاهرة عام 2011 وبعده مجرد تأكيد على بنود هذه الاتفاقية، ويعالج العديد من القضايا الجوهرية الخاصة بملف الانقسام، ولكن له عدة سلبيات، الأولى غياب برنامج سياسي واضح وكان هذا من أهم البنود التي يجب الحديث عنها في مقدمة الحوارات، لأنه لا يمكن حدوث وحدة الأهداف بين الطرفين دون البحث عن أدواتها، من يريد المقاومة طريقاً ومن يرى في المفاوضات مساراً، وهذا فارق كبير، لذلك يجب وضع قواعد اللعبة منذ البداية، فالاختلاف ليس هو المشكلة بل إدارة هذا الخلاف هو المشكلة الأكبر.

يتحدث المصري بالنسبة لمجريات الانتخابات التي تم تأجيلها أو إلغائها؟

يعود السبب الرئيسي لتأجيل الانتخابات إلى إدراك فتح أنها ستخسر هذه الانتخابات وأن الاحتمال الأرجح لترتيب قائمة فتح إذا أجريت الانتخابات هي القائمة الثالثة، وبالتالي ستفقد فتح معظم أعضاء المجلس التشريعي، وهذا يعني أنها ستشارك بشكل ثانوي في الحكومة، وهذا ما سينعكس مستقبلاً على منظمة التحرير الفلسطينية، أما السبب الثاني للتأجيل هو الخلاف على البرنامج السياسي، حول اتفاقية أوسلو والتزاماتها والقانون الدولي وقرارات الأمم المتحدة، يوجد خلاف ولكن هناك بعض التنازلات التي قدمتها حماس أيضاً ونرى ذلك من خلال ميثاق حماس عام 2017 والتي أقرت فيه بأنها تريد دولة فلسطينية على حدود 1967، وبالتالي وافقت على المفاوضات وعلى تفويض الرئيس محمود عباس للمفاوضات، وحركة فتح قدمت أيضاً تنازلات في اتفاق 2011 حيث وافقت على ما يسمى الإطار القيادي المؤقت وهي لجنة تفعيل منظمة التحرير، وأعطته صلاحيات واسعة وبالتالي مشاركة حماس في قيادة منظمة التحرير الفلسطينية بالفترة الانتقالية إلى حين انتخاب مجلس وطني جديد، ويرجع السبب حينها إلى الربيع العربي، وحركة الإخوان المسلمين في صعود، وبالتالي حركة حماس في صعود، فخضعت فتح وقتها، ولكن عند سقوط الإخوان المسلمين، تراجعت فتح عن تلك التنازلات. السبب الثالث للخلاف وهو سبب رئيسي وجوهري وجود الاحتلال الإسرائيلي وهو سبب وقوع الانقسام ويعمل باستمرار على تغذية الانقسام، وعند الحديث عن المصالحة كانت إسرائيل دائماً تُخَيّر محمود عباس ما بين التعامل مع إسرائيل وحماس، وكانت عائق أيضاً لتسليم حماس زمام السلطة عند فوزها في انتخابات 2006 حيث حاصرت السلطة وقامت باعتقال عشرات النواب والوزراء في حينها، وهناك عامل موضوعي للانقسام وهو الانقسام الجغرافي بين الضفة الغربية وقطاع غزة ووجود إسرائيل بينهما، إضافة إلى وجود مصالح جماعات الانقسام، والتي بسببها أصبح هناك جماعات لها نفوذ ومناصب غير معنية بإنهاء الانقسام.

بالنسبة لاتفاق العلمين الأخير عام 2023؟

لا نبالغ في القول إن ما انتهى إليه اجتماع العلمين أقل من معظم التوقعات المنخفضة؛ حيث انتهى بإعلان الرئيس الفلسطيني محمود عباس عن تشكيل لجنة للمتابعة من دون بيان يتضمن ما تم الاتفاق عليه، ولو من قبيل المجاملة للبلد المضيف والادعاء بالإنجاز أمام الشعب، وهذا حدث لسببين:

أولاً: أن عباس كان نجم الحدث من أوله إلى آخره، فهو جدد شرعيته حتى من الفصائل المعارضة له، وهو الذي بادر إلى الدعوة للاجتماع، وحدد الوقت والمكان والمدعوين ومدة الاجتماع، وهو الذي افتتحه واختتمه، وكان فوق الجميع، فقد حضر على رأس وفد، ولم يرأس وفد حركة "فتح" الذي كان برئاسة نائبه محمود العالول، والشيء بالشيء يذكر، فقد كان عباس قد طلب من عزام الأحمد عدم الموافقة على إعلان الجزائر أثناء الاجتماع في العاصمة الجزائرية في حينه، على الرغم من شطب بند الحكومة، بعد رفض العديد من الفصائل الإشارة إلى التزامها بالشرعية الدولية من دون تحديدها بالقرارات التي تنصف الحقوق الفلسطينية، وقد وقع الأحمد باسم فتح وأقنع عباس بعد ذلك تجنباً لعواقب عدم التوقيع على العلاقات الفلسطينية الجزائرية.

ثانياً: أن مصر لم تقم بدور الراعي، كما كانت تفعل في اجتماعات المصالحة التي عقدت فيها، بل اكتفت بدور المضيف، وهذا أبقاها على مسافة من الاجتماع، فإذا نجح باركت النتائج، وإذا فشل لا تتحمل المسؤولية.

وحتى نتعرف إلى مغزى ذلك، نشير إلى أن كل اللقاءات التي رعتها مصر عقدت في مبنى المخابرات المصرية، وكان وفد منها هو الذي يدير الجلسات، ومعظمها خرج باتفاقات عبرت عن نفسها ببيانات مشتركة نفذت جزئياً وبعد ذلك انهارت، من إعلان القاهرة في آذار/ مارس 2005، مروراً باتفاق أيار/ مايو 2011، واتفاق القاهرة (اتفاق التمكين) تشرين الأول/ أكتوبر 2017.

لوحظ أن عباس كان مبادراً حاداً، وعرض موقفه بوضوح وحزم من دون استعداد للمساومة من لحظة إطلاق الدعوة لاجتماع الأمناء العامين، مروراً بالخطاب الذي ألقاه في مخيم جنين، وانتهاء برفضه لكل الدعوات والوساطات لإطلاق سراح المعتقلين السياسيين، خصوصاً بعد إعلان حركة "الجهاد الإسلامي" أنها لن تحضر الاجتماع إذا لم يتم الإفراج عنهم، ووافقت على الإفراج عن قسم منهم قبل الاجتماع، والقسم الآخر بعده، ولم يغير الرئيس موقفه.

ودافع عباس عن موقفه بأن عمليات المقاومة تخدم حكومة المتطرفين في تل أبيب، وتعطيها ذريعة للاستمرار في العدوان ضد الفلسطينيين، وقال: "إن الطريقة الوحيدة المفيدة للتعامل مع حكومة الاحتلال هي المقاومة السلمية، والاستمرار في السعي لإقناع الإدارة الأميركية للضغط عليها".

- interview: Hazem Qassem, Hamas spokesman, 9/25/2023.

• مقابلة هاتفية: حازم قاسم، 25/9/2023، الناطق باسم حركة حماس.

في مقابلة هاتفية مع الناطق الرسمي باسم حركة حماس (حازم قاسم)، أكد فيها أن ملف المصالحة أصبح مقلقا، وهنا يجب التنويه أن هناك نوعين من الخلاف، الأول هو خلاف إداري وخلاف على الحكومة وغيرها من الأمور المتعلقة بالنظام السياسي الفلسطيني، فبعد فوز حماس في انتخابات 2006 وحدث الانقسام، منذ ذلك الحين هناك موقف واضح من السلطة الفلسطينية ومن رئيس السلطة محمود عباس، الذي يرى في المصالحة إخراج حماس من المشهد السياسي، وحماس تنازلت عن حقها في أن تدير الجهاز التنفيذي للسلطة، وتنازلت عن العديد من الملفات من أجل إتمام المصالحة الفلسطينية، ولكن إصرار رئيس السلطة محمود عباس على الاعتراف بقرارات اللجنة الرباعية، والقرارات الدولية، والاعتراف بمنظمة

التحرير الفلسطينية التي لا تشارك فيها حماس ولا حركة الجهاد الإسلامي. والخلاف السياسي الآخر هو خلاف على مسارات هذا العمل السياسي وهذا الخلاف ليس فقط بين فتح وحماس، بل بين جزء من السلطة وحركة فتح وبين المجموع الوطني الكامل، فالسلطة تستمر في مسار أو سلو والتنسيق مع الاحتلال وهذا ما ترفضه حتى تيارات في حركة فتح، ولكن حماس دائما على استعداد لأي مبادرة مصالحة حتى لو كانت فيها بارقة الأمل صغيرة، ولا خيار لنا إلا أن نتفق على أي مبادرة للمصالحة، والمشكلة الحقيقية تكمن في عدم جدية السلطة في التعاطي مع موضوع الانتخابات.

ما هي الخطوات الفعلية التي اتخذتها حماس على أرض الواقع من أجل طي صفحة الانقسام؟  
إن حركة حماس تنازلت وتراجعت عن الكثير من أجل انجاز ملف المصالحة الفلسطينية، سواء بالتنازل عن حقها الدستوري في تشكيل حكومة وحدة وطنية والتنازل عن كافة الشروط التي وضعتها حماس من أجل الانتخابات وذلك لتتم هذه الانتخابات التي ترى فيها حركة حماس مدخلا يمكن أن ينهي الانقسام من خلاله، وأضاف، "نتمنى على الأخوة في حركة "فتح" والرئيس عباس اتخاذ موقف مشابه والتقدم خطوة باتجاه المصالحة، ووقف منطق التفرد بالقرار الفلسطيني، ورفض الشراكة مع الآخر".  
وأوضح أنه "ما زالت الرسائل سلبية باتجاه تحقيق المصالحة، كون السلطة الفلسطينية تشارك في الحصار الإسرائيلي على قطاع غزة".

وهذا الانقسام أصبح مسيء لحماس والشعب الفلسطيني وقطاع غزة وللمقاومة أيضا، ويعطي مدخلا للآخر كي يتخلى عن واجبه.

ويضيف القاسم بشأن حالة قطاع غزة بعد اتفاقية عام 2017 إن الرئيس عباس يتحمل شخصيا حالة التوتر والاحتقان التي كانت تجري حينها نتيجة العقوبات التي يفرضها على قطاع غزة، وقطع المزيد من رواتب موظفي السلطة الفلسطينية في القطاع، إضافة لتحريضه الإعلامي ضد غزة. ومنذ إبريل/ نيسان 2017، تنفذ السلطة الفلسطينية "إجراءات إدارية ومالية"، ضد قطاع غزة، تشمل تخفيض الرواتب والنفقات، اعتبرها القاسم بمثابة "عقوبات"، وأضاف أن "فتح" تراها خطوات تهدف إلى إنهاء الانقسام الفلسطيني.

وبعد اتفاق الجزائر عام 2021 والذي بدوره أجمعت الفصائل كافة على إجراء انتخابات وكان الجميع حاضرا لهذه الانتخابات، وكانت القدس هي الملف الأبرز لهذه الانتخابات، لذلك لم تكن حماس لتوافق على الانتخابات دون القدس، والإشكالية مع الرئيس محمود عباس هي منطق التعامل مع الاحتلال الإسرائيلي، والذي يريد موافقة خطية من رئيس الحكومة ننتياها على إجراء الانتخابات في القدس، والشعب الفلسطيني قادر على فرض إرادته من أجل الانتخابات في القدس، دون انتظار إذن من المحتل.

- interview: Azzam Al-Ahmad, head of the Fatah delegation to the reconciliation agreements. 10/1/2024.

• مقابلة خاصة: عزام الأحمد، 10/1/2024، رئيس وفد حركة فتح في اتفاقيات المصالحة.

من أجل طي صفحة الانقسام ما مجريات الاتفاقيات التي حدثت بين حركتي فتح وحماس؟  
لا وجود لاتفاقيات سوى اتفاقية واحدة وهي اتفاقية 2011، أشهرت هذه الاتفاقية في 4/5/2011 بين كافة الفصائل الفلسطينية، حيث كانت بالبداية بين حركتي فتح وحماس، ووقعت في 15/10/2009 وهو اتفاق الوفاق الوطني، وكان حينها عزام الأحمد م المعارضين على توقيع الاتفاق، بسبب ملف الأمن المقترح من الجانب المصري وكما تريده حماس،

وتم الضغط من الجانب المصري على الرئيس محمود عباس آنذاك، ورغم ذلك منذ عام 2009 صرح عزام الأحمد للمصريين بأن حماس والتي تم الاتفاق معها على هذا النص لن تأتي للتوقيع، وهذا ما حصل بالفعل، حيث تأجل التوقيع إلى عام 2011 أي عند استلام حسني مبارك الحكم، وبالنسبة لحركة فتح وعلى لسان عزام الأحمد لم يكن هناك فارق بين استلام مبارك للحكم أو لغيره ففتح وقعت على الاتفاق عام 2009.

وحدث الاختلاف بعد توقيع اتفاق القاهرة على من سيكون رئيس الوزراء القادم، والذي بدوره سيقوم بتوحيد الضفة الغربية وغزة، وعلى إثرها حدث إعلان الدوحة عام 2012، واتفق الأحمد حسب قوله حينها مع بعض قيادات حماس بالسفر ومن ضمنهم خالد مشعل ومحمد نصر، حيث تمت الدعوة من قبل أمير قطر والذي بدوره رشّح محمود عباس ليتولى رئيس الوزراء القادم وهو ما وافقت عليه حماس، ولم يتم التنفيذ بعدها.

وعام 2014 ذهب وفد من منظمة التحرير الفلسطينية برئاسة عزام الأحمد على غزة وعلى إثرها حدث ما يسمى "اتفاق الشاطئ" واتفق الطرفان على تشكيل الحكومة وكان المقترح من حركة حماس نفسها بتولي رامي الحمد لله رئاسة الحكومة، وشكل رامي الحمد لله حكومة الوفاق الوطني والتي كان أكثر من نصفها اقتراح من حركة حماس، ومع ذلك لم تقبل حماس تسليم الوزارات والأمن للحكومة التي كانت مقترحة من قبلها.

وبتصريحات من عزام الأحمد فإن من ضمن الاتهامات الموجهة لبنيامين نتنياهو بعد حرب غزة عام 2014 المساعدة في إدخال الأموال القطرية عبر الموساد الإسرائيلي إلى غزة، وعلى إثرها قدّم وزير الدفاع الإسرائيلي أفيدور لبيرمان استقالته، وأكد الأحمد أن ما يحاول نتنياهو الحصول عليه هو إبقاء سيطرة حماس على قطاع غزة من أجل تعزيز الانقسام وإضعاف السلطة الفلسطينية في منطقة يهودا والسامرة.

وفي عام 2017 وبعد الاتفاق الذي جرى أكد الأحمد إنه لا لقاء مع حركة حماس ما لم تعلن أن منظمة التحرير هي الممثل الشرعي والوحيد للشعب الفلسطيني، واعتبرت حماس أن إعلان الأحمد يؤكد عدم جدية قيادة فتح بشأن المصالحة. وأضاف أن حينها أعلن بأنه لن يعقد أي اجتماع للأمناء العاميين للفصائل أو إجراء أي لقاء مع حركتي حماس والجهاد الإسلامي قبل إنهاء الانقسام، مطالباً حماس بأن تنتقد نفسها وتعلن أن منظمة التحرير هي الممثل الشرعي والوحيد للشعب الفلسطيني.

وأشار الأحمد إلى أنه لا حاجة لمبادرات جديدة للتفاوض مع حماس بشأن إنهاء الانقسام الداخلي، بل ينبغي تنفيذ ما تم الاتفاق عليه في أكتوبر/تشرين الأول 2017، مشيراً إلى أنه يرى أن حركة حماس لا توجد لديها إرادة حقيقية لتنفيذ اتفاق المصالحة، وأضاف أن حماس وضعت العراقيل أمام حكومة الوفاق لبسط سلطتها، مؤكداً أن اتفاق المصالحة نص على تمكين الحكومة وليس تشكيل حكومة جديدة.

