

Towards a National Instrument for Reform

Attendees (without distinction):

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Introduction

The Palestinian arena has been recently suffering from a loss of compass, failure in reaching a settlement that recognizes the Palestinian rights, escalation of the struggle for power, and internal fighting. This marked a rise in the current crisis, which continues to tense up in the complete absence of any national political program. This situation contributed to faltering various efforts for change in the area of reform. Therefore, it is necessary to explore practical means to carry out the reform process which has become more pressing than ever before due to the disastrous situation on the internal front.

Despite all the previous talk about reform, the numerous related activities, and the abundance of allocations spent on the matter, no significant progress has been noticed in this area. Before dealing with this subject, it is crucial to search out answers to many questions relating to the objective of reform, the authorization given to the body entrusted with the task of reform and its role and functions. Will the reform body be authorized by the government or by the civil society? What is its scope of work? Will its work be limited to reform within the government sector only, or will it move beyond that to include the private sector? Will the process of reform be carried out according to an internal agenda, or an external one?

Development of the national performance and reconstruction is an urging prerequisite to establishing a professional institution that enjoys an administrative device with relevant executive powers and an adequate number of members that are compatible to the nature of the tasks assigned.

The experience of the National Committee for Reform

To begin with, one must go back in analysis to the experience of the National Committee for Reform and its inheritance, so as to avoid starting all over from scratch. The previous experience in reform lacked the political will. The current phase is witnessing a struggle for power and is characterized by the absence of any approach for reform. A better description of the requirement for the present era is reconstruction rather than reform, due to the fact that the Palestinian institutions have been severely suffering and have been often eradicated.

Despite the ratification of several decisions by the Cabinet of Ministers¹ for the formation of a national committee entrusted with carrying out reform at various levels, the Committee had suffered from many gaps and faced many restrictions that obstructed its work.

¹ Review the Cabinet of Ministers' Decision no. 25/2003, dated 25/6/2006 regarding the formation of the National Committee for Reform, and Decision no 21/10/2003 issued by the Cabinet of Ministers in its session convened in Ramallah on 27/10/2003, which includes nomination of the National Committee members in addition to the general outline of the National Reform Plan, ratified by the Cabinet of Ministers in its session on 24/5/2004

Legally, and despite the fact that these decisions identified general goals and jurisdictions of the Committee, they fell short in determining the extent to which the Committee's recommendations are binding to all parties. The Committee also lacked well-designed action plans and follow-up mechanisms. Since the legal basis for the formation of this committee was decisions of the Cabinet of Ministers without a law or at least a presidential decree, it consequently became a body subordinate to the Cabinet of Ministers.

The Committee also suffered from the difficulty of nominating its members from the Legislative Council and the civil society sector, knowing that this problem did not exist in the private sector, which owns an established coordination committee to select its representatives.

Furthermore, the Committee was not properly institutionalized, since it did not have a well-established structure, and its members were not full-timers and were working in a voluntary capacity. It also suffered from the absence of daily follow-up instruments, and lacked an allocated budget and headquarters. And as for other reform programs in various Palestinian institutions, they were mostly linked to foreign funding, and the cessation of funds hampered the entire process.

So to ensure the implementation of the national plan for reform and stop internal and external forces from diverting its goals, there is a need to institutionalize the process and put it in the form of a Palestinian law, duly adopted by the Legislative Council, so as to ratify the basic principles, goals and general concepts of the plan, and identify the supervising party, the nature of the people involved from the government and the civil society, the powers granted to them and the penalties imposed on persons or institutions that obstruct its implementation and timeline. The plan shall not address reform in the government only, but shall also include the Palestinian Liberation Organization and the private sector.

To begin with, the decisions of this body may be considered recommendations by an independent party that assists in dealing with part of the problems, on the path of transition towards an optimal solution. To do so, there are several options:

The first option - the formation of a blue-ribbon commission

In order to avoid marginalization and postponement, an *ad hoc* commission shall be formed by a special law for a specific period of time, consisting of expert members nominated by the Legislative Council through a presidential decree. The Commission will need the civil society's advocacy and support to grant it a binding character to the Executive, Legislative and Judicial authorities. After complete fulfillment of its duties, its findings may be transferred to a permanent civil commission.

The second option-establishment of a competent reform institution

To allay some fears from the formation of many committees that may not properly function and whose decisions may not be compelling to the government sector, a competent permanent institution specializing in reform may be established, functioning under the supervision of a special committee. The institution may be given other names related to national accountability or reconstruction, and maybe administrated by an executive board of trustees empowered to design and implement its public policies. This institution, formed by the law, shall consist of members of the Legislative Council, the Supreme Judicial Council, the Executive Authority and representatives of the civil society.

The Third Option - activation of existing institutions

Another option may lie in activating the existing institutions such as the Bureau of Financial and Administrative Control, the Palestinian Independent Commission for Citizens' Rights, and the Coalition for Integrity and Accountability (AMAN), to live up to their role in reform. These institutions need to work under the supervision of a board of trustees which consists of representatives from the private sector and the media.

Obstacles to the process of reform

There is no doubt that the Palestinian reform process falters before many obstacles such as the existence of a formal framework influenced by the political agenda that disrupts it. That is why the civil society should intervene to initiate this process and follow-up on it.

There is a general belief that reform does not only lack the legal framework or work mechanisms, but also the political will. Previous experiences indicate that there has been one source for decision-making- though it suffered from some tugging- but the current Palestinian reality suffers from duplication due to the existence of two conflicting authorities. There is also an urging need for a strong leadership that possesses the confidence of the masses and is capable of taking decisions, since there has been a loss of confidence in some civil and governmental institutions.

Overall, the current situation can be diagnosed as a confederation of various co-existing organs, each with a different agenda. Thus, the absence of consensus among the central decision makers led to the paralysis of the Legislative Council, and might paralyze the Cabinet of Ministers. For this, work should be initiated to change the existing system that became incompatible, especially after the emergence of a new reality that threatens the option of a one state solution in the West Bank and Gaza Strip.

Public Support

In the absence of the role of political forces within the Palestinian arena, it has become important to return to the popular will in order to launch an organized public campaign for constitutional reform. The masses should be mobilized on a deeper level than to merely maintain civil peace. Campaigns should be launched aimed at eliminating contradictions in the existing constitutional order, which granted legitimacy to a dual authority. The civil society leaders should be at the vanguard of this process. It is thus necessary to start as soon as possible, despite the common perception that the Palestinian public opinion is cumbersome and frustrated to move because of the rampant corruption and theft of the society's will by some groups. Methods should be researched on how to build and recruit the public opinion and civil society organizations to develop a coordinated, consultative and collaborative approach. This is in addition to organizing a national conference to discuss topics of reform.