وفي شهر شباط من عام 2019 تم إلغاء البيان الختامي لاجتماع الفصائل الفلسطينية في موسكو بسبب عدم التوافق على تمكين الحكومة.

وبعدها اتفاق الجزائر الذي لا يرى فيه عزام الأحمد أي جديد، سوى لتقديم المقترحات من حركة حماس وفتح بشأن تشكيل الحكومة القادمة، وهناك ورقتين قدمتها الحركتين، وعلى إثرها كانت ستحدث انتخابات عام 2021، وبسؤال الأحمد عن مدى جدية الانتخابات التي كان من المفترض أن تتم، وبخصوص ملف القدس الذي كان عائقاً، أكد الأحمد بأن ما الإجراءات كانت جدية بخصوص الانتخابات وأنه تم التصديق عليها وبالفعل كان ملف القدس أحد الملفات العالقة، ولا يجوز عمل انتخابات تحت الاحتلال في القدس.

هل اجراء الانتخابات أولوية قبل توحيد المؤسسات والأجهزة الأمنية بين الضفة الغربية وغزة؟

أجاب عزام الأحمد أن الانتخابات من المفترض أن تكون الخطوة الأخيرة، وإذا تم حل ملف القدس فإن الانتخابات تفرض على حماس تنفيذ الاتفاق الذي وقعت عليه ولم تنفذه، وقبل التوقيع والتصديق على إجراء الانتخابات طلب الرئيس محمود عباس موافقة خطية من حركة حماس على الالتزام بالتنفيذ، أرسلت حينها من حنا ناصر رئيس لجنة الانتخابات. وفي اتفاقية العلمين الأخيرة عام 2023 كانت حركة الجهاد قد قاطعت الاتفاق بحجة الاعتقالات السياسية في الضفة الغربية.

وبخصوص اتفاقية العلمين الأخيرة وعلى خلفية ما جرى في غزة بعد الـ ٧ من أكتوبر، صرح عزام الأحمد عن لقاءات سرية مع كافة الأطراف المعنية بالمصالحة أكد فيها ما يلي:

"نرحب بالدعوة مجدداً للاستكمال اجتماع الفصائل الذي دعا له الرئيس في العلمين وفق المبادئ التالية:

9. إنهاء مفرزات الانقلاب في غزة.
10. الالتزام بالنظام الواحد والقانون الواحد والصلاح الشرعي الواحد.
11. الالتزام بمنظمة التحرير الممثل الشرعي والوحيد للشعب الفلسطيني، وبرنامجها السياسي والتزاماتها الدولية وحدها دون غيرها.
12. الالتزام بالشرعية الدولية.
13. الالتزام بالمقاومة الشعبية السلمية.
14. الالتزام بالحل السياسي المبني على حل الدولتين والمستند للقرارات الشرعية الدولية.
15. تشكيل حكومة تكنوقراط يتم بقرار من الرئيس محمود عباس تتولى مهامها في الضفة والقدس وقطاع غزة.
16. المفاوضات بشأن التوصل لاتفاق سلام شامل هي من مسؤولية منظمة التحرير الفلسطينية.

- interview: Khalil Assaf, head of the Independent Figures Association in the West Bank, and member of the Public Freedoms Committee emanating from the 2011 agreement. 1/5/2024.

- مقابلة هاتفية: خليل عساف، 5/1/2024، رئيس تجمع الشخصيات المستقلة بالضفة الغربية، وعضو لجنة الحريات العامة المنبثقة من اتفاقية 2011.

بداية لا يمكن الحديث عن ملف المصالحة والقضية دون فهم مسار هذه القضية بمعزل عن ذكر الاحتلال لهذه الأراضي ووجود الانقسام الذي يعزز هذا الاحتلال واستمراره بضم الأراضي وبناء المستوطنات، رغم كل ما حدث يبقى الانقسام الفلسطيني مستمر إلى هذه اللحظة، ومن وجهة نظري أن هذه المصالحة لن تتم بوجود هذه القيادات، فيجب أولاً أن تتغير

كل هذه القيادات، لأنه من يصنع الانقسام لا يمكن أن يصنع الوحدة، ومن يصنع الفساد لا يمكن أن يصنع البناء، وعلى الشعب الفلسطيني أن يفهم هذه المعضلة، وإذا لم يحدث هذا الوعي الجمعي ستكون النتيجة مجرد مضيعة للوقت بعدد السنين التي مرت على هذا الانقسام ١٧ عاما والتي كانت اخرها ما يحدث من جازر وإبادة جماعية في غزة بعد ال٧ من أكتوبر ومذابح واعتقالات واغتيالات ومصادرة أراضى في أرجاء الضفة الغربية.

أكثر الاتفاقيات التي شملت الملفات العالقة بين فتح وحماس وأكثرها تفصيلا؟  
أعتقد بأن اتفاقية القاهرة 2011 هي الاتفاقية الأكثر شمولا، ووجب التنويه على أن هذه الاتفاقية صيغت بقلم مصري ولكن كل أحرفها وكلماتها هي خلاصة اللقاءات المباشرة التي كانت تحصل بين الكل الفلسطيني، والتي كانت مجموع ساعاتها حوالي 1900 ساعة من الحوارات الشاقة والمؤلمة والتي كنت حاضرا فيها حيث كان الجانب المصري فقط مستمع إلى هذه الحوارات، وأعتقد بأنها الاتفاقية الأشمل لأنها تضمنت وثيقة الأسرى التي خرجت من سجون الاحتلال والتي كانت خارطة طريق، وأيضا تضمنت ما تم الاتفاق عليه في اتفاق 2009، ومن وجهة نظري انه لو كان هناك تطبيق فعلي لهذه الاتفاقية أو مجرد احترام لهذه المسيرة التي استمرت سنوات لكان الوضع الحالي أفضل.  
وبالحديث عن اتفاق 2017 من وجهة نظر خليل عساف، أكد بأن هذا الاتفاق هو اتفاق مجاملة وهو اتفاق كانت فيه نوايا مسبقة لا يتم تطبيقه، وكان فيه حالة من الضغط من الدول التي تعتبر نفسها مهتمة للقضية الفلسطينية، وكنت رافض حينها إلى توقيع الاتفاق لأنه لا يمكن الاتفاق مع حالة الفوضى المستمرة من جانب الطرفين، والاستمرار بالاعتقال السياسي وملاحقة الأطراف السياسية، فلا يمكن تطبيق الاتفاقيات بالتوازي مع الوضع الحالي، فلم تكن حالة صحية ولم يكن هناك شفافية واضحة من الطرفين، ولو كان هناك نوايا صادقة لتطبيق المصالحة لكان هناك فتح لاتفاقية المصالحة 2011 لأنها أشمل بكثير من كل الاتفاقيات التي تم توقيعها فيما بعد.

ما هو التعليق بخصوص موضوع لجنة المصالحة والتي تم فتح ملفها على أرض الواقع 2017؟  
لجنة المصالحة من أحد اللجان الخمس الأساسية التي تم الاتفاق عليها في 2011، وكان خليل أحد أعضاء هذه اللجنة التي شكلت من الضفة الغربية. ولجنة التكافل التي باشرت عملها في غزة لم تكن لجنة مصالحة مجتمعية بل كانت لجنة تابعة لدحلان والذي بدوره كان يسعى أيضا لإتمام شيء ملموس على أرض الواقع، واستطاعت اللجنة تسوية 134 حالة قتل وتعويض بعض الضحايا وكانت وتتشكل لجنة المصالحة المجتمعية، من اللجنة العليا للمصالحة والتي تعتبر الهيئة الإدارية الرئيسية، ولديها خمسة فروع، فرع في كل محافظة من محافظات غزة الخمس. وكل لجنة من هذه اللجان يتفرع منها لجان فرعية: لجنة شرعية لتحديد الضرر وفق الريعة الإسلامية، اللجنة الفرعية للإجراءات القانونية، واللجنة الإعلامية المسؤولة عن العامة والإعلام، واللجنة الطبية التي تحدد مقدار الضرر والعجز، وعلى الرغم من وجود كل هذه اللجان، إلا أن اللجنة تصرف نفس التعويض لجميع الضحايا وهو مبلغ ثابت يبلغ (50 ألف دولار أمريكي).

وكانت الإشكالية عندما حددت اللجنة المبلغ الكلي للتعويضات والبالغ حوالي 500 مليون دولار وقد توجهنا في هذه المرحلة إلى المغرب التي رحبت بالبداية وأبدت استعدادها عن لمنح هذا المبلغ ولكن خلال الاجتماع حدث هناك مشادة كلامية كبيرة جدا بين فصيل فتح نفسه وتحديدا مع تيار الإصلاح التابع لدحلان وتم الرد من الجانب المغربي في اخر حوار على أنه سيتم تسليم المبلغ عند الاتفاق.

بالنسبة للجنة الحريات العامة في الضفة التي تم تشكيلها منذ اتفاق 2011 بعد انجاز الخطوة الأولى، لم يكن هناك خطوة ثانية وهي الخطوة التي كان من المفترض أن يقوم بها الرئيس لأسباب كثيرة، بالنسبة لخليل عساف غير مبررة، مثلاً من غير المتوقع من اسرائيل الموافقة على إجراء الانتخابات في القدس، وبالتالي من يريد التغيير لا ينتظر حجة. وكانت الإشكالية في هذه اللجنة أنه المفترض أن يكون هناك حد أدنى من السلطة التنفيذية، أو الحرية في ممارسة العمل، لأن مهمة هذه اللجنة هو متابعة المخالفات والشكاوى المقدمة حول موضوع الاعتداء على الحريات والكرامة والنشاط والأموال، ومن المؤسف هذه الخطوة من اليوم الأول تعرضت لإعاقة عملها.

هل الأولوية القصوى في ملف المصالحة اجراء انتخابات قبل العمل على ملفات أخرى قبل المصالحة؟ إذا لم تكن هناك إرادة حقيقية للمصالحة لا وجود لمصالحة، والفصائل الفلسطينية الصغيرة التي تعطي الشرعية للقيادة الفلسطينية لا تسعى ولا تريد أن يكون هناك مصالحة، لأنه بكل بساطة إذا جرى مصالحة يعني سيكون هناك انتخابات، وإذا جرت انتخابات لن يحصلوا على مقعد واحد مجتمعين، بالتالي إذا أرادوا عمل اتفاق بينهم يستحيل ان يكون هناك اتفاق كامل بينهم، وبعد الحديث عن الجانب النظري تنعكس دائماً النتائج عند التطبيق العملي. وللأسف الحركتين فتح وحماس لا تؤمن بمبدأ الشراكة السياسية، ولا يمكن إجراء انتخابات دون تهيئة الأجواء المناسبة، فكيف من الممكن إجراء انتخابات والأمن يقوم باعتقال سياسي لأشخاص مشاركة في الانتخابات الماضية تنتمي لفصائل أخرى.

وعندما نتحدث الفصائل عن ضرورة إجراء انتخابات، فالتعبير عن كلمة "ضروري" غير كافية، لأنه من يتحكم على أرض الواقع في التطبيق العملي الأمن، ويبدو أنه يجب التحكم بقضية الأمن، والسؤال الذي يُطرح: من الأقوى المستوى السياسي أم المستوى الأمني؟ فالأقوى من وجهة نظر خليل عساف في الوضع الحالي الفلسطيني هو المستوى الأمني.

- interview: Ramzi Rabah, member of the political bureau of the Democratic Front for the Liberation of Palestine. 10/5/2023.

• مقابلة هاتفية: رمزي رباح، 5/10/2023، عضو المكتب السياسي للجبهة الديمقراطية لتحرير فلسطين.

في إطار الحديث عن الملف الداخلي الفلسطيني والضغط في اتجاه إتمام المصالحة الفلسطينية، وتعقيباً على آخر الاتفاقيات في ملف المصالحة السؤال حول ما إذا كان ثمة خطوات اتخذت على أرض الواقع في هذا السياق؟

وقد صرح السيد رباح قائلاً أن استئناف الحوار في الجزائر وبعدها في العلمين لم يتوقف بين الأحزاب بما فيهم حركة فتح وحركة حماس؛ لتفكيك بعض العقد واستعادة الوحدة، إلا أن الطرف السياسي والدولي يشكل مصدر ضغط على كافة الأطراف. وكان عضو المكتب السياسي قد شدد على ضرورة استعادة الوحدة الوطنية باعتبارها كلمة السر لمقاومة شعبية شاملة برؤى سياسية وأدوات كفاحية موحدة وفق تعبيره. كما وأضاف أن تنويع الحوارات في هذا السياق ليس بعيداً إذا ما تجاوزنا قضايا كثيرة من نقاط الخلاف، إذ اعتبر التوافق شرطاً أساسياً لتأمين شراكة في مؤسسات المنظمة والحكومة

ومدخلًا للذهاب في طريق الانتخابات، مؤكدًا على أن هدف التوافق الوصول لحل ديمقراطي وجذري للخلاف في الساحة الفلسطينية.

يستأنف عضو المكتب السياسي للجبهة الديمقراطية السيد رمزي حديثه قائلًا أن الانتخابات وسيلة مثالية لتحقيق حل ديمقراطي وجذري إذا ما جرت في إطار توافقي ودون إقصاء، مضيفًا أن حينها لن يكون ثمة خاسر بل منتصرون فقط، حيث أن الجميع مستفيدون من إعادة بناء مؤسسات النظام السياسي: التشريعي، والرئاسي، والمجلس الوطني الفلسطيني. كما وقد دعا إلى السعي الدؤوب نحو انتخابات ديمقراطية قائلًا أن علينا الالتزام بخطوات تدريجية إذا ما استعصى التنفيذ خطوة واحدة.

وبالحديث عن أبرز النقاط في مبادرة الجبهة الديمقراطية لإتمام المصالحة الوطنية يذكر السيد رباح الاتفاق على مرحلة انتقالية مدتها عام، يكون العمل خلالها على مستويين متوازيين، الأول: دعوة حركتي حماس والجهاد للمشاركة في المجلس المركزي الفلسطيني الذي ينعقد بجلسة استثنائية وينتخب لجنة تنفيذية بمشاركة جميع الفصائل بما يضمن تمثيلاً عادلاً لحركة حماس. الثاني: تشكيل حكومة وحدة وطنية بمشاركة جميع الفصائل تعمل على استعادة وحدة المؤسسات الفلسطينية. ويضيف أن عدة ملفات جاهزة للدخول حيز التنفيذ منذ عام 2017 مثل: ملف توحيد الأجهزة الأمنية، وملف توحيد جهاز القضاء، وملف لإنجاز المصالحة المجتمعية، وملف لمعالجة جميع تداعيات الحالة الانقسامية. إلا أن طرحها للتطبيق على أرض الواقع مرهون بقرار سياسي وإرادة سياسية بعيدًا عن الإقصاء؛ ويضيف أن الوضع الراهن باعتبارنا تحت ظل الاحتلال وفي مرحلة تحرر وطني يحتم علينا أن نكون متحدين، وموحدين على الموقف. ويستطرد السيد رباح أن ليس ثمة خلًا على مستوى البرامج السياسية، من إقامة دولة فلسطينية على حدود عام 1967م، وصولًا إلى حق العودة للاجئين، ومرورًا بالقدس عاصمة لدولة فلسطين. لكن تبرز الاختلافات في رغبة حركة حماس بالبدء في إصلاح منظمة التحرير الوطنية ثم تشكيل الإصلاح الحكومي، بينما ترتئي حركة فتح العكس من ذلك، أي البدء بالإصلاح الحكومي يليه إصلاح المنظمة. ويعلق السيد رمزي على ذلك بتجديد دعوته لضرورة العمل على إصلاح المنظمة والإصلاح الحكومي بشكل متزامن لضمان مصالح الطرفين.

ويتحدث السيد رمزي رباح عن رأي حزب الجبهة الديمقراطية في ربط الانتخابات بالقدس قائلًا أن لا انتخابات بدون القدس. ويستطرد موضحًا أن ذلك لا يعني بالضرورة الموافقة الإسرائيلية على الانتخابات، إنما تأكيدًا على حق جميع أفراد الشعب الفلسطيني في المشاركة في الانتخابات وخاصةً مواطني مدينة القدس، حيث أنها العاصمة والبوصلة والقضية المركزية.

ويضيف أن الحزب على استعداد تام لفرض الانتخابات وتحويلها لقضية صراعية مفتوحة ضد الاحتلال في حال عدم الموافقة الإسرائيلية، مستندًا بذلك على قرار مجلس الأمن الدولي 476، و478 الذي أقر أن دولة فلسطين المقامة على حدود 1967م هي أرض محتلة، وقرار مجلس الأمن الدولي 2234 الذي يعتبر القدس الشرقية جزءًا من الأراضي المحتلة، إضافة إلى الدعم الجماهيري للضغط على إسرائيل من أجل كسب الحق الدستوري والقانوني والوطني في إجراء انتخابات برؤى فلسطينية.

ويقول السيد رباح في حديثه عن جدية الفصائل في إجراء الانتخابات، أن لا خيار أمامنا لتحقيق حل ديمقراطي سوى الانتخابات. شريطة أن تكون الانتخابات وفق التمثيل النسبي العادل ودون إقصاء، مضيفًا أنه في عام 2022 كانت الفصائل

جميعها قد شرعت في تحضير قوائمها وبرامجها الانتخابية وهو ما يدل على جدية الفصائل وجهوزيتها للمنافسة. وأضاف لاحقاً أن الساحة الفلسطينية ساحة تعددية بطبعها لا تقبل سيادة حزب بعينه دون غيره واصفاً هذه التعددية بأنها إحدى عناصر القوة النضالية الفلسطينية التي يجب المحافظة عليها، معتبراً الانتخابات الوسيلة المثلى لذلك. كما ويذكر السيد رمزي في حديثه أن انعقاد الانتخابات في مرتها الأولى ليس صورة نهائية لتوزيع مقدرات الغرفة السياسية بين الفصائل، إنما خطوة أولى نحو تغيير وتكييف المجتمع باتجاه إعادة الهيكلة وضمان حق تمثيل المرأة وتمثيل الشباب في المشاركة بالحكم على سبيل المثال لا الحصر.

وقد أشار السيد رباح في حديثه إلى جهوزية الحزب الديمقراطي للانتخابات وشدد على ضرورتها، وقابلية الحزب إذا ما أتاحت الفرصة للتحالف مع تيارات تطرح مزيداً من الرقابة والتغيير نحو الأفضل. بينما صرح بمخاوف بعض الفصائل من خوض الانتخابات وذهابها باتجاه التأجيل، داعياً لوضع ضوابط بشأن عدد القوائم وطابعها وبرامجها. وبيّن السيد رمزي في كلامه حول مقترح فصل الانتخابات التشريعية عن الانتخابات الرئاسية والمجلس الوطني أنه لا يمكن الفصل بين الانتخابات التشريعية والرئاسية والمجلس الوطني، إلا أن ذلك لا يمنع الفارق الزمني بينها على أن يكون باتفاق مسبق.

وقد عبّر عضو المكتب السياسي في حزب الجبهة الديمقراطية عن تفاؤله بأن بالأعوام القادمة التي سيكون لها تحضير فعلي في ظل الذي يجري هذا العام في غزة وكافة أرجاء الوطن. واختتم حديثه بوصف الانقسام بين الفصائل بأنه خدمة للاحتلال وأداة لإدامة معاناة الشعب وأكد على استحالة استمرار الانقسام. موجهاً رسالته إلى طرفي الانقسام فتح وحماس فيما يخص الانتخابات قائلاً أن الانتخابات استحقاق يجب علينا السعي لنيله بجهود متواصلة ومحاولة تذليل العقبات مؤكداً على ضرورة التوافق والشراكة في طريق إنجاز الانتخابات وأن المؤسسات الوطنية الجامعة في إطار منظمة التحرير الفلسطينية هي السبيل الوحيد لتوحيد الشعب الفلسطيني.

## بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

### إعلان القاهرة

تلبية لدعوة كريمة من جمهورية مصر العربية الشقيقة ، وبرعاية مشكورة منها ، عقد في القاهرة مؤتمر للحوار الفلسطيني خلال الفترة من ١٥ - ٢٠٠٥/٣/١٧ بمشاركة الرئيس الفلسطيني/محمود عباس ، وبحضور إثني عشر تنظيمياً وفصيلاً .

١ - أكد المجتمعون على التمسك بالثوابت الفلسطينية دون أي تفريط ، وحق الشعب الفلسطيني في المقاومة من أجل إنهاء الاحتلال ، وإقامة تدوينة الفلسطينية كاملة لسيادة وعاصمتها القدس ، وضمان حق عودة اللاجئين إلى ديارهم وممتلكاتهم .

٢ - وافق المجتمعون على برنامج لعام ٢٠٠٥ يركز على الالتزام باستمرار المناخ الحالي للتهنئة مقابل التزام إسرائيل متبادل بوقف كافة أشكال العدوان على أرضنا وشعبنا الفلسطيني أينما وجد ، وكذلك الإفراج عن جميع الأسرى والمعتقلين .

٣ - أكد المجتمعون أن استمرار الإستييطان وبناء الجدار وتهويد القدس الشرقية هي عوامل تفجير .

٤ - بحث المجتمعون الوضع الفلسطيني الداخلي ، واتفقوا على ضرورة إستكمال الإصلاحات الشاملة في كافة المجالات ، ودعم العملية الديمقراطية بجوانبها المختلفة، وعقد الانتخابات البلدية والتشريعية

في توقيتاتها المحددة وفقاً لقانون إنتخابي يتم التوافق عليه ، ويوصى  
للمؤتمر للمجلس التشريعي باتخاذ الإجراءات لتعديل قانون الإنتخابات  
التشريعية بإعتماد المناصفة في النظام المختلط ، كما يوصي بتعديل  
قانون الإنتخابات للمجالس المحلية بإعتماد التمثيل النسبي .

٥ - وأمس المجتمعون على تفعيل وتطوير منظمة التحرير الفلسطينية وفق  
أمسس يتم التراضي عليها بحيث تضم جميع القوى والفصائل  
الفلسطينية بصفة المنظمة الممثل الشرعي الوحيد للشعب الفلسطيني ،  
ومن أجل ذلك تم للتوافق على تشكيل لجنة تتولى تحديد هذه الأمس ،  
وتشكل اللجنة من رئيس المجلس الوطني ، وأعضاء اللجنة التنفيذية  
للمنظمة والأمناء العامين لجميع الفصائل الفلسطينية ، وشخصيات  
وطنية مستقلة ، ويدعو رئيس اللجنة التنفيذية لهذه الإجتماعات .

٦ - أجمع المشاركون على أن الحوار هو الوسيلة الوحيدة للتعامل بين  
كافة القوى دعماً للوحدة الوطنية ووحدة الصف الفلسطيني ، وعلى  
تحرير الإحتكام للمسلح في الخلافات الداخلية ، وإحترام حقوق  
المواطن الفلسطيني وعدم الممااس بها ، وأن يستكمال الحوار خلال  
المرحلة المقبلة بعد ضرورة أساسية نحو جمع الكلمة وصيانة الحقوق  
الفلسطينية .

بسم الله الرحمن الرحيم  
 (واعتصموا بحبل الله جميعاً ولا تفرقوا)  
 صدق الله العظيم

## (وثيقة الوفاق الوطني)

### مقدمة

انطلاقاً من الشعور العالي بالمسؤولية الوطنية والتاريخية، ونظراً للمخاطر المحدقة بشعبنا، وانطلاقاً من مبدأ أن الحقوق لا تسقط بالتقادم، وعلى قاعدة عدم الاعتراف بشرعية الاحتلال، وفي سبيل تعزيز الجبهة الفلسطينية الداخلية وصيانة وحماية الوحدة الوطنية ووحدة شعبنا في الوطن والمنافي، ومن أجل مواجهة المشروع الإسرائيلي الهادف لرفض الحل الإسرائيلي، ونسف حلم وحق شعبنا في إقامة دولته الفلسطينية المستقلة كاملة السيادة، هذا المشروع والمخطط الذي تنوي الحكومة الإسرائيلية تنفيذه خلال المرحلة القادمة تأسيساً على إقامة واستكمال الجدار العنصري وتهويد القدس وتوسيع المستوطنات الإسرائيلية والاستيلاء على الأغوار وضم أجزاء واسعة من الضفة الغربية وإغلاق الباب أمام شعبنا في ممارسة حقه في العودة . ومن أجل المحافظة على منجزات ومكتسبات شعبنا التي حققها من خلال مسيرة كفاحه الطويل ووفاءً لشهداء شعبنا العظيم وعذابات أسراه وأنات جرحاه، وانطلاقاً من أننا لا زلنا نمر في مرحلة تحرر طابعها الأساسي وطني

وديمقراطي مما يفرض إستراتيجية سياسية كفاحية متناسبة مع هذا الطابع، ومن أجل إنجاح الحوار الوطني الفلسطيني الشامل، واستناداً إلى إعلان القاهرة والحاجة الملحة للوحدة والتلاحم فإننا نتقدم بهذه الوثيقة (وثيقة الوفاق الوطني) لشعبنا العظيم الصامد المرابط وإلى الرئيس محمود عباس أبو مازن وقيادة منظمة التحرير الوطني الفلسطيني، وإلى رئيس الحكومة إسماعيل هنية ومجلس الوزراء، وإلى رئيس وأعضاء المجلس الوطني الفلسطيني، ورئيس وأعضاء المجلس التشريعي الفلسطيني، وإلى كافة القوى والفصائل الفلسطينية، وإلى كافة المؤسسات والمنظمات الأهلية والشعبية، وقادة الرأي العام الفلسطيني في الوطن والمنافي.

### تعد وثيقة الوفاق الوطني كلاً متكاملاً والمقدمة جزء منها -١-

١) إن الشعب الفلسطيني في الوطن والمنافي يسعى ويناضل من أجل تحرير أرضه وإزالة المستوطنات وإجلاء المستوطنين وإزالة جدار الفصل والضم العنصري، وإنجاز حقه في الحرية والعودة والاستقلال وفي سبيل حقه في تقرير مصيره بما في ذلك إقامة دولته المستقلة كاملة السيادة على جميع الأراضي المحتلة عام ١٩٦٧ وعاصمتها مدينة القدس الشريف وضمان حق عودة اللاجئين إلى ديارهم وممتلكاتهم التي طردوا منها وتعويضهم وتحرير جميع الأسرى والمعتقلين بدون استثناء أو تمييز مستندين في كل ذلك إلى حق شعبنا التاريخي في أرض الآباء والأجداد وإلى

ميثاق الأمم المتحدة والقانون الدولي وما كفلته الشرعية الدولية بما لا ينتقص من حقوق شعبنا.

٢) الإسراع في إنجاز ما تم الاتفاق عليه في القاهرة آذار ٢٠٠٥ فيما يتعلق بتطوير وتفعيل منظمة التحرير الفلسطينية وانضمام كل القوى والفصائل إليها، وفق أسس ديمقراطية ترسخ مكانة منظمة التحرير الفلسطينية الممثل الشرعي والوحيد لشعبنا في أماكن تواجده كافة، بما يتلاءم مع المتغيرات على الساحة الفلسطينية وبما يعزز قدرة منظمة التحرير في القيام والنهوض بمسؤولياتها في قيادة شعبنا في الوطن والمنافي وفي تعبئته والدفاع عن حقوقه الوطنية والسياسية والإنسانية في الدوائر والمحافل والمجالات الدولية والإقليمية كافة، وأن المصلحة الوطنية تقتضي تشكيل مجلس وطني جديد قبل نهاية العام ٢٠٠٦ بما يضمن تمثيل القوى والفصائل والأحزاب الوطنية والإسلامية جميعها وتجمعات شعبنا في كل مكان والقطاعات والمؤسسات والفعاليات والشخصيات كافة، بالانتخابات حيثما أمكن وفقاً لمبدأ التمثيل النسبي وبالتوافق حيث يتعذر إجراء الانتخابات وفق آليات تضعها اللجنة العليا المنبثقة عن حوار القاهرة والحفاظ على منظمة التحرير الفلسطينية إطاراً جبهوياً عريضاً وائتلافياً وطنياً شاملاً وإطاراً جامعاً ومرجعياً سياسياً علياً للفلسطينيين في الوطن والمنافي.

٣) حق الشعب الفلسطيني في المقاومة والتمسك بخيار مقاومة الاحتلال بمختلف الوسائل وتركيز المقاومة في الأراضي المحتلة عام ١٩٦٧ إلى جانب العمل السياسي والتفاوضي والدبلوماسي والاستمرار في المقاومة الشعبية الجماهيرية ضد الاحتلال بمختلف أشكاله ووجوده وسياساته، والاهتمام بتوسيع مشاركة مختلف الفئات والجهات والقطاعات وجماهير شعبنا في هذه المقاومة الشعبية.

٤) وضع خطة فلسطينية للتحرك السياسي الشامل وتوحيد الخطاب السياسي الفلسطيني على أساس الأهداف الوطنية الفلسطينية كما وردت في هذه الوثيقة والشرعية العربية وقرارات الشرعية الدولية المنصفة لشعبنا بما يحفظ حقوقه وثوابته تنفذها قيادة منظمة التحرير ومؤسساتها والسلطة الوطنية رئيساً وحكومة، والفصائل الوطنية والإسلامية، ومنظمات المجتمع المدني والشخصيات والفعاليات العامة، من أجل استحضار وتعزيز وحشد الدعم العربي والإسلامي والدولي السياسي والمالي والاقتصادي والإنساني لشعبنا وسلطتنا الوطنية دعماً لحق شعبنا في تقرير المصير والحرية والعودة والاستقلال لمواجهة خطة إسرائيل في فرض الحل الإسرائيلي على شعبنا لمواجهة الحصار الظالم.

٥) حماية وتعزيز السلطة الوطنية الفلسطينية باعتبارها نواة الدولة القادمة هذه السلطة التي شيدها شعبنا بكفاحه وتضحيات ودماء وعذابات أبنائه وإن المصلحة

الوطنية العليا تقتضي احترام «القانون الأساسي» للسلطة والقوانين المعمول بها واحترام مسؤوليات وصلاحيات الرئيس المنتخب وفقاً لإرادة الشعب الفلسطيني بانتخابات حرة ديمقراطية ونزيهة، واحترام مسؤوليات وصلاحيات الحكومة التي منحت الثقة من المجلس التشريعي المنتخب بانتخابات حرة ديمقراطية ونزيهة، وأهمية ضرورة التعاون الخلاق بين الرئاسة والحكومة والعمل المشترك وعقد الاجتماعات الدورية بينهما لتحقيق وتعزيز التعاون والتكامل وفقاً لأحكام «القانون الأساسي» وللمصلحة الوطنية العليا وضرورة إجراء إصلاح شامل في مؤسسات السلطة الوطنية وخاصة الجهاز القضائي مع ضرورة احترام القضاء بمستوياته كافة وتنفيذ قراراته وتعزيز وتكريس سيادة القانون.

٦ العمل على تشكيل حكومة وحدة وطنية على أساس يضمن مشاركة الكتل البرلمانية والقوى السياسية الراغبة على قاعدة هذه الوثيقة وبرنامج مشترك للنهوض بالوضع الفلسطيني محلياً وعربياً وإقليمياً ودولياً ومواجهة التحديات بحكومة وحدة وطنية قوية تحظى بالدعم الشعبي والسياسي الفلسطيني من جميع القوى وكذلك بالدعم العربي والدولي وتتمكن من تنفيذ برنامج الإصلاح وتنمية الاقتصاد الوطني وتشجيع الاستثمار ومكافحة الفقر والبطالة وتقديم أفضل رعاية ممكنة للفئات التي تحملت أعباء الصمود والمقاومة والانتفاضة وكانت ضحية للعدوان الإجرامي الإسرائيلي وبخاصة أسر الشهداء والأسرى والجرحى وأصحاب البيوت والممتلكات

التي دمرها الاحتلال وكذلك العاطلين عن العمل والخريجين.

٧) أن إدارة المفاوضات هي من صلاحية (م-ت-ف) ورئيس السلطة الوطنية الفلسطينية على قاعدة التمسك بالأهداف الوطنية الفلسطينية كما وردت في هذه الوثيقة على أن يتم عرض أي اتفاق بهذا الشأن على المجلس الوطني الفلسطيني الجديد لإقراره والتصديق عليه أو اجراء استفتاء عام في الوطن والمنافي بقانون ينظمه.

٨) تحرير الأسرى والمعتقلين واجب وطني مقدس يجب أن تقوم به بالوسائل كافة القوى والفصائل الوطنية والإسلامية و (م-ت-ف) والسلطة الوطنية رئيساً وحكومة ومجلساً تشريعياً وتشكيلات المقاومة كافة.

٩) ضرورة العمل ومضاعفة الجهد لدعم ومساندة ورعاية اللاجئين الفلسطينيين والدفاع عن حقوقهم والعمل على عقد مؤتمر شعبي للاجئين تنبثق عنه هيئات متابعة وظيفتها التأكيد على حق العودة والتمسك به ودعوة المجتمع الدولي لتنفيذ ما ورد في قرار ١٩٤ بخصوص حق العودة للاجئين الفلسطينيين وتعويضهم.

١٠ العمل على تشكيل جبهة مقاومة موحدة بأسم جبهة المقاومة الفلسطينية، لقيادة وخصوص المقاومة ضد الاحتلال وتوحيد وتنسيق العمل والفعل المقاوم والعمل على توحيد مرجعية سياسية موحدة لها.

١١ التمسك بالنهج الديمقراطي وإجراء انتخابات عامة ودورية وحرية ونزاهة وديمقراطية طبقاً للقانون، للرئيس والتشريعي وللمجالس المحلية والبلدية والاتحادات والنقابات والجمعيات، واحترام مبدأ التداول السلمي للسلطة والتأكيد على مبدأ الفصل بين السلطات والتعهد بحماية التجربة الفلسطينية الديمقراطية واحترام الخيار الديمقراطي ونتائجه واحترام سيادة القانون والحريات الفردية والعامّة وحقوق الإنسان وحرية الصحافة والمساواة بين المواطنين في الحقوق والواجبات دون تمييز وحماية مكتسبات المرأة وتطويرها وتعزيزها.

١٢ رفض وإدانة الحصار الذي تقوده الولايات المتحدة وإسرائيل على شعبنا ودعوة الأشقاء العرب شعبياً ورسمياً لدعم ومساندة الشعب الفلسطيني و(م-ت-ف) وسلطته الوطنية ودعوة الحكومات العربية لتنفيذ قرارات القمم العربية السياسية والمالية والاقتصادية والإعلامية الداعمة لشعبنا الفلسطيني وصدوده وقضيته الوطنية والتأكيد على أن السلطة الوطنية الفلسطينية ملتزمة بالإجماع والعمل العربي المشترك الداعم لقضيتنا العادلة والمصالح العربية العليا.

(١٣) دعوة الشعب الفلسطيني للوحدة والتلاحم وحرص الصفوف ودعم ومساندة (م-ت-ف) والسلطة الوطنية الفلسطينية رئيساً وحكومة وتعزيز الصمود والمقاومة في وجه العدوان والحصار ورفض التدخل في الشؤون الداخلية الفلسطينية .

(١٤) نبذ مظاهر الفرقة والانقسام كلها وما يقود إلى الفتنة وإدانة وتحريم استخدام السلاح بين أبناء الشعب الواحد مهما كانت المبررات لفض النزاعات الداخلية والتأكيد على حرمة الدم الفلسطيني والإلتزام بالحوار أسلوباً وحيداً لحل الخلافات والتعبير عن الرأي بالوسائل كافة بما في ذلك معارضة السلطة وقراراتها على أساس ما يكفله القانون وحق الاحتجاج السلمي وتنظيم المسيرات والتظاهرات والاعتصامات شريطة أن تكون سلمية وخالية من السلاح ولا تتعدى على المواطنين وممتلكاتهم والممتلكات العامة.

(١٥) إن المصلحة الوطنية تقتضي ضرورة البحث عن أفضل الأساليب والوسائل المناسبة لاستمرار مشاركة شعبنا وقواه الوطنية والسياسية والاجتماعية في أماكن تواجهه كافة في معركة الحرية والعودة والاستقلال مع الأخذ بعين الاعتبار الوضع الجديد لقطاع غزة وبما يجعله رافعة وقوة حقيقية لصمود شعبنا على أساس استخدام الوسائل والأساليب النضالية الأنجع في مقاومة الاحتلال مع مراعاة المصالح العليا لشعبنا .

١٦) ضرورة إصلاح وتطوير المؤسسة الأمنية الفلسطينية بكل فروعها على أساس عصري وبما يجعلها أكثر قدرة على القيام بمهمة الدفاع عن الوطن والمواطنين وفي مواجهة العدوان والاحتلال وحفظ الأمن والنظام العام وتنفيذ القوانين وإنهاء حالة الفوضى والفلتان الأمني وإنهاء المظاهر المسلحة والاستعراضات ومصادرة سلاح الفوضى والفلتان الأمني الذي يلحق ضرراً فادحاً بالمقاومة ويشوه صورتها ويهدد وحدة المجتمع الفلسطيني وضرورة تنسيق وتنظيم العلاقة مع قوى وتشكيلات المقاومة وتنظيم وحماية سلاحها.

١٧) دعوة المجلس التشريعي لمواصلة إصدار القوانين المنظمة لعمل المؤسسة الأمنية والأجهزة بمختلف فروعها والعمل على إصدار قانون يمنع ممارسة العمل السياسي والحزبي لمنتسبي الأجهزة والالتزام بالمرجعية السياسية المنتخبة التي حددها القانون.

١٨) العمل من أجل توسيع دور وحضور لجان التضامن الدولية والمجموعات المحبة للسلام لدعم صمود شعبنا ونضاله العادل ضد الاحتلال وممارسته والاستيطان وجدار الفصل والضم العنصري ومن أجل تنفيذ قرار محكمة العدل الدولية في لاهي المتعلق بإزالة الجدار والاستيطان وعدم مشروعيتها.

## الأسرى القادة ممثلي الفصائل الموقعين على الوثيقة

حركة التحرير الوطني الفلسطيني (فتح)

النائب مروان البرغوثي أمين سر حركة " فتح "

حركة المقاومة الإسلامية (حماس)

الهيئة القيادية العليا - الشيخ عبد الخالق النتشة

حركة الجهاد الإسلامي

الشيخ بسام السعدي

الجهة الشعبية لتحرير فلسطين

عبد الرحيم ملوح عضو اللجنة التنفيذية

نائب الأمين العام للجهة

الجهة الديمقراطية

مصطفى بدارنة

ملاحظة: حركة الجهاد الإسلامي تحفظت على البند المتعلق بالمفاوضات .



**نص اتفاق مكة للوفاق الوطني يؤكد تحريم الدم الفلسطيني  
وتأليف حكومة وحدة وطنية  
مكة المكرمة، 2007/2/8\***

بناء على المبادرة الكريمة، التي أعلنها خادم الحرمين الشريفين، الملك عبد الله بن عبد العزيز، ملك المملكة العربية السعودية، وتحت الرعاية الكريمة لجلالته، جرت في مكة المكرمة، بين حركتي "فتح" و"حماس" في الفترة من 19 إلى 21 محرم 1428، الموافق من السادس إلى الثامن من شباط/فبراير 2007 حوارات الوفاق والاتفاق الفلسطيني، وقد تكللت هذه الحوارات بفضل الله سبحانه وتعالى بالنجاح حيث جرى الاتفاق على ما يلي:

أولاً: التأكيد على تحريم دم الفلسطيني، واتخاذ كافة الإجراءات والترتيبات، التي تحول دون إراقة مع التأكيد على أهمية الوحدة الوطنية، كأساس للصمود الوطني والتصدي للاحتلال، وتحقيق الأهداف الوطنية المشروعة للشعب الفلسطيني، واعتماد لغة الحوار كأساس وحيد لحل الخلافات السياسية في الساحة الفلسطينية.

وفي هذا الإطار نقدم الشكر الجزيل للإخوة في مصر الشقيقة والوفد الأمني المصري في غزة، الذين بذلوا جهوداً كبيرة في تهدئة الأوضاع في القطاع، خلال الفترة السابقة.

ثانياً: الاتفاق وبصورة نهائية على تشكيل حكومة وحدة وطنية فلسطينية، وفق اتفاق تفصيلي معتمد بين الطرفين، والشروع العاجل في اتخاذ الإجراءات الدستورية لتشكيلها.

ثالثاً: المضي قدماً في إجراءات تفعيل وتطوير وإصلاح منظمة التحرير الفلسطينية، وتسريع إجراءات عمل اللجنة التحضيرية، استناداً لتفاهات القاهرة ودمشق.

وقد جرى الاتفاق على خطوات تفصيلية بين الطرفين بهذا الخصوص.

رابعاً: تأكيد مبدأ الشراكة السياسية على أساس القوانين المعمول بها في السلطة الوطنية الفلسطينية، وعلى قاعدة التعددية السياسية، وفق اتفاق معتمد بين الطرفين.

إننا إذ نؤيد هذا الاتفاق إلى جماهيرنا الفلسطينية، وجماهير أمتنا العربية والإسلامية وكل الأصدقاء في العالم، فإننا نؤكد التزامنا به نصاً وروحاً، من أجل التفرغ لإنجاز أهدافنا الوطنية، والتخلص من الاحتلال، واستعادة حقوقنا والتفرغ للملفات الرئيسية، وفي مقدمتها قضايا القدس واللاجئين والمسجد الأقصى والأسرى والمعتقلين ومواجهة الجدار والاستيطان.

والله الموفق.

مكة المكرمة في 21 محرم 1428، الموافق الثامن من شباط/فبراير 2007.

صنعاء، 23 آذار/ مارس 2008

أولاً: العودة بالأوضاع إلى ما كانت عليه في غزة قبل تاريخ 13/6/2007 م ، وإجراء انتخابات مبكرة رئاسية ومجلس تشريعي.

ثانياً: يتم استئناف الحوار الوطني على قاعدة اتفاق القاهرة (عام 2005)، واتفاق مكة (عام 2007)، على أساس أن الشعب الفلسطيني كل لا يتجزأ، وأن السلطة الفلسطينية تتكون من سلطة الرئاسة المنتخبة والبرلمان المنتخب والسلطة التنفيذية ممثلة بحكومة وحدة وطنية والالتزام بالشرعية الفلسطينية بكل مكوناتها.

ثالثاً: التأكيد على احترام الدستور والقانون الفلسطيني والالتزام به من قبل الجميع.

رابعاً: إعادة بناء الأجهزة الأمنية على أسس وطنية بحيث تتبع السلطة العليا وحكومة الوحدة الوطنية ولا علاقة لأي فصيل بها.

خامساً: تشكيل حكومة وحدة وطنية ائتلافية تمثل فيها كل الفصائل بحسب ثقلها في المجلس التشريعي وتكون قادرة على ممارسة مسؤولياتها كاملة.

سادساً: تشكل لجنة من خلال الجامعة العربية تتكون من الدول ذات الصلة مثل مصر والسعودية وسوريا والأردن، وتعبّر اليمن عن استعدادها للمشاركة إذا طلب منها ذلك، وتكون مهمتها تنفيذ ما سبق.

سابعاً: تتكون المؤسسات الفلسطينية بكل تكويناتها دون تمييز فصائلي وتخضع للسلطة العليا وحكومة الوحدة الوطنية.

نوافق نحن ممثلي حركتي فتح وحماس على المبادرة اليمينية كإطار لاستئناف الحوار بين الحركتين للعودة بالأوضاع الفلسطينية إلى ما كانت عليه قبل أحداث غزة تأكيداً لوحدة الوطن الفلسطيني أرضاً وشعباً وسلطة واحدة.

ممثل حركة حماس

ممثل حركة فتح

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ  
**اتفاقية الوفاق الوطني الفلسطيني**

**القاهرة ٢٠١١**

إطلاقاً من المسؤولية الوطنية والتاريخية التي تقتضي إعلاء المصلحة العليا للشعب الفلسطيني ، ووفاء لدماء شهدائنا الأبرار ، وإجلالاً لمعاناة أسرانا البواسل ، وفي سبيل تعزيز الجبهة الفلسطينية الداخلية، وصيانة وحماية الوحدة الوطنية، ووحدة شعبنا في الوطن والشتات ، ومن أجل المحافظة على مكتسبات شعبنا التي حققها من خلال مسيرة كفاحه الطويل ، وبقيناً بأن منجزات وتضحيات شعبنا الصامد على مدار عقود مضت لا يجب أن تهدرها أية خلافات أو صراعات.

وإرتباطاً بالحوار الوطني الفلسطيني الشامل الذي عُقد في القاهرة إبتداءً من ٢٠٠٩/٢/٢٦ بمشاركة مصرية فاعلة ومقدّرة ، وما تلى ذلك من جلسات حوار متعددة ومكثفة إتسمت بالشفافية والمصارحة ، والتعمق في مناقشة كافة قضايا العمل الوطني بعقل مفتوح وإرادة سياسية ، ورغبة حقيقية في إنهاء الإنقسام السياسي والجغرافي والنفسي الذي أضفى سلبياته على كافة أرجاء الوطن الفلسطيني .

وتأكيداً للتوجه الحقيقي نحو الوفاق والمصالحة ، والتغلب على المعوقات التي تحول دون إعادة وحدة الوطن والشعب ، فقد إتفقت كافة الفصائل والتنظيمات والقوى الفلسطينية على إنهاء حالة الإنقسام الفلسطيني إلى غير رجعة ، وحددت كافة المبادئ والأسس اللازمة لتنفيذ متطلبات ذلك ، وتوافقت على طول للقضايا التي مثلت جوهر الخلاف والإنقسام ، وأصبحت هذه الحلول هي النبراس الذي شكل القاعدة الرئيسية لتوقيع إتفاقية الوفاق الوطني الفلسطيني في القاهرة ، على أن يتم الإنطلاق منها إلى آفاق التنفيذ لتتصهر فيها كل الخلافات ، وتتآلف معها كل الإرادات، ويتحرك الجميع يداً بيد لبناء الوطن الفلسطيني.

ومن أجل إنجاح إتفاقية الوفاق الوطني في المرحلة القادمة التي ستعقب عملية توقيع ، فقد وافق الجميع على الإنترام التام بمقتضيات هذه المرحلة وتوفير المناخ

تصالحهم لتنفيذ متطلباتها ، والتفاعل بإيجابية مع استحقاقاتها ، على أن تتولى لجنة عليا برئاسة مصرية وبمشاركة عربية الإشراف والمتابعة لتنفيذ هذه الإتفاقية.

وفي النهاية يثمن المجتمعون الدور المصري الداعم للقضية الفلسطينية ، وللجهود الدؤوب الذي أدى إلى توقيع إتفاقية الوفاق الوطني بما يتيح إعادة حقيقة لترتيب البيت الفلسطيني كخطوة نحو إقامة الدولة الفلسطينية المستقلة ، كما يتقدم المجتمعون بكل الشكر والتقدير للدول العربية الداعمة للقضية الفلسطينية ، وستظل فلسطين ترى أن الدول العربية هي عمقها الحقيقي .

وقد إتفق المجتمعون على أن هذه الإتفاقية تتطلب أن تتحول النوايا الحسنة إلى برنامج عمل قابل للتنفيذ ، ويعاهدون الله ، ويتعهدون أمام شعبهم في الوطن والشتات ، أن يقوموا بتنفيذ كل ما تضمنته الإتفاقية وبذل كل الجهد لإحياها ، من أجل مصلحة الشعب الفلسطيني في إطار من المسئولية والإلتزام .

### أولاً : منظمة التحرير الفلسطينية

تفعيل وتطوير منظمة التحرير الفلسطينية وفق أسس يتم التراضي عليها بحيث تضم جميع القوى والفصائل الفلسطينية وفقاً لإتفاق القاهرة مارس ٢٠٠٥، وكما ورد في الفقرة الثانية من وثيقة الوفاق الوطني يونيو ٢٠٠٦ فيما يتعلق بتطوير وتفعيل منظمة التحرير الفلسطينية وإتضام كل القوى والفصائل إليها وفق أسس ديمقراطية ترسخ مكانة منظمة التحرير الفلسطينية الممثل الشرعي والوحيد لشعبنا في أماكن تواجده كافة، بما يتلاءم مع التغيرات على الساحة الفلسطينية، وبما يعزز قدرة منظمة التحرير في القيام والنهوض بمسئولياتها في قيادة شعبنا في الوطن والمنافي وفي تعبئته والدفاع عن حقوقه الوطنية والسياسية والإسكانية في الدوائر والمحافل والمجالات الدولية والإقليمية كافة .

إن المصلحة الوطنية تقتضي تشكيل مجلس وطني جديد (طبقاً للتوقيتات المحددة) بما يضمن تمثيل القوى والفصائل والأحزاب الوطنية والإسلامية جميعها وتجمعات شعبنا في كل مكان والقطاعات والمؤسسات والفعاليات والشخصيات كافة، بالانتخابات حيثما أمكن ووفقاً لمبدأ التمثيل النسبي وبالتوافق حيث يتعدى إجراء الانتخابات وفق آليات تضعها اللجنة المنبثقة عن إتفاق القاهرة مارس ٢٠٠٥ والحفاظ على منظمة التحرير الفلسطينية إطاراً جبهوياً عريضاً وإتلافاً وطنياً شاملاً وإطاراً جامعاً ومرجعية سياسية عليا للفلسطينيين في الوطن والمنافي .

ولاية المجلس الوطني "٤" سنوات بحيث تتزامن مع إنتخابات المجلس التشريعي وتجرى إنتخابات المجلس الوطني وفق مبدأ التمثيل النسبي الكامل وبقانون يتفق عليه، وبالتوافق في المواقع التي يتعدى فيها إجراء إنتخابات.

تشكل اللجنة المكلفة بتطوير منظمة التحرير الفلسطينية (حسب إعلان القاهرة مارس ٢٠٠٥) لجنة متخصصة لإعداد قانون الإنتخابات للمجلس الوطني الفلسطيني ورفعها إليها لإعتماده .

تقوم اللجنة المكلفة بتطوير منظمة التحرير الفلسطينية ( حسب إعلان القاهرة ٢٠٠٥ ) باستكمال تشكيلها وعقد أول إجتماع لها فور البدء في تنفيذ هذا الإتفاق .

تقوم اللجنة بتحديد العلاقة بين المؤسسات والهيكل والمهام لكل من منظمة التحرير الفلسطينية والسلطة الوطنية الفلسطينية، خاصة العلاقة بين المجلس الوطني والمجلس التشريعي، وبما يحافظ على مرجعية منظمة التحرير الفلسطينية للسلطة الفلسطينية ويضمن عدم الإزدواجية بينهما في الصلاحيات والمسئوليات .

ولحين إنتخاب المجلس الوطني الجديد ومع التأكيد على صلاحيات اللجنة التنفيذية وسائر مؤسسات المنظمة تقوم اللجنة المكلفة بتطوير منظمة التحرير الفلسطينية حسب إعلان القاهرة ٢٠٠٥ باستكمال تشكيلها وعقد أول إجتماع لها كإطار قيادي مؤقت وتكون مهامها كالتالي :-

- \* وضع الأسس والآليات للمجلس الوطني الفلسطيني.
- \* معالجة القضايا المصيرية في الشأن السياسي والوطني واتخاذ القرارات بشأنها بالتوافق.
- \* متابعة تنفيذ القرارات المنبثقة عن الحوار وتعقد إجتماعها الأول في القاهرة ليبحث آليات عملها .

## ثانياً: الإنتخابات

تجرى الإنتخابات التشريعية والرئاسية والمجلس الوطني الفلسطيني متزامنة يوم الاثنين الموافق ٢٠١٠/٦/٢٨ ويلتزم الجميع بذلك .

تجرى إنتخابات المجلس الوطني الفلسطيني على أساس التمثيل النسبي الكامل في الوطن والخارج حيثما أمكن ، بينما تجرى الإنتخابات التشريعية على أساس النظام المختلط .

تتم الإنتخابات التشريعية بالنظام المختلط على النحو التالي :-

- \* ٧٥% (قوائم) .
- \* ٢٥% (دوائر) .
- \* نسبة الحسم ٢% .
- \* الوطن ستة عشر دائرة إنتخابية (إحدى عشر دائرة في الضفة الغربية ، وخمس دوائر في قطاع غزة) .

تجرى الإنتخابات تحت إشراف عربي ودولي ، مع إمكانية إتخاذ كافة التدابير لضمان إجرائها في ظروف متكافئة ومواتية للجميع ، وفي جو من الحرية والنزاهة والشفافية في الضفة والقطاع .

### التوافق على المبادئ عامة التالية

- \* تهيئة الأجواء اللازمة لتسهيل وإنجاح الإنتخابات الرئاسية والتشريعية .
- \* تجرى الإنتخابات الرئاسية والتشريعية في جميع مناطق السلطة الوطنية الفلسطينية بما فيها القدس .
- \* توفير الضمانات اللازمة لإجراء وإتجاح الإنتخابات في مواعيدها .
- \* توقيع ميثاق شرف بين جميع القوى والفعاليات المشاركة في الحوار لضمان إجراء الإنتخابات دورياً بنزاهة وجدية وشفافية في مواعيدها .

### آلية الرقابة على الانتخابات:

- \* التأكيد على ما ورد في المادة (١١٣) من قانون الانتخابات بشأن مراقبة وتغطية الانتخابات .
- \* تعزيز الرقابة على الانتخابات بتوسيع المشاركة المحلية والعربية والدولية .
- \* في حالة إنشاء نظام إلكتروني يتم توفير آليات الرقابة الإلكترونية على أن يكون التدقيق الورقي هو المعيار المعتمد في هذا الشأن .

### تشكيل محكمة قضايا الانتخابات:

وفقاً لأحكام القانون تشكل محكمة قضايا الانتخابات من رئيس وثمانية قضاة بتسيب من مجلس القضاء الأعلى ، ويعين عنها بمرسوم رئاسي بعد استكمال الإجراءات لتشكيله (مجلس القضاء الأعلى) بالتشاور والتوافق الوطني وفق القانون وبما لا يمس إستقلالية السلطة القضائية .

### تشكيل لجنة الانتخابات:

عملاً بما جاء في قانون الانتخابات يقوم الرئيس الفلسطيني بتشكيل لجنة الانتخابات بناء على المشاورات التي يقوم بها وعلى تسيب القوى السياسية والشخصيات الوطنية .

## ثالثاً: الأمن

### مبادئ عامة

#### مقدمة

إن شعبنا الفلسطيني لا يزال يعيش مرحلة التحرر الوطني ، لذا فإن عمل الأجهزة الأمنية في الضفة الغربية وقطاع غزة يجب أن يحقق أمن الوطن والمواطن من خلال المبادئ التالية :

- \* صياغة القوانين الخاصة بالأجهزة الأمنية حسب المهام المنوطة بها وفقاً للمصالح الوطنية الفلسطينية .
- \* مرجعية الأجهزة الأمنية طبقاً لقانون الخدمة في قوى الأمن الفلسطينية وأن تكون تلك الأجهزة مهنية وغير فصلية.
- \* تحديد معايير وأسس إعادة بناء وهيكلية وتوحيد الأجهزة الأمنية .
- \* جميع الأجهزة الأمنية تخضع للمساءلة والمحاسبة أمام المجلس التشريعي.
- \* كل ما لدى الأجهزة الأمنية من معلومات وأسرار تخضع لمفهوم وقواعد السرية المعمول بها في اللوائح والقوانين ، وأي مخالفة لها توقع صاحبها تحت طائلة القانون .
- \* كافة المقيمين على أراضي السلطة ، من مواطنين وأجانب هم أصحاب حق في توفير الأمن والأمان ، دون اعتبار للجنس أو اللون أو الدين .
- \* أي معلومات أو تخاير أو إعطاء معلومات للعدو تمس الوطن والمواطن الفلسطيني والمقاومة تعتبر خيانة عظمى يعاقب عليها القانون .
- \* تحريم الإعتقال السياسي .

- \* إحترام الأجهزة الأمنية لحق الشعب الفلسطيني في المقاومة والدفاع عن الوطن والمواطن .
- \* العلاقة الخارجية للشئون الأمنية تخضع لقرار سياسي وتنفذ التطبيقات السياسية .
- \* إبعاد المؤسسة الأمنية عن التجاذبات والخلافات السياسية بين القوى والفصائل وعدم التجريح والتخوين لهذه المؤسسة وإعتبارها ضماناً لأمن وإستقرار الوطن والمواطن .

#### مختيار وأسس إعادة بناء وهيئة الأجهزة الأمنية

- \* التأكيد على ما نص عليه قانون الخدمة لقوى الأمن والموافقة على جميع المحظورات الواردة في القانون ( من المواد من ٩٠ - ٩٤ ) .
- \* إعتداد المعايير المهنية والوطنية في الإلتساب للأجهزة الأمنية .
- \* الإسراع في إنجاز القواتين واللوائح الخاصة بالأجهزة الأمنية بما ينظم عمل هذه الأجهزة ، وعدم التداخل في الإختصاصات .
- \* تحديد وتنظيم التسلسل الإداري في صدور الأوامر في المؤسسة الأمنية بما يكفل هرمية القيادة والسيطرة .
- \* يحظر إقامة أى تشكيلات عسكرية خارج إطار الهيكل المقرر لكل جهاز .
- \* تتناسب عدد الأفراد لكل جهاز مع المهام الموكلة له .
- \* إلتزام جميع الأجهزة بالقواتين السارية المعمول بها في مناطق السلطة ، وإحترام مبادئ حقوق الإنسان وكرامة المواطنين ، والتعاون التام بين الأجهزة ذات العلاقة (القضاء - النيابة العامة - مؤسسات المجتمع المدني - الوزارات المختلفة) وتمكين الهيئات الوطنية ومراكز مؤسسات حقوق الإنسان من ممارسة عملها للتأكد من الحفاظ على حقوق الإنسان .

- \* تخضع الأجهزة الأمنية وقادتها وعناصرها للمساءلة والرقابة من قبل الوشبات والجهات المسؤولة المخولة ووفق القانون والنظام .
- \* تجريم وتحريم استخدام السلاح لأسباب خارج المهمات الوظيفية وبعيداً عن اللوائح والأنظمة المنصوص عليها .
- \* المحافظة المطلقة على أسرار الدولة والمؤسسة .
- \* تباشير الأجهزة الأمنية عملها وفقاً للقانون وبعيداً عن التدخلات ، ووفق الصلاحيات المخولة لها في القانون ، مع ضرورة تعزيز القانون والتشريعات بما يخدم ذلك .
- \* ضرورة الإهتمام بالتدريب المحلى والخارجي نظراً لما للتدريب من أهمية قصوى في صفل المهارات وإكتساب الخبرات نحو التطوير المهني .
- \* تستجيب المعايير الموضوعية لإحتياجات الفلسطينيين الأمنية في حدودهم السيادية .
- \* تتناسب الموازنة المقررة مع حجم المهام المنوطة بالأجهزة الأمنية ، وتخضع جميع أوجه الصرف لمبدأ الرقابة والشفافية .
- \* الإلتزام بالمدد المحددة لقادة الأجهزة وفق القانون .

#### اللجنة الأمنية العليا والإستخبارات

- \* تشكيل لجنة أمنية عليا يصدر الرئيس الفلسطيني مرسوماً بها ، تتكون من ضباط مهنيين بالتوافق ، وتمارس عملها تحت إشراف مصري وعربي لمتابعة وتنفيذ إتفاقية الوفاق الوطني في الضفة والقطاع ، وتكون من بين مهامها رسم السياسات الأمنية والإشراف على تنفيذها .
- \* يتم إعادة بناء وهيكله الأجهزة الأمنية الفلسطينية بمساعدة مصرية وعربية في كل من الضفة الغربية وقطاع غزة .

- \* التأكيد على حق الضمان الوظيفي لجميع العاملين بالأجهزة الأمنية (إستيعاب - إحالة للتقاعد - نقل إلى وظائف مدنية - ...).
- \* تبدأ عملية إستيعاب عدد (ثلاثة آلاف) عنصر من منتسبي الأجهزة الأمنية السابقة في الشرطة والأمن الوطني والدفاع المدني في الأجهزة القائمة في قطاع غزة بعد توقيع إتفاقية الوفاق الوطني مباشرة ، على أن يزداد هذا العدد تدريجياً حتى إجراء الإنتخابات التشريعية وفق آلية يتم التوافق عليها .
- \* يتم ضمان تأمين كافة مستلزمات إستيعاب هذه العناصر من خلال دعم مصري وعربي .

الموافقة على عدد الأجهزة الأمنية حسب قاتون الخدمة في قوى الأمن الفلسطينية لسنة ٢٠٠٥ لتكون على النحو التالي:-

- \* قوات الأمن الوطني وجيش التحرير الوطني الفلسطيني .
- \* قوى الأمن الداخلي (الشرطة - الدفاع المدني - الأمن الوقائي).
- \* المخابرات العامة .
- (وأى قوة أو قوات أخرى موجودة أو ستحدث تكون ضمن القوى الثلاثة).

#### مهام الأجهزة الأمنية

#### الأمن الوطني

#### التعريف

الأمن الوطني هيئة عسكرية نظامية، تؤدي وظائفها وتباشر اختصاصاتها تحت قيادة القائد العام، وهو الذى يصدر القرارات اللازمة لإدارة عملها وتنظيم شئونها كافة ، وفقاً لأحكام القانون والأنظمة الصادرة بمقتضاه .



- \* حماية سيادة البلاد وتأمين سلامة أراضيها والمشاركة في تطويرها والمساعدة في مواجهة الكوارث الداخلية، وذلك وفقاً للحالات التي يجوز فيها الاستعانة بقوى الأمن الوطني في المهام غير العسكرية.
- \* تنفيذ الأحكام القضائية والأوامر الصادرة عن السلطة ذات الاختصاص فيما يتعلق بقوى الأمن وفق النظام والقانون العسكري.
- \* حماية الوطن من أي اعتداء خارجي .
- \* مواجهة التهديدات الخارجية والداخلية في مناطق انتشارها، وتشارك في التصدي لحالات الطوارئ المحددة دستورياً .
- \* التمثيل العسكري في السفارات الوطنية في الخارج .

### توات الأمن الداخلي

#### التعريف

الأمن الداخلي هو هيئة أمنية نظامية ، تؤدي وظائفها وتباشر اختصاصاتها برئاسة وزير الداخلية وبقيادة مدير عام الأمن الداخلي وهو الذي يصدر القرارات اللازمة لإدارة أعمالها وتنظيم شئونها .

#### مهام قوى الأمن الداخلي

- \* حفظ النظام العام والحفاظ على الآداب والأخلاق الفاضلة .
- \* حماية أمن المواطن وحقوقه وحياته والمؤسسات العامة والخاصة .
- \* تنفيذ وإحترام القانون .
- \* القيام بأعمال الدفاع المدني والإنقاذ وإطفاء الحرائق .

- \* مكافحة كافة أعمال وصور التجسس داخل الوطن .
- \* المحافظة على الجبهة الداخلية من أى اختراقات أو تهديدات خارجية .
- \* تنفيذ الأحكام القضائية أو أى قرارات قانونية صادرة عن السلطة ذات الاختصاص وفق ما ينص عليه القانون .

### تتألف قوى الأمن الداخلى من الأهمرة التالية

#### الشرطة

#### مهام جهاز الشرطة

- \* المحافظة على النظام والأمن وحماية الأرواح والأغراض والأموال والآداب العامة .
- \* منع الجرائم ، والعمل على إكتشافها وتعقبها والقبض على مرتكبيها وتقديمهم للعدالة .
- \* إدارة مراكز الإصلاح وحراستها .
- \* تنفيذ القوانين والأنظمة والأوامر الرسمية ، ومعاونة السلطات العامة بتأدية وظائفها وفق أحكام القانون .
- \* مراقبة وتنظيم النقل على الطرق .
- \* حماية التجمعات والمسيرات حسب القانون .

#### الأمن الداخلى / الأمن الوقائى

#### مهام جهاز الأمن الداخلى / الأمن الوقائى

- \* مكافحة الأعمال التجسسية داخل أراضى السلطة .
- \* متابعة الجرائم التى تهدد الأمن الداخلى للسلطة والعمل على منع وقوعها .

- \* الكشف عن الجرائم التي تستهدف الإدارات الحكومية والهيئات والمؤسسات العامة والعاملين فيها .
- \* توفير المعلومات للقيادة السياسية للاسترشاد بها في التخطيط واتخاذ القرارات .

### الدفاع المدني

مهام جهاز الدفاع المدني : ( قانون الدفاع المدني الفلسطيني )

### الآمن والحماية

التوافق على المهام التالية له :-

- \* حماية الشخصيات الرسمية والقيادات الحكومية خلال تحركاتهم الداخلية وأثناء السفر للخارج .
- \* توفير الحماية للوفود الأجنبية .
- \* تأمين أماكن اللقاءات والاجتماعات الرسمية .
- \* متابعة أمن وفحص المركبات التابعة للجهاز والشخصيات .
- \* حماية مواكب الشخصيات وتحركاتهم داخل الوطن .
- \* توفير الحماية للشخصيات والزوار في معابر الوطن وتسهيل مهمة السفر .
- \* توفير الأماكن الآمنة لإيواء الشخصيات والقيادات الحكومية في حالة الطوارئ .
- \* وضع خطط الطوارئ لتنقل وإتصالات الشخصيات والقيادات الحكومية في حالة الطوارئ .

المخابرات العامةتعريف المخابرات العامة

المخابرات العامة هيئة أمنية نظامية مستقلة تتبع الرئيس الفلسطيني ، وتؤدي وظائفها وتباشر اختصاصاتها برئاسته وتحت قيادته ، وهو الذي يصدر القرارات اللازمة لإدارة عملها وتنظيم شئونها كافة .

مهام جهاز المخابرات وفق قانون المخابرات العامة الفلسطينية

- \* إتخاذ التدابير اللازمة للوقاية من أية أعمال تعرض أمن وسلامة فلسطين للخطر وإتخاذ الإجراءات اللازمة ضد مرتكبيها وفقاً لأحكام القانون.
- \* الكشف عن الأخطار الخارجية التي من شأنها المساس بالأمن القومي الفلسطيني في مجالات التجسس والتآمر والتخريب أو أعمال أخرى تهدد وحدة الوطن وأمنه وإستقلاله ومقدراته.
- \* التعاون المشترك مع أجهزة الدول الصديقة المشابهة لمكافحة أية أعمال تهدد السلم والأمن المشترك ، أو أي من مجالات الأمن الداخلي ، شريطة المعاملة بالمثل.

عقيدة قوى الأمن

- \* تنطلق عقيدة الأجهزة الأمنية وفق ما نص عليه القانون الأساسي (المادة ٨٤) مع إضافة جملة " وحماية حقوقه المشروعة".

مرجعية قوى الأمن

- \* تكون مرجعية قوى الأمن وفقاً لما تم الإتفاق عليه في مهام الأجهزة الأمنية.

مجلس الأمن القومي

- \* يرجع للمجلس التشريعي لإصدار قانون لمجلس الأمن القومي الفلسطيني .

تدابير المساعدة العربية لبيئة الأجهزة الأمنية

- \* تشكيل لجنة للاتصال وتوفير الاحتياجات المحددة.
  - \* يقوم كل جهاز بتحديد احتياجاته وتقديم اللجنة.
  - \* استقبال الوفود الأمنية الزائرة بغرض تقديم المساعدة للأجهزة الأمنية على أن يكون محكوماً بضوابط المهمة وفق جدول زمني محدد.
-

## رابعاً المصالحة الوطنية

### إتفاق على الأهداف التالية :

- \* نشر ثقافة التسامح ، والمحبة ، والمصالحة ، والشراكة السياسية ، والعيش المشترك.
- \* حل جميع الإنتهاكات التي نجمت عن الفلتان والإقسام بالطرق الشرعية والقانونية.
- \* وضع برنامج لتعويض المتضررين من الإقسام والعنف مادياً ومعنوياً.
- \* وضع الأسس والآليات الكفيلة بمنع تكرار الأحداث المؤسفة.
- \* تأمين الموازنات اللازمة لدعم إنجاز مهمة اللجنة من خلال صندوق وطني يمول عربياً.
- \* الإشراف على المصالحة الإجتماعية .
- \* تشكيل لجان فرعية في كافة المحافظات .

### آليات ووسائل المصالحة

- \* الوقف الفوري لكل أشكال التحريض المتبادل والإنتهاكات بمختلف أنواعها ومراقبة تنفيذ ذلك.
- \* عقد لقاءات جماهيرية موسعة تطل كل قطاعات المجتمع ( مدارس ، جامعات ، تجمعات شعبية ) ، وتنظيم حملات إعلامية هدفها إشاعة مناخ المصالحة والتسليم في المجتمع ، و إشراك كافة المنابر الإعلامية بما في ذلك المساجد من أجل تحقيق هذا الهدف.

- \* إشراك كل من القوى السياسية ، ومؤسسات المجتمع المدني ، والمستقلين ، ولجان الإصلاح ، في خلق بيئة المصالحة والتسامح والصفح العام .
- \* الاستماع إلى جميع ضحايا العنف الداخلي والفلتان الأمني ، وتحديد الضرر المادي والمعنوي الذي لحق بالمتضررين وذويهم .
- \* تحديد أسس التعويض المادي للمتضررين .
- \* بحث سبل تفعيل دور القانون في المحاسبة ، والتوصيات بذلك لجهات الاختصاص .
- \* الزيارات الميدانية وإجراء الاستقصاءات اللازمة .
- \* المتابعة مع الجهات المعنية ومطالبتها بالحزم في موافقها لوقف عملية أخذ القانون باليد والمحاسبة الصارمة لمنع كل ذلك .
- \* العمل على رفع الغطاء التنظيمي والعشائري والعائلي عن كل من يرتكب الإعتداءات على الناس وممتلكاتهم .
- \* إصدار ميثاق شرف يؤكد على تحريم الإحتلال الداخلي ، ووضع آلية متابعة ذلك .
- \* القيام بجولات عربية لتسهيل مهام لجنة المصالحة ، بالتنسيق مع الجهات المختصة .

#### تشكل لجنة المصالحة من الآتي:

- \* رئيس اللجنة (بالتوافق).
- \* نائب الرئيس .
- \* أمين السر .
- \* أمين الصندوق .
- \* الأعضاء .

### تشكيل وحدات إستشارية للمؤسسات القضائية ، بالتنسيق مع الجهات المختصة وهي

- \* وحدة التوعية والإعلام .
- \* وحدة الشكاوى والمظالم .
- \* وحدة العلاقات العامة .
- \* وحدة حصر الأضرار .
- \* وحدة التوجيه القضائية (القضاء النظامي - القضاء الشرعي - القضاء الضائري) .

إعتبار أن الأفراد الذين لحق بهم أذى بمختلف أنواعه أثناء مرحلة المواجهات الداخلية ضحايا العنف ، وأن تتحمل السلطة الوطنية الفلسطينية مسؤولية معالجة قضاياهم ، بمتابعة ومشاركة من لجنة المصالحة الوطنية ، وينطبق على الجرحى ما ينطبق على الضحايا .

وبناء على ذلك فإن الذين لحق بهم أذى بمختلف أنواعه بسبب أعمال جنائية فردية ، يتحمل الجاني مسؤولية ذلك وتتخذ بحقه الإجراءات القضائية الملائمة ، أما الذين لحق بهم بمختلف أنواعه على خلفية الصراع السياسي ، يتحمل التنظيم المتسبب بالأذى مسؤوليته ، دون تحميل المسؤولية للأفراد ، وتجرى معالجة آثار ذلك بمشاركة وطنية من الجميع ، وبما يحقق العدالة للمتضررين .

لكل مواطن حق ثابت أو منقول سلب منه ويشكل ملكية له ، يجب أن يتقدم إلى لجنة الشكاوى والمظالم لإعادة حقوقه كاملة .

### آليات لجنة المصالحة

تعمل لجنة المصالحة من خلال الآليات التالية :-

- \* تجتمع اللجنة عقب توقيع إتفاقية الوفاق الوطني لتوزيع المهام بين أعضائها حسب الهيكلة المتفق عليها .

- \* الحصول على مقر مركزي مناسب في مدينة غزة.
- \* البدء فوراً بتشكيل لجان فرعية في المحافظات داخل الضفة وغزة ، لمساعدة اللجنة العليا في تنفيذ مهامها.
- \* تحديد الكادر الوظيفي الضروري لتشكيل وحدات العمل المتفق عليه.
- \* الإسراع في تنظيم مؤتمر شعبي للمصالحة والتسامح يمثل انطلاقه لعملها ، وإعلان العمل لميثاق الشرف.
- \* تشرع اللجنة فور تشكيلها بممارسة مهامها.
- \* الإعلان عبر كافة الوسائل الإعلامية عن بدء أعمال اللجنة ، والإعلان عن أماكن مقراتها ، آلية عملها وتنفيذها.
- \* وضع موازنة ضرورية لإنجاح أعمالها ، وتسعى لتأمين هذه الموازنة الضرورية اللازمة من جهة الاختصاص.
- \* ترفع اللجنة تقريرها للجهات المختصة بالتنفيذ بعد تجميع المعلومات الضرورية المتعلقة بالمواطنين الذين تعرضوا للإنتهاكات والأضرار وسبل علاجها.

#### ميثاق الشرف الخاص بالمصالحة الوطنية

تم الإتفاق على ميثاق شرف خاص بالمصالحة الوطنية الفلسطينية (الملحق " أ ").

## قائمة اللجنة المشتركة لتنفيذ إتفاقية الوفاق الوطني

### تشكيل اللجنة

تتشكل اللجنة من (١٦ عضواً) من حركتي فتح وحماس والفصائل والمستقلين تسمى كل من فتح وحماس (٨ أعضاء) ويصدر السيد/الرئيس "محمود عباس" مرسوماً رئاسياً بتشكيلها بعد التوافق على أعضائها .

### مرجعية اللجنة

الرئيس الفلسطيني/محمود عباس "أبو مازن" هو مرجعية اللجنة بصفته رئيس منظمة التحرير الفلسطينية ورئيس السلطة الوطنية الفلسطينية .

### الإطار القانوني للجنة

تكون اللجنة إطار تسيقي ليست لديها أية التزامات أو استحقاقات سياسية ، وتبدأ عملها فور توقيع إتفاقية الوفاق الوطني ، وينتهي عملها في أعقاب إجراء الانتخابات الرئاسية والتشريعية والمجلس الوطني وتشكيل حكومة فلسطينية جديدة.

### مهام اللجنة

تتولى اللجنة المشتركة تنفيذ إتفاقية الوفاق الوطني المقرر تطبيقها في الوطن من خلال التعامل مع الجهات المعنية المختلفة ، بما في ذلك الآتي :-

- \* تهيئة الأجواء لإجراء الانتخابات الرئاسية والتشريعية والمجلس الوطني.
- \* الإشراف على معالجة قضايا المصالحة الداخلية الفلسطينية.
- \* متابعة عمليات إعادة الإعمار في قطاع غزة.

### توحيد مؤسسات السلطة الوطنية بالصفة والقطاع

يتم توحيد مؤسسات السلطة الوطنية في الضفة الغربية وقطاع غزة بالتنسيق مع جهات الاختصاص معتمدة في ذلك على مبدأ الشراكة والتوافق الوطني وتعزيز الوحدة الوطنية، إنسجاماً وتنفيذاً لتنتج ومقررات إتفاقية الوفاق الوطني، وخاصة معايير ونتائج عمل اللجنة الإدارية القاتونية.

### تسوية أوضاع الجمعيات والمؤسسات الأهلية

إعادة أوضاع الجمعيات والمؤسسات الأهلية التي أغلقت أو صودرت لما كانت عليه قبل ٢٠٠٧/٦/١٤ في الضفة الغربية وقطاع غزة فور توقيع إتفاقية الوفاق الوطني، والعمل على إعادة ممتلكاتها وتعويضها عن خسارتها نتيجة لذلك.

تسوية أوضاع الجمعيات والمؤسسات الأهلية وفقاً للقوانين المعمول بها قبل ٢٠٠٧/٦/١٤.

معالجة وتسوية أوضاع الموظفين المنتدبين للعمل بالجمعيات والمؤسسات الأهلية حسب القاتون.

لا يجوز مصادرة أموال الجمعيات أو المؤسسات الأهلية إلا بقرار قضائي.

### معالجة القضايا المدنية والمشاكل الإدارية الناجمة عن الإنقسام

إن معالجة القضايا المدنية التي نتجت عن الإنقسام (بعد ٢٠٠٧/٦/١٤) يحل مشاكل العاملين الذين تضرروا من الإنقسام واستعادة وحدة المؤسسات الحكومية والدستورية، والحفاظ على استقلال القضاء، وعودة العمل في هذه المؤسسات وفقاً للقانون الأساسي والقوانين ذات الصلة والتوافق الوطني، وحل الآثار التي ترتبت على القرارات التي صدرت بعد هذا التاريخ، ركيزة أساسية لإنهاء الإنقسام، ولتحقيق الوحدة الوطنية وثبيتها.

تشمل هذه القضايا تعيينات الموظفين وترقياتهم والفضل ووقف الراتب والتسويات في المؤسسات والإدارات الحكومية، والمراسيم والقرارات الرئاسية والحكومية المختلف عليها ذات صلة.

تشكل لجنة إدارية قانونية تجمع بين خبراء إداريين وخبراء قانونيين متخصصين يقومون بدراسة القضايا المذكورة بعالية وإقترح سبل معالجتها، وتقدم اللجنة نتائج أعمالها للجهات التنفيذية المختصة - في موعد أقصاه أربعة أشهر من بدء تشكيلها - التي تقوم بتنفيذها على أساس القانون الأساسي والقوانين ذات الصلة.

تقوم هذه اللجنة بعملها وفقاً للأسس والمبادئ التالية :

- \* الإلتزام بالقانون الأساسي المعدل للعام ٢٠٠٥ ، وبالقوانين والأنظمة واللوائح ذات الصلة المقررة قبل ١٤/٦/٢٠٠٧ .
- \* تحقيق العدالة والإنصاف دون التمييز بين المواطنين وعدم الإجحاف بحقوق الأفراد الذين تضرروا نتيجة للإقسام .
- \* التأكيد على مبدأ الشراكة لأبناء الشعب الفلسطيني في مؤسسات السلطة وعلى أساس الكفاءة والموائمة بين الموظف والوظيفة التي يرشح لشغلها .
- \* مراعاة الإمكانيات والموارد المالية المتاحة واتعاسها على الموازنة العامة ، وعلى الهياكل الإدارية والتنظيمية للمؤسسات الحكومية وسياسات التوظيف المقررة، وبما يعالج التضخم الوظيفي في المؤسسات الحكومية .
- تشكيل لجنة قانونية مختصة بصلاحيات تشكل من مجموعة قضاة مشهود لهم بالكفاءة والنزاهة تفصل في المظالم والشكاوى والتظلمات التي يرفعها الأفراد والمؤسسات والهيئات للإعتراض على أي قرارات صدرت بحقهم، دون الإجحاف بحق الأفراد والمؤسسات والهيئات في اللجوء إلى القضاء حسب القانون .
- تتبع جميع الهيئات والسلطات مرجعيتها التي يحددها القانون الأساسي وفق القانون الذي ينظم عملها، وتصوب أوضاعها وفق القوانين المعمول بها بما لا يتعارض مع القانون الأساسي .

عودة جميع الموظفين المدنيين بالصفة القريبة وقطاع غزة الذين كانوا على رأس عملهم قبل ٢٠٠٧/٦/١٤ إلى وظائفهم، بما في ذلك المفصولين والمتغيبين على خلفية الإنقسام مع الحفاظ على كامل حقوقهم و سحب وإلغاء قرارات الفصل، ويكون ذلك فور بدء تنفيذ إتفاقية الوفاق الوطني ، وتكون العودة وفق الآلية التي ستوصى بها اللجنة الإدارية القانونية المشكّلة وخلال المدة المقررة لعملها.

الإلتزام بضم القيام بأية تعديلات أو تغييرات جديدة لحين إنتهاء عمل اللجنة الإدارية القانونية المشكّلة بموجب هذه الإتفاقية .

---

### مبادئ المعتقلين

في إطار التوافق على ضرورة حل مشكلة المعتقلين من كل الفصائل والتنظيمات الفلسطينية ، وتأكيداً لمبادئ تحريم الاعتقال على خلفية الانتماء السياسي أو دون إجراءات قضائية ، فقد تم الإتفاق على حل هذه المشكلة من خلال الآليات المحددة التالية:

- \* تقوم كل من حركتي فتح وحماس بتحديد قوائم المعتقلين طبقاً لآخر موقف ، ويتم تسليم مصر ومؤسسة حقوقية (يتفق عليها) نسخة منها بعد التحقق منها (تثبيت الأعداد والأسماء) قبل توقيع إتفاقية الوفاق الوطني .
- \* يقوم كل طرف بالإفراج عن المعتقلين الموجودين لديه من كافة الفصائل فور توقيع الإتفاقية .
- \* في أعقاب عملية الإفراج عن المعتقلين ، يقوم كل طرف بتسليم مصر قائمة تتضمن أسماء أولئك المعتقلين المنتظر الإفراج عنهم وحيثيات عدم الإفراج عنهم ، ورفع تقارير بالموقف لقيادتي فتح وحماس .
- \* بعد توقيع الإتفاقية تستمر الجهود المبذولة بمشاركة مصرية لإغلاق ملف الاعتقالات نهائياً .

## التوقيع

بعد إطلاعنا على إتفاقية الوفاق الوطني الفلسطيني القاهرة ٢٠١١ لإنهاء  
الإنقسام وتحقيق المصالحة الوطنية الفلسطينية ، فإننا نوافق على ما جاء  
بهذه الإتفاقية ونتعهد بتنفيذها على أكمل وجه لما فيه مصلحة الشعب  
الفلسطيني.

حركة المقاومة الإسلامية "حماس"

التوقيع:  إسماعيل هنية

الجبهة الشعبية لتحرير فلسطين

التوقيع:  ساهر القاهر

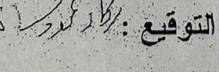
الجبهة الشعبية لتحرير فلسطين/القيادة العامة

التوقيع:  أحمد اللحاني

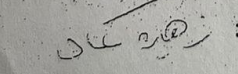
جبهة النضال الشعبي الفلسطيني

التوقيع:  أحمد اللحاني

جبهة التحرير العربية

التوقيع:  أحمد اللحاني

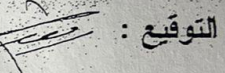
الإتحاد الديمقراطي الفلسطيني "فدا"

التوقيع:  زهير السعيد

حركة التحرير الوطني الفلسطيني "فتح"

التوقيع:  ياسر عرفات

حركة الجهاد الإسلامي

التوقيع:  أحمد اللحاني

الجبهة الديمقراطية لتحرير فلسطين

التوقيع:  أحمد اللحاني

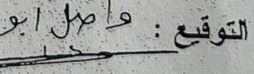
حزب الشعب

التوقيع:  أحمد اللحاني

الجبهة العربية الفلسطينية

التوقيع:  أحمد اللحاني

جبهة التحرير الفلسطينية

التوقيع:  أحمد اللحاني

طلانح حرب التحرير "الصاعقة"

التوقيع:  أحمد اللحاني

التاريخ: ٢٠١١/٥/٤

إعلان الجزائر  
المنبثق عن " مؤتمر لم الشمل من أجل تحقيق الوحدة الوطنية الفلسطينية "  
الجزائر، من 11 إلى 13 أكتوبر 2022

تجسيدا للمبادرة السامية التي أعلن عنها السيد عبد المجيد تبون، رئيس الجمهورية الجزائرية الديمقراطية الشعبية، بعد التشاور والتنسيق مع السيد محمود عباس، رئيس دولة فلسطين ورئيس اللجنة التنفيذية لمنظمة التحرير الفلسطينية، خلال زيارته إلى الجزائر، في الفترة من 05 إلى 07 ديسمبر 2021، وتحت الرعاية الكريمة للسيد الرئيس عبد المجيد تبون، جرت بالجزائر، في الفترة الممتدة من شهر يناير إلى شهر سبتمبر من سنة 2022، محادثات مع ممثلي مختلف القوى والفصائل السياسية للشعب الفلسطيني وعدد من الشخصيات الوطنية الفلسطينية المستقلة.

وتأتي المبادرة الجزائرية انطلاقاً من القناعة الراسخة أن الوضع الراهن الذي تمر به القضية الفلسطينية جراء استمرار الاحتلال الإسرائيلي الممنهج والاعتداءات المتكررة على الشعب الفلسطيني وعلى المقدسات الإسلامية والمسيحية، خاصة في القدس والمسجد الأقصى وكذا الانسداد والفضل الحاصل في مسار السلام بالشرق الأوسط، اللذان يشكلان خطراً جسيماً على القضية الفلسطينية، فضلاً عما آلت إليه القضية الفلسطينية على الساحتين العربية والدولية في ظل استغلال الانقسام داخل البيت الفلسطيني وما ترتب عنه من آثار سلبية على الجهود الرامية لاستعادة الحقوق المشروعة للشعب الفلسطيني.

وانطلاقاً من المسؤولية الوطنية والتاريخية التي تقتضي إعلاء المصلحة العليا للشعب الفلسطيني وعلى ضوء التفاعل الإيجابي والانخراط الجاد للأشقاء الفلسطينيين في جهود الجزائر، لاسيما اللقاء الأخوي الذي جمع بين السيد الرئيس محمود عباس ورئيس المكتب السياسي لحركة المقاومة الإسلامية - حماس - السيد إسماعيل هنية، بالجزائر، يوم 05 يوليو 2022، بمناسبة مشاركتهما في الاحتفالات المخددة للذكرى الستين لاسترجاع الجزائر استقلالها الوطني، تركزت المحادثات بالأساس حول سبل تعزيز الوحدة الوطنية الفلسطينية عبر إنهاء الانقسام ولم شمل مختلف القوى الفلسطينية بجميع أطرافها وتوحيد جهودها لدعم قضيتها العادلة وتحقيق الأهداف المشروعة للشعب الفلسطيني.

وخلال المحادثات، عبر المشاركون عن ارتياحهم للمبادرة الجزائرية باعتبارها فرصة ثمينة لتحقيق المصالحة الوطنية داخل البيت الفلسطيني، كما ثمنوا الجهود العربية المتواصلة لاسيما المبادرات العربية وخاصة المصرية والسعودية والقطرية الداعمة للقضية الفلسطينية والجهود المبذولة التي سمحت بالتوقيع على عدة اتفاقيات لإنهاء الانقسام في صفوف الأشقاء الفلسطينيين.

وقد تكللت أشغال "مؤتمر الجزائر" بالنجاح، بفضل الله تعالى ثم بفضل الجهود المخلصة لممثلي الفصائل الفلسطينية، في ظل الرعاية الجزائرية الكريمة، حيث تم الاتفاق على المبادئ التالية:

1. التأكيد على أهمية الوحدة الوطنية كأساس للصمود والتصدي ومقاومة الاحتلال لتحقيق الأهداف المشروعة للشعب الفلسطيني واعتماد لغة الحوار والتشاور لحل الخلافات على الساحة الفلسطينية بهدف انضمام الكل الوطني إلى منظمة التحرير الفلسطينية الممثل الشرعي والوحيد للشعب الفلسطيني.

2. تكريس مبدأ الشراكة السياسية بين مختلف القوى الوطنية الفلسطينية، بما في ذلك عن طريق الانتخابات وبما يسمح بمشاركة واسعة في الاستحقاقات الوطنية القادمة في الوطن والشتات.
3. اتخاذ الخطوات العملية لتحقيق المصالحة الوطنية عبر إنهاء الانقسام.
4. تعزيز وتطوير دور منظمة التحرير الفلسطينية وتفعيل مؤسساتها بمشاركة جميع الفصائل الفلسطينية باعتبارها الممثل الشرعي والوحيد للشعب الفلسطيني بجميع مكوناته ولا بديل عنها.
5. يتم انتخاب المجلس الوطني الفلسطيني في الداخل والخارج حيث ما أمكن، بنظام التمثيل النسبي الكامل وفق الصيغة المتفق عليها والقوانين المعتمدة بمشاركة جميع القوى الفلسطينية خلال مدة أقصاها عام واحد من تاريخ التوقيع على هذا الإعلان.
- وتعرب الجزائر، بهذه المناسبة، عن استعدادها لاحتضان انعقاد المجلس الوطني الفلسطيني الجديد والذي لقي شكر وتقدير جميع الفصائل المشاركة في هذا المؤتمر.
6. الإسراع بإجراء انتخابات عامة رئاسية وتشريعية في قطاع غزة والضفة الغربية بما فيها القدس عاصمة الدولة الفلسطينية، وفق القوانين المعتمدة في مدة أقصاها عام من تاريخ التوقيع على هذا الإعلان.
7. توحيد المؤسسات الوطنية الفلسطينية وتجديد الطاقات والموارد المتاحة، الضرورية لتنفيذ مشاريع إعادة الإعمار ودعم البنية التحتية والاجتماعية للشعب الفلسطيني بما يدعم صموده في مواجهة الاحتلال الإسرائيلي.

8. تفعيل آلية الأمناء العامين للفصائل الفلسطينية لمتابعة إنهاء الانقسام وتحقيق الوحدة الوطنية والشراكة السياسية الوطنية.

9. يتولى فريق عمل جزائري - عربي الإشراف والمتابعة لتنفيذ بنود هذا الاتفاق بالتعاون مع الجانب الفلسطيني وتدير الجزائر عمل الفريق.

يوجه المجتمعون التحية إلى جماهير الشعب الفلسطيني، في القدس والضفة الغربية وفي غزة الصامدة وفي الداخل الفلسطيني وفي الشتات، المنتفضة ضد الاحتلال ونظام الاضطهاد و التمييز العنصري (الابارتايد)، ويعاهدونها على تحقيق الوحدة الوطنية الفلسطينية والالتفاف حول برنامج وطني كفاحي جامع لكل مكونات الشعب الفلسطيني، ويحيون التضحيات العظيمة للشهداء البواسل والنضال البطولي للأسرى والأسيرات في سجون الاحتلال الذين تلتزم القوى بالنضال من أجل تحقيق حريتهم.

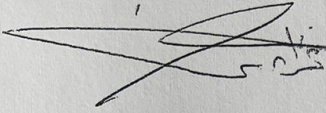
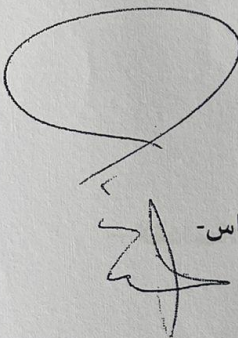
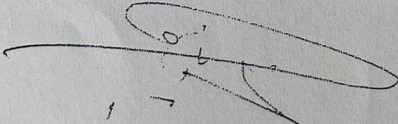
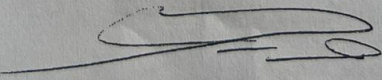
وتؤكد القوى إلتزامها بتطوير المقاومة الشعبية و توسيعها و حق الشعب الفلسطيني في المقاومة بأشكالها كافة.

يتقدم المشاركون في "مؤتمر لم الشمل من أجل تحقيق الوحدة الوطنية الفلسطينية" بالشكر والتقدير للسيد عبد المجيد تبون، رئيس الجمهورية الجزائرية الديمقراطية الشعبية، على مبادرته ورعايته للمؤتمر وصولاً للنتائج التي تمخضت عنه بـ "إعلان الجزائر".

ويدعو المشاركون الأشقاء بالجزائر لمواصلة الجهود مع الأشقاء العرب لمتابعة تنفيذ "إعلان الجزائر" الذي توافقت عليه القوى السياسية الفلسطينية.

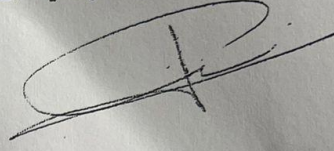
حرر بالجزائر، يوم 13 أكتوبر 2022.

قائمة الموقعين على "إعلان الجزائر"  
المنبثق عن "مؤتمر لم الشمل من أجل تحقيق الوحدة الوطنية الفلسطينية"  
الجزائر، من 11 إلى 13 أكتوبر 2022

1. السيد عزام الأحمد،  
عضو اللجنة المركزية وعضو اللجنة التنفيذية  
لمنظمة التحرير الفلسطينية - فتح-  

2. الدكتور إسماعيل هنية،  
رئيس المكتب السياسي لحركة المقاومة الإسلامية - حماس-  

3. السيد طلال ناجي،  
الأمين العام للجنة الشعبية لتحرير فلسطين - القيادة العامة -  

4. السيد أحمد مجدلاني،  
الأمين العام للجنة النضال الشعبي الفلسطيني  


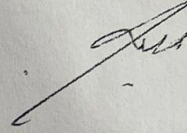
5. السيد مصطفى البرغوثي،

رئيس حركة المبادرة الوطنية الفلسطينية



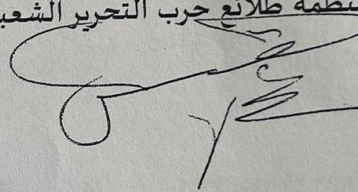
6. السيد بسام الصالحي،

الأمين العام لحزب الشعب الفلسطيني



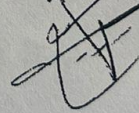
7. السيد محمد بن درويش قيس،

الأمين العام لمنظمة طلائع حرب التحرير الشعبية - قوات الصاعقة -



8. السيد سليم علي البرديني،

الأمين العام للجنة العربية الفلسطينية

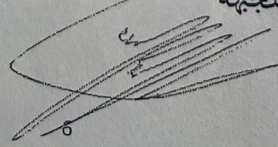


9. السيد واصل عطا احمد أبو يوسف

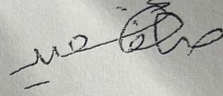
الأمين العام للجنة التحرير الفلسطينية

وقع بالنيابة عنه السيد ناظم اليوسف

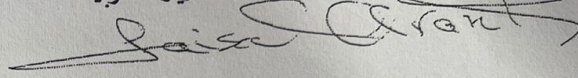
نائب الأمين العام للجنة



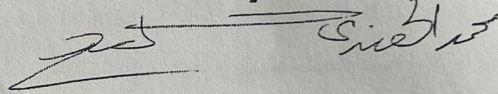
10. السيد صالح رأفت سعيد صالح ،  
الأمين العام لحزب الاتحاد الديمقراطي الفلسطيني - فدا-



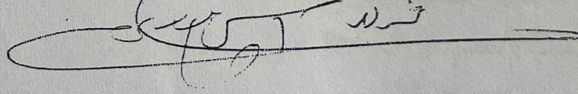
11. السيد فيصل نيكولا عرنكي،  
نائب الأمين العام للجنة التحرير العربية



12. السيد، محمد سعيد محمد يوسف الهندي،  
عضو المكتب السياسي ورئيس الدائرة السياسية  
لحركة الجهاد الإسلامي



13. السيد فريد بطرس مارون سروع،  
عضو المكتب السياسي للجنة الديمقراطية لتحرير فلسطين  
وعضو اللجنة التنفيذية لمنظمة التحرير الفلسطينية



14. السيد عمر أسعد مراد،  
عضو المكتب السياسي للجنة الشعبية لتحرير فلسطين



## البيان المشترك عن اللقاء الفلسطيني الثالث في موسكو ( إعلان موسكو )

نحن معالي القوى والفصائل الفلسطينية المجتمعة في موسكو بتاريخ ١١-١٣ شباط عام ٢٠١٩ ،  
حركات فتح وحماس والجهبة الشعبية لتحرير فلسطين والجهبة الديمقراطية لتحرير فلسطين والجهبة  
الشعبية لتحرير فلسطين - القيادة العامة والمبادرة الوطنية الفلسطينية وحزب الشعب الفلسطيني  
والمصاحفة ووجهة النضال الشعبي الفلسطيني والاتحاد الديمقراطي الفلسطيني ووجهة التحرير الفلسطينية ،  
نعبر عن تقديرنا العالي لدور روسيا الاتحادية في دعم الحقوق الوطنية للشعب الفلسطيني في الساحة  
الدولية ومساهمتها الهامة في إنهاء الإنقسام ودعم المصاحفة الفلسطينية وإقامة الدولة الفلسطينية  
المستقلة وعاصمتها القدس.

ويعد المناقشة البناءة للتطورات في الساحة الفلسطينية وانسداد العملية السياسية ، منذ اجتماعنا الأخير  
في موسكو في كانون الثاني عام ١٧ - ٢٠ اتفقتنا على ما يلي :

١- نعتبر هذا اللقاء تأكيداً على وحدة الشعب الفلسطيني إزاء القضايا الجوهرية وفي مقدمتها إنهاء الإحتلال  
ورقاعة الدولة الفلسطينية المستقلة وعاصمتها القدس على كامل الاراضي المحتلة عام ١٩٦٧ وضمان حق  
المرندة على أساس قرارات الأمم المتحدة ذات الصلة ومبادئ القانون الدولي .

٢- نرفض تماماً الإدعاءات الباطلة باستحالة التقلب على حالة الإنقسام ، ونؤكد على وحدتنا الوطنية  
الفلسطينية .

٣- الإصرار على إنهاء الإنقسام واستمرار الجهود لتحقيق ذلك من خلال الحوار على قاعدة الحل الديمقراطي  
لتبانيات في وجهات النظر ، ورفض محاولات استخدام هذه التبانيات لضرب حقوق شعبنا المشروعة من  
قبل الإحتلال الإسرائيلي أو أي جهة كانت .

٤- التأكيد على حق شعبنا في مقاومة الإحتلال بكافة الوسائل والمشروعة ، والتصدي للمحاولات  
التي جرت وتجرى لوصم نضال شعبنا ، أو أي من فصائله الوطنية بالإرهاب ، بما في ذلك محاولة إدانة  
استخدام حق الدفاع عن النفس ضد العدوان الإسرائيلي المسلح على شعبنا الفلسطيني كما جرى في جلسة  
الجمعية العامة للأمم المتحدة بتاريخ ١٨/٢/٢٠١٨ .

٥- نؤكد على التمسك والتنفيذ الدقيق والأمين لكل الاتفاقات والتفاهات التي وقعتها القوى والفصائل  
الفلسطينية بدءاً من اتفاق إعلان القاهرة ٢٠٠٥ وانتهاءً باتفاق  
١٠/١٢ - ١١/٢٢ ٢٠١٧ ، والتأكيد على الدور المصري الملدر في رعاية تنفيذ ذلك .







### ورقة مقدمة من حركة فتح

#### للإخوة القيادة الجزائرية حول مبادرتها لإنهاء الإنقسام وتحقيق المصالحة الفلسطينية

في ضوء الدعوة الكريمة من الجزائر لحركة فتح والتي تمت على قاعدة المبادرة التي أطلقها الرئيس الجزائري عبدالمجيد تبون في اللقاء الذي جمعه مع الرئيس الفلسطيني محمود عباس (أبومازن) أثناء زيارته الأخيرة الى الجزائر بشأن إنهاء الإنقسام والوصول للمصالحة الفلسطينية وضرورة تحقيقها كمقدمة للقمة العربية التي ستعقد في الجزائر في شهر آذار القادم.

وفي ضوء اللقاءات التي تمت بين القيادة الجزائرية ووفد حركة فتح برئاسة الأخ عزام الأحمد وعضوية الأخ محمد المدني والأخت دلال سلامة أعضاء اللجنة المركزية والأخ د. فايز أبو عيطة نائب أمين سر المجلس الثوري لحركة فتح - سفير دولة فلسطين في الجزائر، تقدم الوفد بورقة أفكار ومقترحات للخطوات العملية المطلوبة لإنهاء الإنقسام بالساحة الفلسطينية الذي بدأ بتاريخ 2007/06/15 ومازال مستمرا حتى اليوم والذي يمهّد لتحقيق المصالحة الفلسطينية الفلسطينية والشراسة الوطنية في النضال الذي يخوضه الشعب الفلسطيني من أجل إنهاء الاحتلال وتجسيد قيام الدولة الفلسطينية المستقلة ذات السيادة وعاصمتها القدس الشرقية.

هذه الأفكار والخطوات العملية ما هي إلا تنفيذ لإتفاقات وتفاهات موقعة بين حركتي فتح وحماس والجهاد الاسلامي وفصائل منظمة التحرير الفلسطينية كافة وهي: الشعبية، الديمقراطية، حزب الشعب، جبهة التحرير الفلسطينية، حزب فدا، جبهة النضال الشعبي الفلسطيني، جبهة التحرير العربية، الجبهة الشعبية (القيادة العامة)، جبهة التحرير العربية الفلسطينية، المبادرة الوطنية، طلائع حرب التحرير الشعبية (الصاعقة) وهي:



**أولاً:** تشكيل حكومة وحدة وطنية فلسطينية تلتزم الفصائل المشاركة فيها بقرارتها الشرعية الدولية بما فيها مبادرة السلام العربية على أساس إقامة دولة فلسطينية مستقلة على الأراضي الفلسطينية المحتلة منذ 4 حزيران عام 1967 بما فيها القدس الشرقية عاصمة الدولة الفلسطينية المستقلة ذات السيادة وحل قضية اللاجئين على أساس قرار الأمم المتحدة رقم 194 وذلك بقيادة منظمة التحرير الفلسطينية الممثل الشرعي والوحيد للشعب الفلسطيني.

**ثانياً:** تبدأ حكومة الوحدة الوطنية فور تشكيلها بممارسة مهامها كاملة في قطاع غزة كما هو في الضفة الغربية وفق القانون الأساسي والقوانين والأنظمة المعمول بها في مناطق السلطة الوطنية، وتعمل على توحيد مؤسساتها المدنية والأمنية وإعادة الوحدة الجغرافية والسياسة وكافة الجوانب الأخرى، والتحضير لإجراء الانتخابات العامة بإشراف لجنة الانتخابات المركزية في كافة مناطق السلطة الوطنية بما فيها القدس الشرقية.

**ثالثاً:** البدء بالخطوات العملية من قبل الرئيس والقيادة الفلسطينية لتفعيل وتطوير مؤسسات ودوائر منظمة التحرير الفلسطينية الممثل الشرعي والوحيد للشعب الفلسطيني وتعزيز وحدتها في ضوء إنهاء الإنقسام وتحقيق المصالحة بإنضمام حركتي حماس والجهاد الإسلامي لعضوية المنظمة.

**رابعاً:** تعزيز المقاومة الشعبية وأشكال النضال التي أقرتها المواثيق والأعراف الدولية، والتصدي لعصابات المستوطنين وتنظيماتهم الصهيونية الإرهابية وحماية القدس وأبنائها ومقدساتها الإسلامية والمسيحية والمحافظة على المكتسبات التي حققها شعبنا في إطار بناء مؤسسات الدولة الفلسطينية.

**خامساً:** استكمال الجزائر لقاءاتها مع فصائل منظمة التحرير الفلسطينية وحركتي حماس والجهاد الإسلامي لبلورة الصيغة التي تراها مناسبة لإنهاء الإنقسام والمصالحة لعرضها على إجتمع للفصائل بهدف إقرارها والتوقيع عليها للعمل على تنفيذها بمتابعة مصر الشقيقة باعتبارها المكلفة من قبل القمم العربية ومؤسسات جامعة الدول العربية برعاية تحقيق المصالحة الفلسطينية بالتنسيق مع الجزائر الشقيقة.

الجزائر : 15 - 2022/01/16

عزام الأحمد

رئيس وفد حركة فتح

بسم الله الرحمن الرحيم

### مقترحات و آليات لتطبيق إعلان الجزائر

بداية نؤكد على تقديرنا و شكرنا للجهود المباركة التي تبذلها الجزائر لتحقيق الوحدة الوطنية الفلسطينية و لم الشمل في مواجهة الاحتلال.

ونؤكد على موقفنا الإيجابي واستعدادنا للتعامل بكل مسؤولية وبذل كل جهد من طرفنا لتطبيق إعلان الجزائر.

وبما يلي بعض المقترحات العملية حول الموضوع:

أولاً: ضرورة تهيئة الأجواء على الساحة الفلسطينية ووقف كل أشكال التصعيد الداخلي، لذا فإنه يجب التوقف الفوري عن الاعتقالات السياسية و التصفية التي تنفذها أجهزة أمن السلطة في الضفة و التي تزداد وتيرتها وحدثها بكل أسف خلال هذه الأيام في ظل عمليات القتل و الاعتقالات و الجرائم التي يرتكبها الاحتلال ضد شعبنا خاصة بعد الانتخابات الأخيرة لديهم والتي أفرزت عن فوز اليمين الأكثر تطرفاً و - صرية، و المتوقع أنها تنطوي على تهديدات حقيقية خاصة على القدس و الاستيطان و شعبنا في الداخل و القتل وكذلك بالتزامن مع وجود وفدي حماس وفتح في الجزائر الشبيبي الذي تكرر في كل هكذا مناسبة.

والمطلوب هو الإفراج الفوري عن جميع المعتقلين السياسيين في سجون السلطة ووقف كافة أشكال الإبتداعات و الملاحقات و اقتحام البيوت.

خاصة ان البند الأول في إعلان الجزائر أكد على اعتماد لغة الحوار و التشاور لحل الخلافات على الساحة الفلسطينية.

و يرى ضرورة تشكيل لجنة للحريات لمتابعة هذا الملف حالياً و مستقبلاً بحيث تشارك الجزائر في هذه اللجنة إضافة الى حماس و فتح مع امكانية التوافق على إضافة شخصيات وطنية فلسطينية أخرى.

ثانياً: نؤكد على ان الانتخابات الشاملة هي ضرورة و حق لشعبنا الفلسطيني في الداخل و الخارج لاختيار قيادته و ممثليه في مختلف المؤسسات الفلسطينية و في مقدمتها المجلس الوطني الفلسطيني وهي مصدر الشرعية لأي قيادة، و هذا ما ورد في إعلان الجزائر ضمن تواريخ و مواعيد واضحة و محددة.

ثالثا : الى حين اجراء الانتخابات فإننا نرى بأن المدخل الصحيح لترتيب البيت الفلسطيني يبدأ عبر تشكيل مجلس وطني جديد و ذلك ضمن النقاط التالية:

- 1- تشكيل مجلس وطني جديد توافقي انتقالي مؤقت.
- 2- يعقد هذا المجلس في اقرب وقت ممكن في الجزائر .
- 3- يتم تشكيل لجنة تحضيرية لهذا المجلس مكونة من ممثلين عن الفصائل الفلسطينية المشاركة حاليا في المنظمة و كذلك الفصائل غير الممثلة في المنظمة، اضافة الى التوافق على مشاركة شخصيات وطنية من خارج الفصائل ايضا.
- 4- تعقد اللجنة التحضيرية لقاءات مكثفة في الجزائر للتوافق على تفاصيل تشكيل المجلس الانتقالي المؤقت.
- 5- تشارك الجزائر من موقعها بمنابعة الاجراءات و تقديم المساعدة و التسهيلات و تقريب وجهات النظر .

رابعاً : عقد لقاء الأمناء العامين للفصائل على صعيد واحد في الجزائر بمشاركة الأمناء العامين جميعا يسبق انعقاد المجلس الوطني الجديد. مع أهمية التحضير المسبق له بحيث يدعم هذا اللقاء إعلان الجزائر و يساهم في تشكيل مجلس وطني جديد توافقي.

مع خالص المحبة والتقدير.

2022/12/14

## الملخص

هدفت الدراسة إلى إيضاح آليات وأدوات العدالة الانتقالية والخصوصية الفلسطينية في هذا السياق، التي تواجه الاحتلال والاستيطان من جهة، والانقسام الداخلي الفلسطيني من جهة أخرى.

يُعد الانقسام الذي شهدته السلطة الفلسطينية في عام 2007 هو الأسوأ في التاريخ الفلسطيني، ليس فقط بسبب الأشخاص الذين ماتوا نتيجة له، بل وأيضاً بسبب تغطيته لتفتيت الأراضي، فقد تمكنت من زعزعة استقرار ركني حركة التحرر الوطني المقاومة والاستيطان، ناهيك عن تأثيرها على كافة جوانب الحياة الفلسطينية، والقطع الشديد للعلاقات الاجتماعية.

هذه المخاطر التي تراكمت على مر السنين، رافقها اهتمام مكثف من مختلف الأطراف الدولية والمحلية من أجل رآب الصدع بين طرفي الانقسام وإنهاء الاحتلال الإسرائيلي لدولة فلسطين.

وفي سياق تلك الجهود وزخم الوساطات والمبادرات، ستركز هذه الدراسة فقط على إمكانية ووسائل تحقيق العدالة الانتقالية في المجتمع الفلسطيني، سواء التعامل مع تداعيات الانقسام أو الاحتلال، حيث تقدم هذه الدراسة تقييماً لتلك الجهود والعقبات التي حالت دون تحقيق العدالة الانتقالية المنشودة على أرض الواقع.

استخدمت الباحثة في هذه الدراسة المنهج الوصفي لبيان ماهية العدالة الانتقالية وخصائصها وآليات عملها، كما استخدمت المنهج التحليلي لشرح الأنشطة التي تقوم بها كل من السلطة الوطنية الفلسطينية في أراضي الضفة الغربية والتي تقوم بها حماس في قطاع غزة، وتحليل دورها في الوصول إلى الانتهاكات الجسيمة لحقوق الإنسان، وقد آلت الدراسة إلى مجموعة من النتائج من أبرزها قصور التنفيذ الكلي للعدالة الانتقالية على الأراضي الفلسطينية بسبب عدم الالتزام باتفاقيات المصالحة من قبل طرفي النزاع (حركتي فتح وحماس) التي تصافرت الجهود الفلسطينية والدولية على إتمامها، حيث تم ذكر أبرز ما ورد في هذه الاتفاقيات في هذه الدراسة، وفي نهاية الدراسة أوصت الباحثة بمجموعة من التوصيات الهادفة إلى تحقيق المصالحة والعدالة الانتقالية التي تتمثل بمجموعة من الآليات أهمها جبر الضرر والملاحقة القضائية والتعويض للضحايا، وقد جاء اهتمام الباحثة بموضوع العدالة الانتقالية

نظرًا لأهميته وأهمية تطبيقه في فلسطين، وأيضاً لقلّة الدراسات الخاصة بهذا الموضوع في الشأن الفلسطيني، طمعاً في لفت الأنظار لموضوع العدالة الانتقالية الفلسطينية.